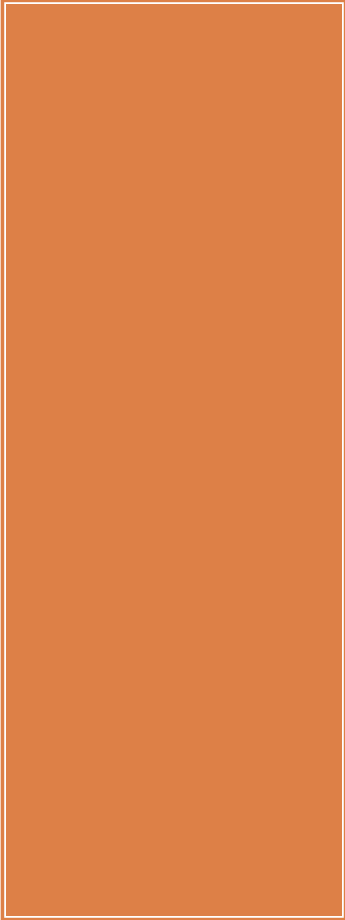


# NEW CRIMINAL CODE CLASSIFICATIONS

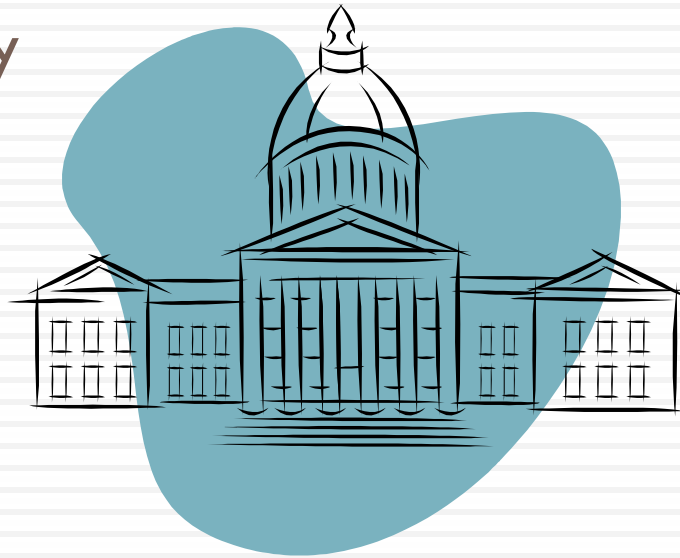
Indiana Inspector General & State Ethics Commission  
Kristi Shute, Staff Attorney

# Criminal Code Evaluation Commission

- 
- Case study
  - Overview
  - Specific Offenses
  - Credit Classification Example

# Criminal Code Evaluation Commission

## Case Study



# State vs. Martin Walters

- Accused of beating Robert Gillett to death during a burglary
- Accepted a plea agreement
  - Sentenced 20 years for the burglary with 10 suspended
  - Sentenced 60 years for the murder with 12 suspended
  - To be served concurrently for a total of 48 years



# State vs. Martin Walters

- Received all his good time credit which cut his sentence to 24 years
- Completed bachelor's degree, associate's degree, vocational training and substance abuse program which cut his sentence another 4 years
  - 48 year sentence reduced to 20 years



# Criminal Code Evaluation Commission

- Established for the broad purpose of “evaluating the criminal laws of Indiana.”
- Principles



- Consistency
- Proportionality of penalties
- Like sentences for like crimes
- Elimination of duplication
- Increased certainty regarding the length of sentence to be served
- Sentencing scheme designed to keep dangerous offenders in prison but avoid using scarce state prison space for nonviolent offenders

# Criminal Code Evaluation Commission

## □ General Changes

- Changes to felony offenses only, except in cases where a previous felony is now a misdemeanor
- Murder maintains its own category as under the previous law
- Fines remain the same (\$10,000 for all classes and levels)
- Expands previous Class A-D to Levels 1-6

# Criminal Code Evaluation Commission

## □ General Changes

- Previous Class A felony divided into Levels 1 and 2
- Previous Class B felony divided into Levels 3 and 4
- Previous Class C felony generally equivalent to Level 5
- Previous Class D felony generally equivalent to Level 6



# Previous Structure



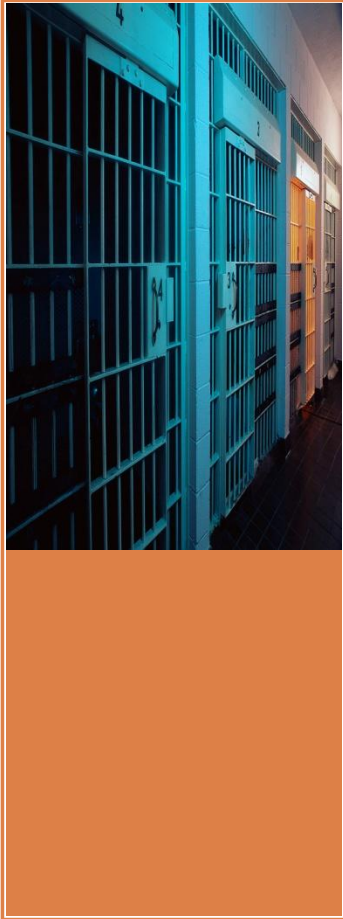
# Previous Structure (pre July 1, 2014)

- Murder
  - ▣ Advisory: 55 years
  - ▣ Range: 45-65 years
- A felony
  - ▣ Advisory: 30 years
  - ▣ Range: 20-50 years
- B felony
  - ▣ Advisory: 10 years
  - ▣ Range: 6-20 years
- C felony
  - ▣ Advisory: 4 years
  - ▣ Range: 2-8 years
- D felony
  - ▣ Advisory: 1½ years
  - ▣ Range: ½-3 years

# Current Structure (post July 1, 2014)

- Level 1
  - ▣ Advisory: 30 years
  - ▣ Range: 20-40 years
- Level 2
  - ▣ Advisory: 17½ years
  - ▣ Range: 10-30 years
- Level 3
  - ▣ Advisory: 9 years
  - ▣ Range: 3-16 years
- Level 4
  - ▣ Advisory: 6 years
  - ▣ Range: 2-12 years
- Level 5
  - ▣ Advisory: 3 years
  - ▣ Range: 1-6 years
- Level 6
  - ▣ Advisory: 1 year
  - ▣ Range: ½-2½ years

# Credit Classifications



- Class A=serve 1, earn 1
  - Offender serves 50% of their sentence
  - Misdemeanors and Level 6
- Class B=serve 3, earn 1
  - Offender serves 75% of their sentence
  - Level 5 and above (not credit restricted)
- Class C=serve 6, earn 1
  - Offender serves 85.7% of their sentence
  - Credit restricted felons
- Class D=earn no credit time

# Criminal Code

Typical offenses your offices investigate



# Theft

- Before: Class D felony
  - ▣ Became a Class C felony if the fair market value was at least \$100,000
- Now: Class A misdemeanor
  - ▣ Becomes a Level 6 felony if the value of the property is at least \$750 and less than \$50,000
  - ▣ Becomes a Level 5 felony if the value of the property is at least \$50,000

# Forgery, Fraud and other Deceptions

- Counterfeiting
  - ▣ Before: Class D felony
  - ▣ Now: Level 6 felony
- Forgery
  - ▣ Before: Class C felony
  - ▣ Now: Level 6 felony
- Driver's license/State ID card application fraud
  - ▣ Before: Class D felony
  - ▣ Now: Level 6 felony

# Forgery, Fraud and other Deceptions

- Deception-providing false information to a governmental entity to obtain a contract from the governmental entity
  - ▣ New: Class A misdemeanor
  - ▣ Becomes a Level 6 felony if the false information results in financial loss to the governmental entity
- Deception-false representation of an entity as a disadvantaged or women-owned business enterprise
  - ▣ New: Level 6 felony



# Forgery, Fraud and other Deceptions

## □ Identity Deception

### ▣ Before: Class D felony

- Fair market value of the fraud or harm caused is at least \$50,000-Class C felony

### ▣ Now: Level 6 felony

- Fair market value of the fraud or harm caused is at least \$50,000-Level 5 felony

# Forgery, Fraud and other Deceptions

## □ Fraud

- ▣ Before: Class D felony
- ▣ Now: Level 6 felony

## □ Insurance Fraud

- ▣ Before: Class D felony
  - With a prior unrelated insurance fraud conviction or value of loss is at least \$2,500-Class C felony
- ▣ Now: Level 6 felony
  - With a prior unrelated insurance fraud conviction or value of loss is at least \$2,500-Level 5 felony

# Forgery, Fraud and other Deceptions

- Check Deception
  - ▣ Class A misdemeanor
    - Level 6 if the amount of the check, draft or order is at least \$750 and less than \$50,000
    - Level 5 if the amount is at least \$50,000
- Welfare Fraud
  - ▣ Before: Class A misdemeanor
    - Class D felony if the amount was more than \$250 but less than \$2,500
    - Class C felony if the amount was more than \$2,500
  - ▣ Now: Class A misdemeanor
    - Level 6 if the amount is more than \$750 but less than \$50,000
    - Level 5 if the amount is more than \$50,000

# Forgery, Fraud and other Deceptions

- Medicaid Fraud
  - ▣ Before: Class D felony
    - Class C felony if the fair market value was at least \$100,000
  - ▣ Now: Class A misdemeanor
    - Level 6 if the fair market value is at least \$750 and less than \$50,000
    - Level 5 if the fair market value is at least \$50,000
- Children's Health Insurance Fraud
  - ▣ Before: Class D felony
    - Class C felony if the fair market value was at least \$100,000
  - ▣ Now: Class A misdemeanor
    - Level 6 if the fair market value is at least \$750 but less than \$50,000
    - Level 5 if the fair market value is at least \$50,000

# Forgery, Fraud and other Deceptions

- Fraud on Financial Institutions
  - ▣ Before: Class C felony
  - ▣ Now: Level 5 felony
- Check Fraud
  - ▣ Before: Class D felony
    - Class C felony with prior unrelated conviction or the aggregate amount is at least \$25,000
  - ▣ Now: Class A misdemeanor
    - Level 6 if the aggregate amount is at least \$750 and less than \$50,000
    - Level 5 if the aggregate amount is at least \$50,000

# General Public Administration

- Official Misconduct
  - ▣ Before: Class D felony
  - ▣ Now: Level 6 felony
- Bribery
  - ▣ Before: Class C felony
  - ▣ Now: Level 5 felony
- Ghost Employment
  - ▣ Before: Class D felony
  - ▣ Now: Level 6 felony

# General Public Administration

- Conflict of Interest
  - ▣ Before: Class D felony
  - ▣ Now: Level 6 felony
- Profiteering from public service
  - ▣ Before: Class D felony
  - ▣ Now: Level 6 felony

# Interference with General Government Operations

- Perjury
  - ▣ Before: Class D felony
  - ▣ Now: Level 6 felony
- Obstruction of Justice
  - ▣ Before: Class D felony
  - ▣ Now: Level 6 felony



# Purchasing Offenses

## □ Depository Rule

### ■ Before: Class A misdemeanor

- Class D felony if the amount was at least \$750
- Class C felony if the amount was at least \$50,000

### ■ Now: Class A misdemeanor

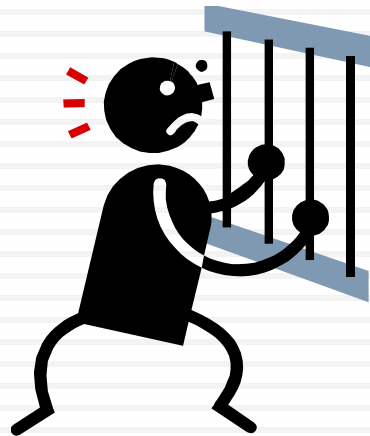
- Level 6 felony if the amount is at least \$750
- Level 5 felony if the amount is at least \$50,000

# Offenses Against Public Health, Order and Decency

- Racketeer Influenced and Corrupt Organizations
  - ▣ Underlying offenses include
    - Theft
    - Forgery
    - Fraud
    - Bribery
    - Official Misconduct
    - Conflict of Interest
  - ▣ Corrupt Business Influence
    - Before: Class C felony
    - Now: Level 5 felony

# Credit Classification Example

How much time will now be served



# Theft

- Before: less than \$100,000
  - ▣ Range for Class D felony: 1/2-1 1/2 -3 years
  - ▣ Served: 3 months-9 months-1 1/2 years
- Now: less than \$750
  - ▣ Range for Class A misdemeanor: up to a year
  - ▣ Serve: 6 months (serve one, earn one)
- Now: between \$750 and \$50,000
  - ▣ Range for Level 6 felony: 6 months-1 year-2 1/2 years
  - ▣ Serve: 3 months-6 months-15 months (serve one, earn one)

# Theft

- Before: more than \$100,000
  - ▣ Range for Class C felony: 2-4-8 years
  - ▣ Served: 1 year-2 years-4 years
- Now: over \$50,000
  - ▣ Range for Level 5 felony: 1 year-3 years-6 years
  - ▣ Serve: 9 months-2<sup>1</sup>/<sub>4</sub> years-4<sup>1</sup>/<sub>2</sub> years (serve three, earn one)



# Indiana Inspector General & State Ethics Commission

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