



CJJJP

Criminal & Juvenile Justice Planning

FY 2015* State Justice System Legislation **Monitoring Report**

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Division of Criminal and Juvenile Justice Planning
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*Revised to reflect correct fiscal year

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I. Introduction

The Division of Criminal and Juvenile Justice Planning (CJJJ) issued its first state legislation monitoring report in February, 2002, covering the first six months' impact of Senate File 543 (which enacted a number of sentencing changes) on the justice system; monitoring of the correctional impact of this bill was at the request of several members of the legislature. Since then, the Criminal and Juvenile Justice Planning Advisory Council (CJJJAC) has requested that CJJJ monitor the correctional impact of enacted legislation of particular interest. This report covers monitoring results or future plans to monitor the following:

- Synthetic Drugs
- Aggravated theft
- Residential treatment backlog
- 70% crimes
- Enhanced penalty for domestic abuse assault involving strangulation
- Changes to the purpose or possession of child pornography
- DNA Hits
- Interference with official acts
- Probation Revocations by District by Race
- Elder Abuse
- Coach-Student Sex
- Human Trafficking of a Minor

II. Synthetic Drugs

Senate File 510 and Senate File 533: Addition of synthetic cannabinoids to Iowa's list of Schedule I controlled substances.

Adopted by the General Assembly: SF510: June 27, 2010; SF533: June 29, 2010

Effective: July 29, 2011

Crime Codes: 124.204; 124.401

During the 2011 session of the Iowa General Assembly, action was taken to add synthetic cannabinoids (such as K2), Salvia Divinorum, and synthetic cathinones ("bath salts") to Iowa's list of Schedule I controlled substances (substances having no known medicinal properties). These changes were accomplished by language in two different bills, Senate File 510 and Senate File 533. Synthetic cannabinoids became Schedule I controlled substances under Iowa law and criminal penalties for violations took effect on July 29, 2011. The two other substances – Salvia Divinorum and synthetic cathinones ("bath salts") – became Schedule I controlled substances 30 days after the enactment of the latter of the two bills (SF 510 and SF 533). Though there was some debate as to when the criminal penalties for distribution and possession of Salvia Divinorum and "bath salts" took effect, it is clear that on September 27, 2011, (and possibly 30 days earlier) distribution and possession of Salvia Divinorum or "bath salts" became prohibited and criminal penalties began to apply.

Emergency rules were adopted in Iowa on July 8, 2013 to match federal action and add 3 more synthetic cannabinoids as Schedule I controlled substances in Iowa. Effective November 15, 2013 at the federal level, the DEA emergency scheduled 3 additional synthetic *phenethylamines*. The Iowa Pharmacy Board has not decided what, if any, action it will take or seek on these.

Historically, it has been difficult to capture the specific drug for some offenses under Iowa Code 124.401(1)(d). However, within the last year, the courts have begun utilizing the Statewide Charge Table which would allow for the identification of the specific drug captured under Iowa Code 124.401(1)(d). As use and accessibility of the Statewide Charge Table increase, we hope to observe the effects of this provision through this method also.

The effects of this provision are currently tracked by observing hospitalizations and emergency room visits for drug poisonings. The hypothesis is the number of accidental poisoning events will decrease once these drugs are no longer available through retail outlets.

The data included are from the Iowa Department of Public Health (IDPH), and consist of diagnostic and external codes for poisoning by sedative, hypnotics, psychotropic agents, hallucinogens, psychostimulants, and other psychotropic agents.

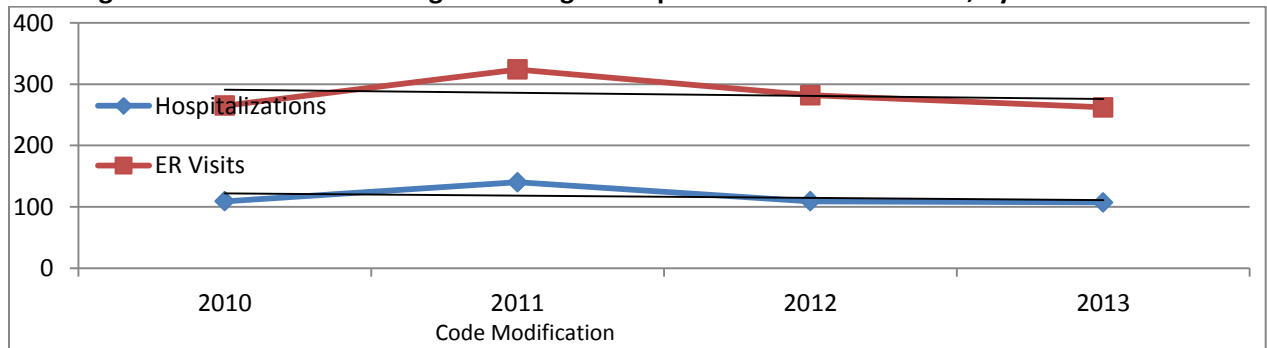
Data for hospitalizations and emergency room visits for accidental drug poisoning were only available through calendar year 2013. Data indicate accidental poisoning hospitalizations and ER visits, as a result of substance use, followed similar trends with consistent hospitalizations and ER visits observed during calendar years 2010, 2012, and 2013, but increases were observed during calendar year 2011 (Table 1 and Figure 1).

Table 1: Accidental Poisonings Resulting in Hospitalizations and ER Visits

ACCIDENTAL POISONS (ENCODE)						
Calendar Year (CY)	HOSPITALIZATIONS (In-Patient)			EMERGENCY ROOM VISITS (Out-Patient)		
	Substance Use Diagnosis	Accidental Poisoning as a Result of Substance Use	Total	Substance Use Diagnosis	Accidental Poisoning as a Result of Substance Use	Total
2010	2,123	109	2,232	884	265	1,149
2011 (Code Modifications)	2,028	140	2,168	997	324	1,321
2012	1,895	109	2,004	1,028	282	1,310
2013	1,892	107	1,999	1,250	262	1,512
Total	15,251	836	16,087	26,789	2,041	28,830
Average	1,906	104	2,011	3,649	255	3,604

Source: Iowa Department of Public Health

Figure 1: Accidental Poisonings Resulting in Hospitalizations and ER Visits, by Calendar Year



Source: Iowa Department of Public Health

Additional information provides a breakdown of accidental poisoning hospitalizations and emergency room visits as a result of substance use by age, identifying individuals under 18 years old as youth and individuals over 18 as adults. The total numbers may not match previously-reported figures due to missing values.

Table 2: Accidental Poisonings as a Result of Substance Use by Age

ACCIDENTAL POISONS AS A RESULT OF SUBSTANCE ABUSE BY AGE (ENCODE)								
Calendar Year (CY)	HOSPITALIZATIONS (In-Patient)				EMERGENCY ROOM (Out-Patient)			
	Missing	Youth	Adult	Total	Missing	Youth	Adult	Total
2010	8	10	82	100	91	33	141	265
2011 (Code Modification)	18	10	113	141	119	30	159	308
2012	13	3	93	109	97	25	160	282
2013	15	12	87	114	106	29	157	292
Total	54	35	375	464	413	117	617	1,147
Average	13	9	94	116	103	29	154	287

Source: Iowa Department of Public Health

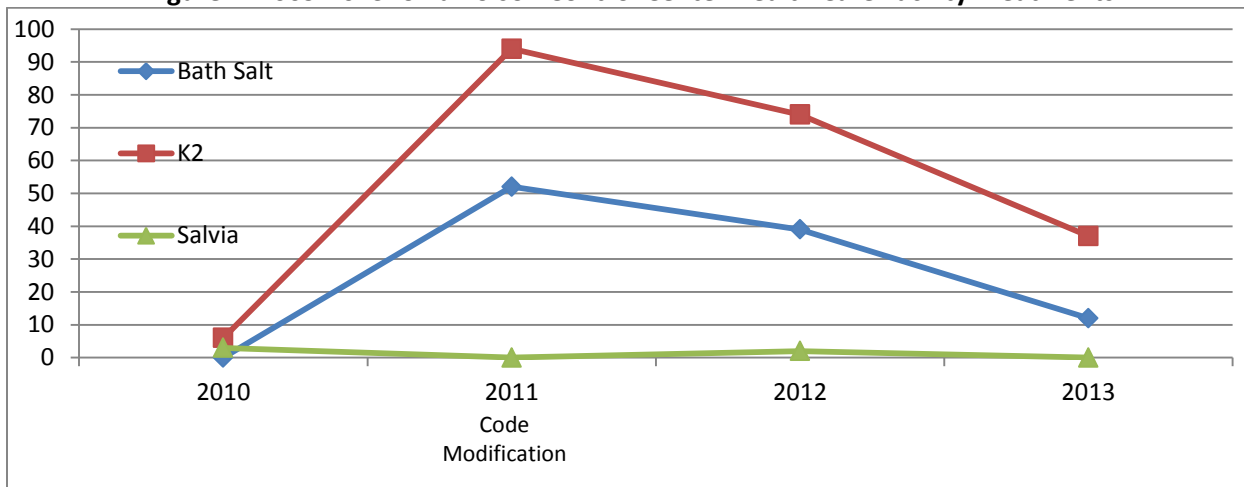
Hospitalizations and Emergency Room visits have decreased for youth, while adult figures tend to fluctuate (Table 2).

Another source of information on this topic is the statewide Poison Control Center located in Sioux City. Health care facilities can contact the Poison Control Center (although they are not required) if they have inquiries about synthetics or would like guidance and recommendations related to patient treatment for synthetic drug use. Because the Poison Control Center is used as an information resource, the figures presented below provide a good estimate of treatment consultations, not actual incidents of drug use.

The following chart (Figure 2) is based upon voluntary calls placed by health care facilities concerning patient treatment for bath salts, K2, and salvia. Salvia treatments have remained relatively low and stable from calendar years 2010-2013, while treatments for bath salts and K2 have followed similar patterns, increasing in 2011 and significantly declining thereafter (Figure 2).

The data for the first six months of 2014 show roughly one-fifth the numbers of calls and one-sixth the number of treatments for bath salts and one-fourth the numbers of calls and treatments for K2 as reported in 2013. This would suggest that the number of calls and treatment in 2014 for bath salts and K2 will likely be lower than in previous years, while Salvia calls and treatments are expected to remain low and stable. More time needs to elapse in order to draw conclusions from this measure.

Figure 2: 2009-2013 Iowa Poison Control Center Health Care Facility Treatments



Calendar Year (CY)	Bath Salts		K2		Salvia	
	#Calls	# Treated	# Calls	# Treated	# Calls	# Treated
2010	0	0	6	6	3	3
2011 (Code Modification)	57	52	91	94	0	0
2012	41	39	76	74	2	2
2013	14	12	38	37	0	0
2014 (Jan-July)	3	2	10	11	0	0
Total	115	105	221	222	6	5

Source: Iowa Poison Control Center

III. Aggravated Theft

Senate File: 2250

Signed by the Governor: April 12, 2010

Effective: July 1, 2010

Crime Code: §714.3A

During the 2010 legislative session, the General Assembly created a new theft charge, aggravated theft (Iowa Code §714.3A). This offense, an aggravated misdemeanor, was intended to be an alternative, non-forcible charge for acts of theft combined with low-level physical threat. Prior to the passage of this amendment, offenders could be charged with first-degree robbery, a Class B forcible felony with a 70% sentence. Robbery 2nd, a Class C felony, 70% crime, was also a charging/convicting offense that could be used. Anecdotal information indicated that some jurisdictions, in these instances, also used theft 5th in combination with simple assault, two simple misdemeanor offenses.

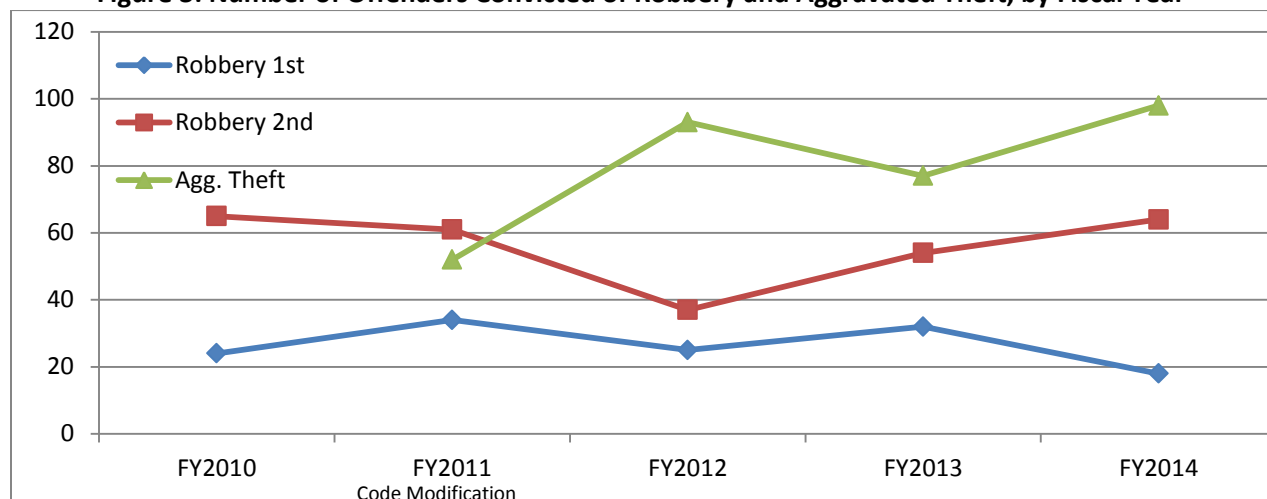
Data were examined one year prior to the enactment of §714.3A to examine changes in charging and convicting practices (FY 2010-FY 2014). Charges and convictions for robbery 1st, robbery 2nd, and aggravated theft were obtained from the Iowa Justice Data Warehouse (JDW). In addition, offenders who were convicted of the theft 5th/simple assault combination during the three years were also identified. The data in the figures have been updated from prior years.

Table 3: Charges and Number of Offenders Convicted, Robbery and Aggravated Theft

	Robbery 1st	Robbery 2nd	Aggravated Theft	Total
FY 2010				
# Charges	264	320	NA	--
# Convicted	24	65	NA	--
FY 2011 (Code Modification)				
# Charges	254	223	74	551
# Convicted	34	61	52	147
FY 2012				
#Charges	251	247	129	627
#Convicted	25	37	93	155
FY 2013				
#Charges	315	219	112	646
#Convicted	32	54	77	163
FY 2014				
#Charges	238	239	126	603
#Convicted	18	64	98	180

Source: Justice Data Warehouse

Figure 3: Number of Offenders Convicted of Robbery and Aggravated Theft, by Fiscal Year



Source: Justice Data Warehouse

The data indicates that since the code change in FY 2011, offenders convicted of aggravated theft have increased as well as those convicted of robbery 2nd (FY 2012- FY 2014). Offenders convicted of robbery 1st have remained largely stable from FY 2010- FY 2014.

Robbery and Aggravated Theft Convictions by Race

African-Americans accounted for at least half of all robbery 1st convictions for each of the five fiscal years presented in the table below (Table 4). The percentage of African-Americans convicted of robbery 2nd was greater than the percentage of whites in all observed fiscal years, with the exception of FY 2012.

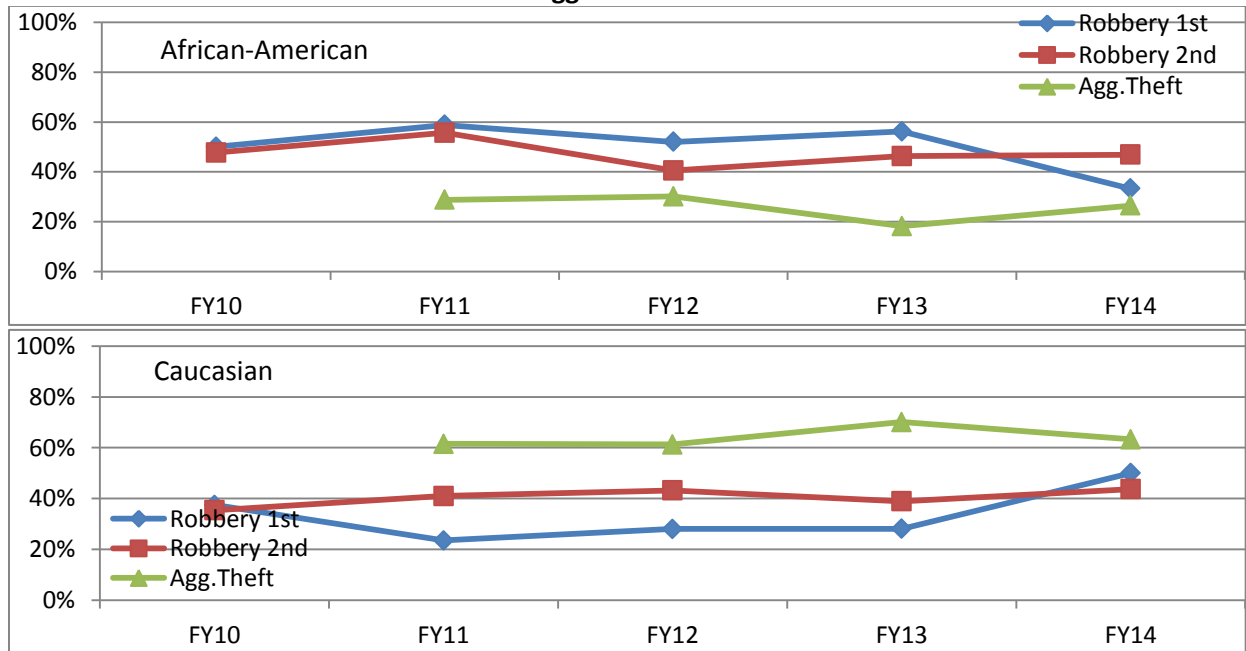
The total number of convictions for aggravated theft nearly doubled in FY 2012 but declined in FY 2013 and returned to FY 2012 levels in FY 2014. The racial distribution for FY 2011 through FY 2014 was similar, with a greater percentage of whites convicted of aggravated theft compared to African-Americans. While African-Americans are over-represented in each of the three crimes, the over-representation is much greater for the two robbery offenses (Table 4).

Table 4: Offenders Convicted of Robbery 1st, 2nd and Aggravated Theft, by Race

	FY 2010		FY 2011		FY 2012		FY 2013		FY 2014	
	#	%	#	%	#	%	#	%	#	%
Robbery 1st										
White	9	37.5%	8	23.5%	7	28.0%	9	28.1%	9	50.0%
African-American	12	50.0%	20	58.8%	13	52.0%	18	56.2%	6	33.3%
Other*	3	12.5%	6	17.6%	5	20.0%	5	15.6%	3	16.7%
Total Offender	24	100%	34	100%	25	100%	32	100%	18	100%
Robbery 2nd										
White	23	35.4%	25	41.0%	16	43.2%	21	38.9%	28	43.7%
African-American	31	47.7%	34	55.7%	15	40.5%	25	46.3%	30	46.9%
Other*	11	16.9%	2	3.3%	6	16.2%	8	14.8%	6	9.4%
Total	65	100%	61	100%	37	100%	54	100%	64	100%
Aggravated Theft										
White	--	--	32	61.5%	57	61.3%	54	70.1%	62	63.3%
African-American	--	--	15	28.8%	28	30.1%	14	18.2%	26	26.5%
Other*	--	--	5	9.6%	8	8.6%	9	11.7%	10	10.2%
Total	--	--	52	100%	93	100%	77	100%	98	100%

Source: Justice Data Warehouse

Figure 4: Percent of African-Americans and Caucasians Convicted of Robbery 1st, Robbery 2nd, and Aggravated Theft



Source: Justice Data Warehouse

* Includes offender's whose race is unknown.

Analysis concerning Robbery and Aggravated Theft convictions by race provided the following findings:

- The percentage of African-Americans convicted of Robbery 1st remained higher than that of Robbery 2nd between FY 2010-FY 2013, but during FY 2014 more African-Americans were convicted of Robbery 2nd than Robbery 1st.
- Robbery 1st convictions have fluctuated over the last five fiscal years. The lowest number of Robbery 1st offenders convicted was observed in FY 2014. Robbery 2nd convictions declined in FY 2012 and FY 2013 but rebounded to levels observed during FY 2010 and FY 2011 during FY 2014.
- The highest level of offenders convicted of Aggravated Theft during the last five fiscal years was observed FY 2014.
- The percentage of African-Americans convicted of Aggravated Theft continues to remain much lower than that of Robbery.
- A rise in Aggravated Theft convictions for African-Americans is associated with a decrease in Robbery 1st and Robbery 2nd convictions in FY 2014.
- The Aggravated Theft conviction percentage for Caucasians is higher than that of Robbery.

IV. Residential Treatment Backlog

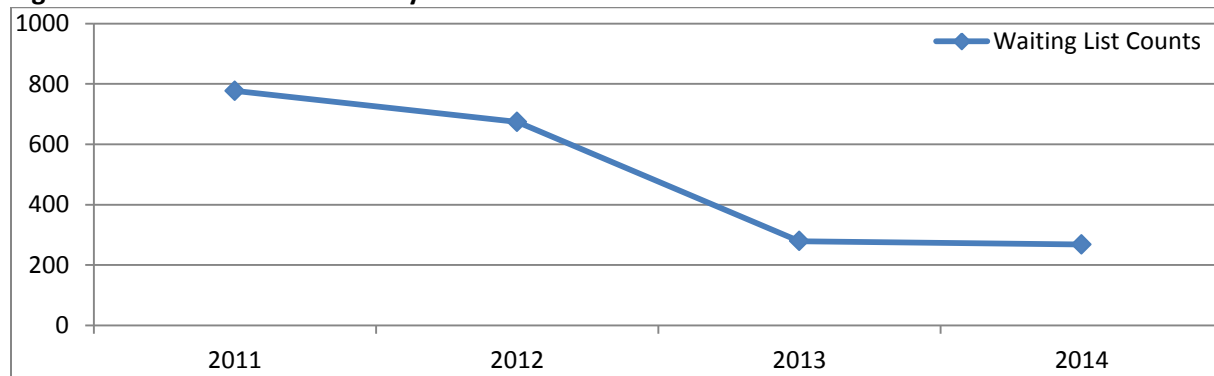
In FY 2009 capital appropriations to the Department of Corrections were made to fund the expansion of newly constructed bed-space in residential correctional facilities around the state to increase capacity. Below is information regarding residential facility capacities, populations, and waiting lists for all residential facilities in the state. Waiting list populations may change daily depending upon changes in supervision status.

As of September 26th 2014, there were 268 offenders on waiting lists for residential facilities. This is a decrease of 509 from August 23rd 2011. The DOC reports daily marginal cost for residential facilities is \$11.55, while the marginal cost for prisons is \$18.92. This translates into a cost differential of \$7.37 per day per person.

It is somewhat more difficult to determine any cost differences for those waiting placement from the community, as these offenders are likely to be receiving an array of community-based supervision services and levels of intensity, all of which would influence the daily costs within the community. The FY 2014 median wait time for this group was 13 days, and the average was 30 days.

Generally, the trend over time has been a decrease in the residential treatment waiting list over the last four years (Figure 5).

Figure 5: State Residential Facility Wait List Counts



Source: Iowa Department of Corrections

Table 5: State Residential Facilities Population and Waiting List Counts (Detail) ²

JD	Facility	Capacity	2014 Population			2014 Waiting List			2013 Waiting List	2012 Waiting List	2011 Waiting List
			Male	Female	Total	Male	Female	Total	Total	Total	Total
1	Dubuque	80	57	17	74	7	1	8	7	19	19
1	Waterloo	150	122	0	122	6	9	15	15	35	62
1	West Union	48	43	4	47	6	2	8	8	10	14
1	Waterloo Cntr for Change	45	0	40	40	0	0	0	--	--	--
	District Total	323	222	61	283	19	12	31	30	64	95
2	Beje Clark Mason City	51	40	10	50	8	0	8	5	11	5
2	Curt Forbes Ames	45	38	7	45	13	2	15	13	12	32
2	Fort Dodge	60	47	9	56	8	0	8	6	13	26
2	Marshalltown	51	40	6	46	8	0	8	9	10	26
	District Total	207	165	32	197	37	2	39	33	46	89
3	Sheldon	30	27	0	27	11	0	11	5	14	21
3	Sioux City	99	77	16	93	13	2	15	36	102	159
	District Total	129	104	16	120	24	2	26	41	116	180
4	Council Bluffs	78	51	12	63	11	0	11	6	37	24
4	Council Bluffs Women	46	16	0	16	0	2	2	3	5	5
	District Total	124	67	12	79	11	2	13	9	42	29
5	Des Moines Women	48	0	53	53	0	17	17	5	26	23
5	Ft DSM Bldg #65	40	50	0	50	4	0	4	2	0	0
5	Ft DSM Bldg #66	--	--	--	--	0	0	0	--	14	10
5	Ft DSM Bldg #68	80	78	0	78	15	0	15	22	40	27
5	Ft DSM Bldg #70	120	126	0	126	66	0	66	55	64	71
5	SOTP	--	--	--	--	1	0	1	0	0	0
	District Total	288	254	53	307	86	17	103	84	144	131
6	Cedar Rapids G. Hinzman	83	40	25	65	0	1	1	3	42	43
6	Cedar Rapids Lary Nelson	90	94	0	94	14	1	15	11	18	33
6	Coralville Hope House	55	50	0	50	5	0	5	9	59	19
	District Total	228	184	25	209	19	2	21	23	119	95
7	Davenport Residential	64	65	0	65	3	0	3	9	27	20
7	Davenport Work Rel/OWI	120	74	39	113	13	7	20	25	45	95
	District Total	184	139	39	178	16	7	23	34	72	115
8	Burlington	60	56	0	56	6	0	6	8	14	6
8	Ottumwa	76	62	14	76	4	2	6	17	57	37
	District Total	136	118	14	132	10	2	12	25	71	43
	Statewide	1,619	1,253	252	1,505	222	46	268	279	674	777

Waiting list numbers include offenders in the community and in prison. Major groups on the waiting lists in 2013 included probation (362 or 54%), work release (169 or 25%) and federal (92 or 14%).

2011 waiting list drawn on August 23, 2011

2012 waiting list and population drawn on September 12, 2012

2013 waiting list and population drawn on August 8, 2013; 2013 residential population was drawn on August 29, 2013

2014 waiting list drawn on September 26th, 2014; 2014 residential population was drawn on June 30th 2014.

Source: Iowa Department of Corrections

² Please note the waiting list numbers in the chart include only those offenders who have been approved by the receiving facility—and such offenders may be waiting for placement from prison, county jails, or the community

V. 70% Crimes

Senate File: 1151

Signed by the Governor: 1996

Effective: 1997; Modified: 2003

Crime Code: §902.12

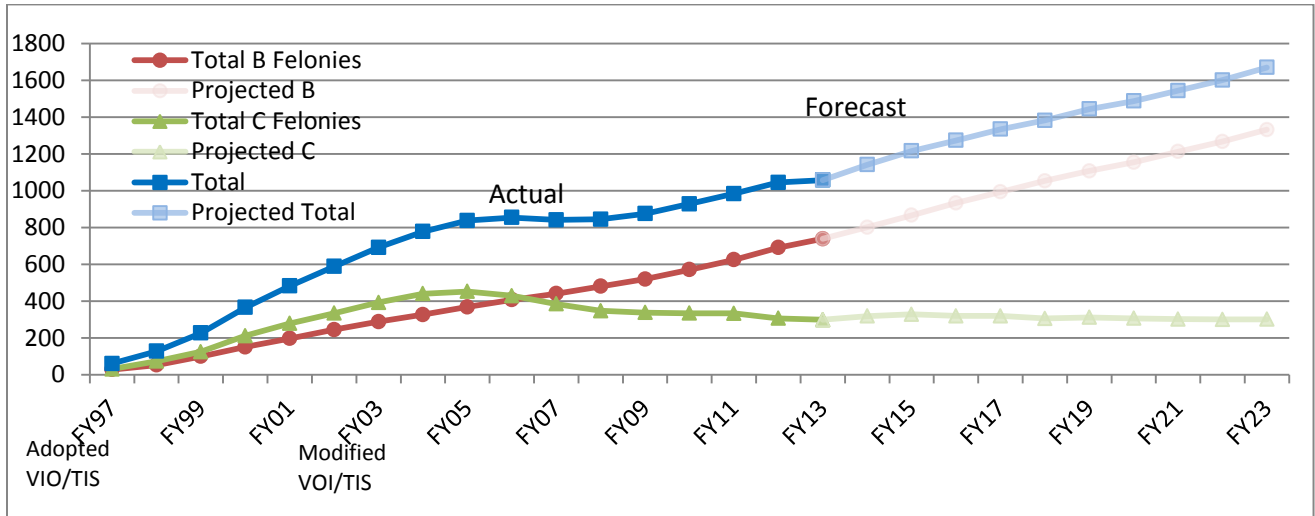
In 1996, the Iowa General Assembly adopted SF 1151 in response to a federal initiative called Violent Offender Incarceration and Truth in Sentencing (VOI/TIS). This incentivized grant program encouraged states to increase correctional capacity for adults convicted of certain violent crimes. This effort occurred during a time when it was becoming more accepted that a substantial percentage of serious crime is committed by a relatively small number of individual offenders. With proper identification of these offenders, it was believed that prolonged incarceration would reduce the level of violent crimes.

Like other states, Iowa adopted the 85% requirement of the federal legislation when SF1151 was passed in 1996. This requirement was modified in 2003, when inmates covered by these sentences were made eligible for parole release after having served 70% of their sentences. The following year, this provision was made retroactive, so all those originally covered by the 85% requirement became eligible for parole at the 70% mark. The entire group of offenders serving sentences defined in §902.12 of the Iowa Code will be referred to here as “70% inmates”.

VOI/TIS funds also allowed Iowa to implement sentences which carried mandatory minimum terms which limit the amount of “earned time” for which offenders were eligible. Earned-time allows offenders to earn 1.2 days for each day served providing good behavior. Earned-time is applied to all sentences upon prison admission with the exception of sentences with a mandatory minimum (sexual predator and forcible felonies). Originally, in Iowa, these offenders were allowed only to reduce their maximum terms by 15% (hence, “85%” sentences). This eligibility requirement was later modified to permit up to a 30% reduction of sentence. In sum, offenders serving mandatory sentences are eligible for parole after serving 70% of their sentence.

While the admission of new prisoners on 70% mandatory sentences has remained relatively stable since FY 1998, the number of prisoners in the population serving mandatory 70% sentences has steadily risen and is expected to increase in next decade, absent policy reform.

Figure 6: Actual and Projected Inmates in Prison Population Serving Mandatory Sentences, by Offense Class and Fiscal Year



Source: ICON Adhoc

The effects of 70% sentences were studied extensively in a report submitted to the Public Safety Advisory Board on September 11, 2013. This analysis examined the effects of 70% sentences as a whole and then focused on new offenders admitted to prison after being charged with robbery 1st or robbery 2nd (70% crimes). The analysis regarding robbery is presented because robbery offenders constitute such a high percentage of those entering prison under 70% sentences. Robbery is also one of the crimes for which African-Americans are most over-represented in Iowa’s prison admissions.

The cohort for this analysis included all new incoming inmates whose *original charges* included either Robbery 1st or Robbery 2nd, regardless of whether the robbery was the most serious offense charged. These offenders may not have been *convicted* of robbery, but they were originally charged with a robbery offense. Condensed findings are provided in this report, but the full analysis can be found on the [CJJP website](#).

The Effects of 70% Sentences

The findings from the analysis regarding the effects of 70% sentences as a whole revealed the following:

- African-Americans are more likely to be admitted to prison on 70% crimes than Whites.
- Offenders age 18-and-under who enter prison are significantly more likely to be admitted to prison on mandatory 70% offenses than other charges.
- Offenders serving 70% sentences have significantly lower risk scores than offenders not serving mandatory terms.
- Offenders serving mandatory sentences have significantly fewer prior convictions than offenders serving non-mandatory sentences.

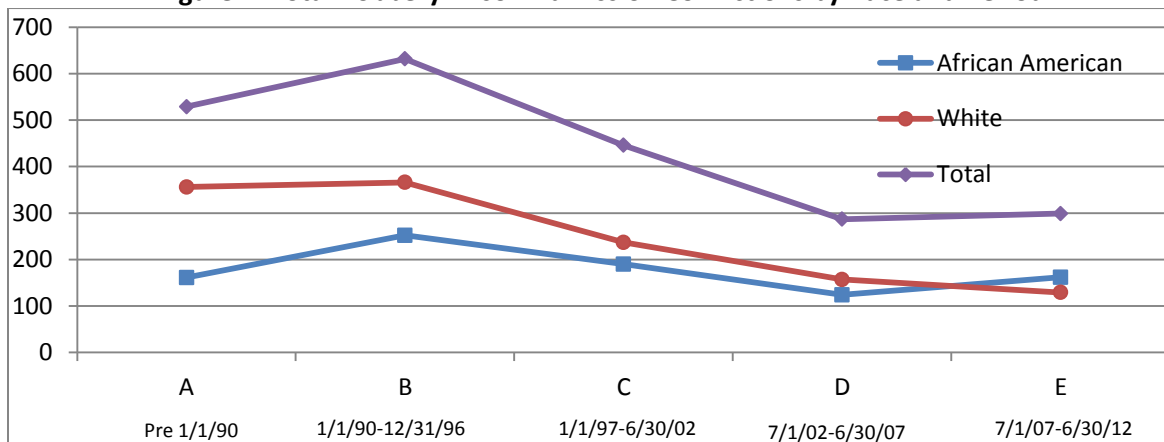
The Effects of 70% Sentences for Robbery Crimes

The findings of the analysis which specifically addressed 70% sentences for robbery crime revealed the following:

- Length-of stay for robbery offenders has dramatically increased since establishment of the 70% mandatory minimum.
- The number of offenders serving sentences for Robbery 2nd has stabilized, while Robbery 1st offenders will continue to increase until such time that releases balance admissions; at this juncture, the original Robbery 1st offenders admitted to prison with 70% mandatory terms are not yet eligible for release consideration.
- Once several Robbery 2nd offenders began to pass their minimum release date, their length-of-stay has remained stable, with release typically occurring midway between their 70% mandatory minimum and their 85% expiration. When released, these offenders were released in much the same manner as Robbery 2nd offenders prior to establishment of the 70% sentence.
- African-Americans are overrepresented in the Robbery 1st and Robbery 2nd cohorts; on 6/30/12, more than half the offenders serving sentences for Robbery 1st as their most serious conviction (based on offense class) were African-Americans. Inmates convicted of Robbery 2nd were equally divided between African-Americans and Whites (including 14 of Hispanic ethnicity).
- Starting in FY 2008, more African-Americans than White have been admitted to Iowa's prisons on robbery convictions.

For the purposes of analysis, the robbery cohort was divided into five groups based upon entry date to prison. These divisions were selected to provide similar sample sizes and also coincide with changes in statutes pertaining to robbery.³

Figure 7: Total Robbery Prison Admission Convictions by Race and Period

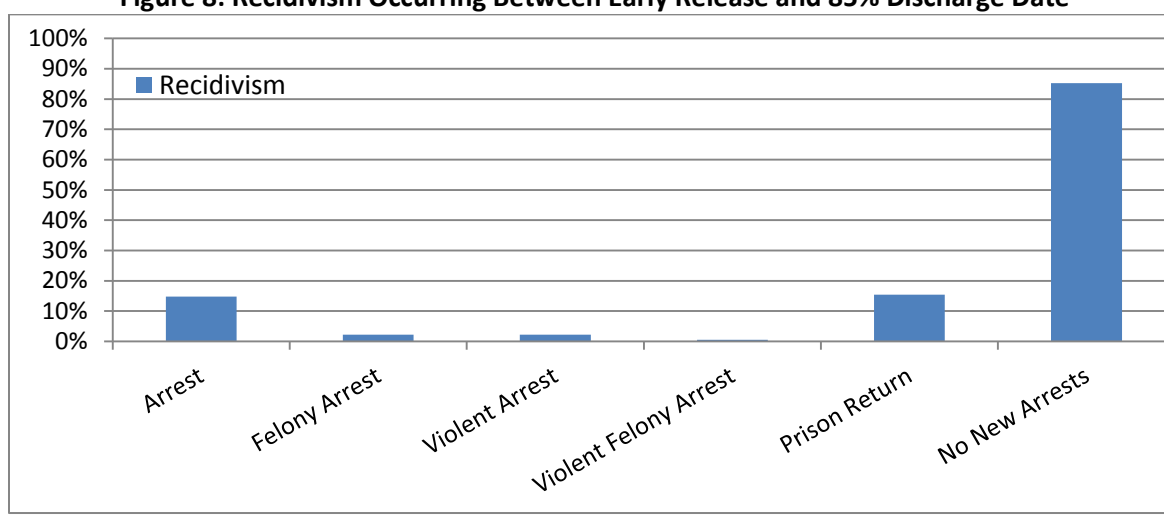


Source: ICON Adhoc

³ Group A: pre 01/01/90; Group B: 01/01/90 – 12/31/96; Group C: 01/01/97 – 06/30/02; Group D: 07/01/02 – 06/30/07; Group E: 07/01/07 – 06/30/12

- Since implementation of mandatory sentencing, the percentage of reduced charges from Robbery 1st to Robbery 2nd has increased by about 40%.
- Of new prison admissions originally charged with robbery, similar percentages of Whites and African-Americans entered prison on reduced charges, tentatively suggesting that the plea negotiation process is not racially biased. A more complete racial analysis of charge reduction would require examination of probationers originally charged with robbery.
- Lastly, a relatively small portion of offenders in the robbery cohort recidivated between their original 85% discharge date and the establishment of the ‘window’ for release between 70% and 85%, suggesting that early release has little impact on public safety.

Figure 8: Recidivism Occurring Between Early Release and 85% Discharge Date



Source: *Interstate Identification Index (III)*

The findings show that, 17 years after codification of the 70% sentences, the number of convicted robbers in Iowa’s prison population is about the same as when the mandatory term was implemented in 1996. While first- and second-degree robbers were about equally represented in the prison population in 1996, since that time the number convicted of robbery 2nd has increased and then has decreased. First-degree robbers will outnumber second-degree robbers sometime in the next five years. This is problematic not just due to the anticipated increase, but also because a high percentage of those imprisoned for Robbery 1st are African-American, exacerbating their over-representation in Iowa’s prison population. This over-representation in the prison population has been an ongoing issue for Iowa⁴. The results from this analysis suggest that mandatory sentences have a disproportionate impact on African-Americans and that reducing the proportion of African-Americans in Iowa’s prison system will be extremely difficult absent some modification of the 70% sentences.

4 See, e.g., Mauer, Mark, and Ryan S. King, “Uneven Justice: State Rates of Incarceration by Race and Ethnicity,” The Sentencing Project, July, 2007. Iowa was found to have the Nation’s third-highest rate of African-American imprisonment, following South Dakota and Wisconsin. Researchers at the University of Wisconsin-Milwaukee, found Iowa’s rate of African-American male imprisonment the third-highest in the U.S. See Pawasrat and Quinn, “Wisconsin’s Mass Incarceration of African American Males: Workforce Challenges for 2013,” Employment and Training Institute, Univ. of Wisconsin-Milwaukee (<http://www4.uwm.edu/eti/2013/BlackImprisonment.pdf>).

VI. Enhanced Penalty for Domestic Abuse Assault Involving Strangulation

Senate File 93: Domestic Abuse Strangulation

Signed by the Governor: February 15, 2012

Effective: July 1, 2012

Crime Code: 708.2A(5) Domestic Abuse-Choking

This Act enhances the penalty of strangulation in the domestic abuse statute (708.2A) (a Serious Misdemeanor) to an Aggravated Misdemeanor if a person knowingly impedes the normal breathing or circulation of the blood of another by applying pressure to the throat or neck, or by obstructing the nose or mouth of the other person. If the assault causes bodily injury, the person commits a class D felony.

In FY 2013, there were 468 disposed charges brought under Iowa Code 708.2A(5), with 256 convictions and 44 convictions as originally charged, according to the Justice Data Warehouse (JDW). During FY 2014, charges, convictions, convicted as charged incidences, and amended charges increased for this offense.

Table 6: 708.2A(5) Charges and Convictions, Fiscal Year⁵

Offense Level	Disposed Charges	Dismissed/ Acquitted	Convicted	Convicted as Charged	Amended
FY 2013 County Totals	468	149	256	44	204
FY 2014 Country Totals	527	150	344	84	257

Source: Justice Data Warehouse

There were 257 charges of 708.2A(5) which were amended. The information in Table 7 displays the types of convictions received following a 708.2A(5) charge. The most common alternative conviction for 708.2A(5) is 708.2A(2)(d) Domestic abuse assault impeding flow of air/blood (n=108). Charges were largely amended to Aggravated Misdemeanors (n=129).

⁵ Some charges are disposed as "other" (e.g. not filed, withdrawn, etc.). Therefore, the number of convictions is generated by subtracting charges which were dismissed/acquitted and those which were filed as "other" from total disposed charges.

Table 7: 708.2A(5) Charges Amended (FY 2014)

Description	N
ASSAULT (SMMS)	15
ASSAULT CAUSING BODILY INJURY-1978 (SRMS)	23
ASSAULT INTENT TO INFLICT SERIOUS INJURY-1978 (AGMS)	2
ASSAULT USE/DISPLAY OF A WEAPON-1989 (AGMS)	1
ASSAULT WITHOUT INTENT CAUSING SERIOUS INJURY	1
ASSAULT, VIOL OF INDIVIDUAL RIGHTS (SRMS)	1
DISORDERLY CONDUCT - LOUD OR RAUCOUS NOISE	5
DISORDERLY CONDUCT - ABUSIVE EPITHETS/THREAT GESTURE (SMMS)	1
DISORDERLY CONDUCT - FIGHTING OR VIOLENT BEHAVIOR (SMMS)	5
DOMESTIC ABUSE ASSAULT - 2ND OFFENSE	2
DOMESTIC ABUSE ASSAULT - 2ND OFFENSE (AGMS)	7
DOMESTIC ABUSE ASSAULT - 2ND OFFENSE (SRMS)	1
DOMESTIC ABUSE ASSAULT - 3RD OR SUBSEQUENT OFFENSE (FELD)	1
DOMESTIC ABUSE ASSAULT (SMMS)	16
DOMESTIC ABUSE ASSAULT- 1ST OFFENSE	2
DOMESTIC ABUSE ASSAULT CAUSE BODILY INJURY/MENTL ILLNSS (SRMS)	39
DOMESTIC ABUSE ASSAULT DISPLAY OR USE WEAPON - 1ST OFFENSE	2
DOMESTIC ABUSE ASSAULT IMPEDING FLOW OF AIR/BLOOD	108
DOMESTIC ABUSE ASSAULT- INJURY OR MENTAL ILLNESS - 1ST OFF	12
DOMESTIC ABUSE ASSAULT W/INTENT OR DISPLAYS A WEAPON (AGMS)	7
FALSE IMPRISONMENT - 1978 (SRMS)	2
HARASSMENT - 2ND DEGREE	1
HARASSMENT / 3RD DEG. - 1989 (SMMS)	1
WILLFUL INJURY - CAUSING BODILY INJURY (FELD)	1
(blank)	1
Total	257

Source: Justice Data Warehouse

Table 8: 708.2A(5) Charges Amended (FY 2014)

	N
Aggravated Misdemeanor	129
Serious Misdemeanor	79
Simple Misdemeanor	45
D Felony	3
(blank)	1
Total	257

Source: Justice Data Warehouse

VIII. Changes to the Purchase or Possession of Child Pornography

House File 2390: An Act relating to obscene material, commercial sexual activity, and human trafficking, and providing penalties and making penalties applicable.

Signed by the Governor: April 4, 2012

Effective: July 1, 2012

Crime Code Modified: 728.12(3)

This Act amended section 728.12(3) Purchase or Possess Medium Depicting Exploitation of a Minor by allowing separate charges to be filed for each child being exploited rather than the number of storage systems, mediums, or images purchased or possessed.

This offense has multiple offense classes based on the severity and number of prior offenses. For instance, a *C Felony* is reserved for individuals who employ, use, persuade, induce, entice, coerce, solicit, knowingly permit, or otherwise cause or attempt to cause a minor to engage in a prohibited sexual act or in the simulation of a prohibited sexual act. A person must know, or have reason to know, or intend that the act or simulated act may be photographed, filmed, or otherwise preserved in a negative, slide, book, magazine, computer, computer disk, or other print or visual medium, or be preserved in an electronic, magnetic, or optical storage system, or in any other type of storage system.

Offenders who knowingly purchase or possess a negative, slide, book, magazine, computer, computer disk, or other print or visual medium, or an electronic, magnetic, or optical storage system, or any other type of storage system which depicts a minor engaging in a prohibited sexual act or the simulation of a prohibited sexual act are guilty of an *Aggravated Misdemeanor* for their first offense while subsequent offenses are subject to a *D Felony*.

The findings below outline the number of charges and convictions for the above offense prior to (FY 2011-FY 2014) and after modification of the code (FY 2013). This is a topic that will continue to be monitored.

Table 9: 728.12(3) Disposed Charges and Convictions, by Fiscal Year

	Original Code		Modified Code	
	2011	2012	2013	2014
Disposed Charges	5	13	25	23
Convictions	3	7	11	9
Offenders Convicted	3	7	10	7

Source: Justice Data Warehouse

IX. DNA Hits

House File 527: An act requiring a person other than a juvenile convicted of or receiving a deferred judgment for an aggravated misdemeanor to submit a DNA sample and including effective data provisions. This Bill exempts Iowa Code chapter 321 (motor vehicles), Iowa Code section 321J.2 (second offense OWI), and offenses under Iowa Code chapters 716B, 717A, and Iowa Code section 725.7.

Signed by the Governor: May 15, 2013

Effective: July 1, 2014

This bill does not apply retroactively to offenders currently under supervision.

Under the current bill, DNA is collected on individuals convicted of felony crimes. The FBI defines a DNA hit as “a hit that occurs when a confirmed or verified match aids an investigation and one or more of the case(s) involved in the match is unsolved.” In other words, a DNA hit is a database match that links an individual to a crime, or two or more unsolved crimes to each other, when no previous association had been made. Once a DNA hit has been made through the Convicted Offender DNA Index System (CODIS), the information is supplied to the appropriate agency for investigative purpose. DNA hits are to serve as an informative element to aid investigations. DNA hits can be helpful in the exoneration or conviction of an offender. It is difficult to determine how many convictions has been the result of DNA hits as this information is not routinely supplied to the Department of Public Safety (DPS).

While previous information supplied in the Legislative monitoring report has included only hits against the State DNA Index System (SDIS), the following data includes total hits received against both the SDIS and National DNA Index System (NDIS). Data for hits against the two databases do not duplicate one another. Additionally supplied is information on hits against Iowa offenders. These hits are a by-product of SDIS and provide investigative leads for other agencies outside of Iowa. These leads then have the potential to provide associations to other cases (which may or may not be an Iowa case) that might not have had good DNA evidence.

Table 10: Iowa DNA Hits by Offense and Fiscal Year

	2011 Hits		2012 Hits		2013 Hits		2014		Total	
	N	%	N	%	N	%	N	%	N	%
Burglary	126	59.7%	107	52.7%	104	52.5%	129	55.8%	466	55.3%
Sex Offense	36	17.1%	36	17.7%	29	14.6%	40	17.3%	141	16.7%
Deaths	2	0.9%	4	2.0%	7	3.5%	3	1.3%	16	1.9%
Theft	19	9.0%	30	14.8%	31	15.7%	33	14.3%	113	13.4%
Robbery	5	2.4%	4	2.0%	9	4.5%	7	3.0%	25	3.0%
Misc. or No Data	23	10.9%	22	10.8%	18	9.1%	19	8.2%	82	9.7%
Total	211	100%	203	100%	198	99.9%	231	99.9%	843	100%
Hits Against IA Offenders ⁶	22	--	16	--	19	--	22	--	79	--

Source: Iowa Department of Public Safety

⁶ Hits against Iowa offenders includes scenarios where an out-of-state DNA hit is confirmed against an Iowa offender.

Historically, DNA hits are received at higher rates for crimes involving burglary (55.3%), sex offenses (16.7%) and theft (13.4%). The number of hits for burglary, sex offenses, death and robbery has remained relatively stable while hits for theft have increased from FY 2011 - FY 2014. According to the DPS, extending to this bill to include aggravated misdemeanants is expected to cost about \$327,000 for FY 2015 and FY 2016. Included in this cost is \$185,000 additional sample kits (at \$26.46 each) and the salaries of two FTE positions for criminalists at the crime lab (\$142,000). The DNA kits are provided by the (DPS and are paid from the General Fund appropriation to the Division of Criminal Investigation (DCI). Further analysis on this topic will be conducted after the bill has gone into effect.

X. Interference with Official Acts

Senate File 384: An Act relating to removing or attempting to remove a communication or control device from the possession of a peace officer or correctional officer, interference with official acts, and providing penalties.

Signed by the Governor: April 24, 2013

Effective: July 1, 2013

Crime Code Modified: 719.1 & 719.2

As amended and passed by the Senate, this Act creates a new offense, removal of an officer's communication or control device. The Act provides a graduated system of penalties for the offense depending on the purpose behind communication device removal and whether injury is sustained by the officer. This Bill designates lesser penalties for the crime of interference with official acts for actions that simply *result* in bodily injury rather than requiring a showing that the offender's actions caused serious injury.

This section is still in development. CJP completed a correctional impact statement on the proposal, although it is not possible to estimate how many instances of Interference with Official Acts this change would affect. In FY 2014 there were 5,247 charges of Interference disposed in Iowa courts and 2,725 offenders convicted. It is possible that the "loosening" of the requirement for proving injury will result in more convictions, but it is not possible to say how many.

CJP will continue to monitor the impact of the new provision and report back to the Council next year.

Table 11: Interference Charges and Convictions

	Old Crime Code		Modified Crime Code
	FY 2012	FY 2013	FY 2014
Disposed Charges	5,398	5,673	5,247
Convictions	3,195	3,308	3,032
Offenders Convicted by Conviction Class			
C Felony	1	0	1
D Felony	18	16	32
Aggravated Misd.	159	148	131
Serious Misd.	12	17	42
Simple Misd.	2,638	2,742	2,519
Blank	0	1	0
Offenders Convicted	2,828	2,924	2,725

Source: Justice Data Warehouse

XI. Probation Revocations by Judicial District by Race

On September 24th, 2014, members of the CJPAC requested data examining probation revocations by district by race. It appears that over the last five fiscal years, probation revocations by race have remained fairly stable. Of total offenders revoked, 72% - 74% have been White and 23% - 26% have been African-American over the last five years. It should also be mentioned that generally African-Americans are overrepresented in our criminal justice system as is also reflected in the data below.

Table 12: Probation Revocations by District by Race

	White		African-American		American-Indian		Asian or Pacific Islander		Total	
	N	%	N	%	N	%	N	%	N	%
FY 2014										
1JD	172	58.7%	120	40.9%	1	0.3%	0	0.0%	293	100%
2JD	169	86.2%	24	12.2%	2	1.0%	1	0.5%	196	100%
3JD	99	82.5%	9	7.5%	10	8.3%	2	1.7%	120	100%
4JD	79	92.9%	5	5.9%	1	1.2%	0	0.0%	85	100%
5JD	344	73.7%	112	24.0%	8	1.7%	3	0.6%	467	100%
6JD	79	60.3%	45	34.3%	7	5.3%	0	0.0%	131	100%
7JD	66	69.5%	29	30.5%	0	0.0%	0	0.0%	95	100%
8JD	144	89.4%	14	8.7%	1	0.6%	2	1.2%	161	100%
Compact	8	53.3%	5	33.3%	2	13.3%	0	0.0%	15	100%
Total	1,160	74.2%	363	23.2%	32	2.0%	8	0.5%	1,563	100%
FY 2013										
1JD	166	63.4%	95	36.3%	0	0.0%	1	0.4%	262	100%
2JD	134	81.7%	25	15.2%	3	1.8%	2	1.2%	164	100%
3JD	78	75.0%	10	9.6%	15	14.4%	1	1.0%	104	100%
4JD	88	96.7%	3	3.3%	0	0.0%	0	0.0%	91	100%
5JD	349	75.2%	101	21.8%	3	0.6%	11	2.4%	464	100%
6JD	83	63.8%	44	33.8%	2	1.5%	1	0.8%	130	100%
7JD	68	70.8%	28	29.2%	0	0.0%	0	0.0%	96	100%
8JD	140	85.4%	23	14.0%	0	0.0%	1	0.6%	164	100%
Compact	5	50.0%	5	50.0%	0	0.0%	0	0.0%	10	100%
Total	1,111	74.8%	334	22.5%	23	1.5%	17	1.1%	1,485	100%
FY 2012										
1JD	142	56.3%	109	43.2%	1	0.4%	0	0.0%	252	100%
2JD	152	80.0%	32	16.8%	3	1.6%	3	1.6%	190	100%
3JD	73	76.0%	14	14.6%	9	9.4%	0	0.0%	96	100%
4JD	78	96.3%	2	2.5%	1	1.2%	0	0.0%	81	100%
5JD	392	79.0%	97	19.5%	5	1.0%	2	0.4%	496	100%
6JD	107	64.8%	55	33.3%	2	1.2%	1	0.6%	165	100%
7JD	62	63.9%	35	36.1%	0	0.0%	0	0.0%	97	100%
8JD	109	82.6%	22	16.7%	0	0.0%	1	0.7%	132	100%
Compact	6	50.0%	6	50.0%	0	0.0%	0	0.0%	12	100%
Total	1,121	73.7%	372	24.4%	21	1.4%	7	0.5%	1,521	100%
FY 2011										
1JD	145	61.4%	90	38.1%	1	0.4%	0	0.0%	236	100%
2JD	155	80.7%	32	16.7%	2	1.0%	3	1.6%	192	100%

3JD	89	71.2%	21	16.8%	14	11.2%	1	0.8%	125	100%
4JD	61	93.8%	3	4.6%	1	1.5%	0	0.0%	65	100%
5JD	311	69.4%	133	29.7%	2	0.4%	2	0.4%	448	100%
6JD	84	64.6%	40	30.8%	5	3.8%	1	0.8%	130	100%
7JD	72	65.4%	38	34.5%	0	0.0%	0	0.0%	110	100%
8JD	136	84.5%	24	14.9%	0	0.0%	1	0.6%	161	100%
Compact	5	71.4%	2	28.6%	0	0.0%	0	0.0%	7	100%
Total	1,058	71.8%	383	26.0%	25	1.7%	8	0.5%	1,474	100%
FY 2010										
1JD	151	64.0%	85	36.0%	0	0.0%	0	0.0%	236	100%
2JD	117	77.0%	30	19.7%	3	2.0%	2	1.3%	152	100%
3JD	79	76.7%	16	15.5%	7	6.8%	1	1.0%	103	100%
4JD	66	84.6%	12	15.4%	0	0.0%	0	0.0%	78	100%
5JD	245	70.6%	94	27.1%	2	0.6%	6	1.7%	347	100%
6JD	72	69.9%	28	27.2%	3	2.9%	0	0.0%	103	100%
7JD	75	63.5%	40	33.9%	2	1.7%	1	0.8%	118	100%
8JD	140	88.0%	18	11.3%	0	0.0%	1	0.6%	159	100%
Compact	9	75.0%	3	25.0%	0	0.0%	0	0.0%	12	100%
Total	954	72.9%	326	24.9%	17	1.3%	11	0.8%	1,308	100%

The following are newly passed legislation that the Council wished to monitor. CJJP will continue to monitor the impact of the below legislation as more time passes to examine the effects.

XII. Elder Abuse

Senate File 2239: Senate file 2239 defines Elder Abuse in Iowa Code Chapter 235F.

Signed by the Governor: May 5, 2014

Effective: July 1, 2014

XIII: Coach-Student Sex

House File 2474: An Act expanding the criminal offense of and related penalties for sexual exploitation to include persons issues a school coaching authorization.

Signed by the Governor: May 23, 2014

Effective: July 1, 2014

XIV: Human Trafficking

Senate File 2311: An Act relating to sexual and criminal offenses involving minors and others, including prostitution, pimping, and human trafficking, providing for a fee, and including penalties and effective date and applicability provisions.

Signed by the Governor: April 24, 2014

Effective: July 1, 2014

In FY 2014 there were 101 charges of prostitution and pimping. It is difficult to determine the number of these charges which involved a minor. CJJP will monitor the impact of this new provision and report back to the Council once more time has lapsed.

Table 13: Pimping and Prostitution Disposed Charges and Convictions

FY 2014 (Old Code)				
	Charges	Convictions	Dismissed/Acquitted	Convicted as Charged
Pimping	11	7	4	4
Prostitution	90	21	56	55
Total	101	28	60	59