FEDERAL HABEAS CORPUS FACT SHEET

THIS DOCUMENT IS INTENDED ONLY TO BE AN INFORMATIVE RESOURCE AND DOES NOT CONSTITUTE LEGAL ADVICE AND DOES NOT ESTABLISH OR IMPLY AN ATTORNEY-CLIENT RELATIONSHIP BETWEEN YOU AND THE INDIANA INNOCENCE PROJECT.

- If you are still in custody after the end of your state direct appeal and post-conviction remedies, it may be possible for you to seek further review of your conviction and/or sentence in federal court.

- A petition for a writ of habeas corpus is a legal pleading filed in a federal district court to challenge the legality of your detention under the U.S. Constitution or other federal law. It is **not** a mechanism for challenging the **conditions** of your confinement.

- The law governing petitions for writs of habeas corpus is in the United States Code at 28 U.S.C. §§ 2241-2254. For information about what relief is available through filing a habeas corpus petition and the applicable filing deadlines, review those statutory provisions and the Rules Governing Section 2254 Cases in the United States District Courts.

- Habeas corpus petitions are subject to a **strict** one-year statute of limitations. Usually, the one-year limitation period begins to run after the state court judgment you seek to challenge becomes final, although depending on the issue to be raised or right asserted, that period may begin on a different date.

- Determining the date on which a state court judgment becomes final can be complicated and may depend on things like whether you filed a timely direct appeal and whether you filed a petition to transfer seeking review from the Indiana Supreme Court. PLEASE SEEK THE ADVICE OF COUNSEL IF YOU HAVE QUESTIONS ABOUT WHEN YOUR CONVICTION BECAME FINAL.

- Additionally, the one-year limitation period for filing a habeas corpus petition is tolled (paused) during the time in which a properly filed state petition for post-conviction relief is pending. The one-year limitation period begins running again when the post-conviction proceedings are concluded. Any time that ran off the one-year period of limitations before it was tolled by properly filing a state post-conviction relief action is lost and deducted from the one-year period when it begins to run again. Therefore, when properly-filed state post-conviction relief proceedings have concluded, the one-year period restarts, minus the time that has already run.

PLEASE SEEK THE ADVICE OF COUNSEL IF YOU HAVE QUESTIONS ABOUT HOW MUCH OF YOUR ONE-YEAR LIMITATION PERIOD REMAINS.