



# FY 2016 State Justice System Legislation Monitoring Report

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Staff support is provided to the Iowa Criminal and Juvenile Justice Planning Advisory Council by the Department of Human Rights, Division of Criminal and Juvenile Justice Planning.

Completion of this report fulfills the Criminal and Juvenile Justice Planning Advisory Council's (CJJPAC) legislative obligations outlined in Iowa Code section §216A.133. This section of the code instructs the CJJPAC, a council staffed by The Division of Criminal and Juvenile Justice Planning (CJJP), to examine and provide analysis of criminal and juvenile justice policy. The council is to "report criminal and juvenile justice system needs to the governor, the general-assembly, and other decision makers to improve the criminal and juvenile justice system."

On November 18, 2015 Iowa's CJJPAC approved this report.

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## **Executive Summary**

The Criminal and Juvenile Justice Planning Advisory Council (CJJPAC) has requested that the Division of Criminal and Juvenile Justice Planning (CJJP) monitor the correctional impact of enacted legislation of particular interest. Completion of this report fulfills the CJJPAC's legislative obligations outlined in Iowa Code section §216A.133. The following information provides a summary of select data identified as having a correctional impact. The total report provides data used to monitor other legislation for which the CJJPAC has interest in monitoring.

### **New Legislation**

#### **Sentencing Practices for Juveniles**

Senate File 448, signed April 24<sup>th</sup>, 2015 provides additional sentencing options for the adult court for juveniles, under the age of 18 at time of offense, convicted of class "A" felonies. As of June 30<sup>th</sup>, 2015 there were 44 inmates who were under 18 at time of offense serving class "A" felonies. These inmates will have the option to have their cases reviewed for potential resentencing options. As of November, 2015 there were 24 offenders convicted of "A" felonies who were under 18 at time of offense who had been resentedenced and 20 offenders waiting to be resentedenced.

While no legislative activity took place, the Supreme Court ruling of Lyle v. State filed on July 18<sup>th</sup>, 2014 also found that juveniles should not be automatically subjected to serve the 902.12 mandatory minimum for crimes such as murder, attempted murder, sex abuse, kidnapping, robbery or vehicular homicide without considering offender level characteristics such as age, maturity and family history. For more information see Section XIV, page 32 of the full report.

### **Impacted Legislation – FY 2015**

#### **Aggravated Theft**

During the 2010 legislative session, the General Assembly created a new aggravated theft charge (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. 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 2<sup>nd</sup> (FY 2012- FY 2015). Offenders convicted of robbery 1<sup>st</sup> have remained largely stable from FY 2010- FY 2015.

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 and FY 2015. 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). For more information see Section III, pages 11-13 of the full report.

### 70% Crimes

Like other states, Iowa adopted the 85% requirement of the federal legislation when SF1151 passed in 1996. The 85% requirement mandated that inmates convicted of certain crimes were to serve 85% of their sentence before becoming parole eligible. This requirement was modified in 2003, when inmates covered by these 85% 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. 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 the next decade, absent policy reform. For more information see Section V, pages 18-22 of the full report.

## **I. Introduction**

The Division of Criminal and Juvenile Justice Planning (CJJP) 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 (CJJPAC) has requested that CJJP 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 Purchase or Possession of Child Pornography
- DNA Hits
- Interference with Official Acts
- Probation Revocations by District by Race
- Elder Abuse
- Coach-Student Sex
- Human Trafficking
- Sentencing Practices for Juveniles

## **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 three more synthetic cannabinoids as Schedule I controlled substances in Iowa. Effective November 15, 2013 at the federal level, the DEA scheduled three 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 Code 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 Code Table increases, 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 as a result of substance use. 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 2014. Data indicate that accidental poisoning hospitalizations, as a result of substance use, have declined since 2011, with more notable declines observed during FY2014. Accidental poisoning emergency room visits, as a result of substance use, have



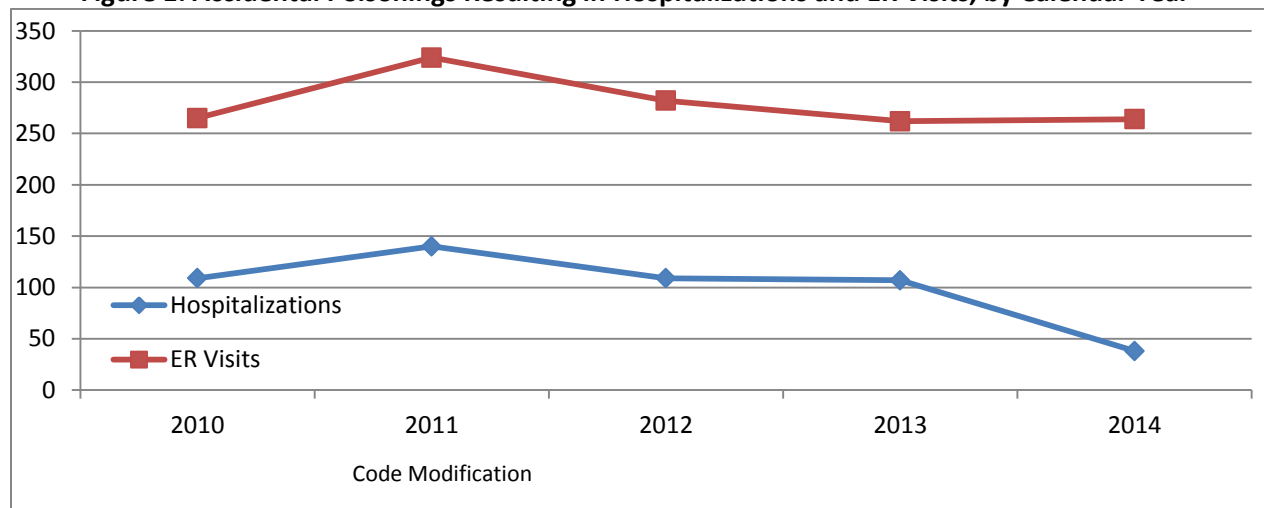
remained fairly steady for the last three fiscal years although we observe a subtle decline since FY 2011 (Table 1 and Figure 1).

**Table 1: Accidental Poisonings Resulting in Hospitalizations and ER Visits**

ACCIDENTAL POISONS (ENCODE)		
Calendar Year (CY)	HOSPITALIZATIONS (In-Patient)	EMERGENCY ROOM VISITS (Out-Patient)
	Accidental Poisoning as a Result of Substance Use	Accidental Poisoning as a Result of Substance Use
2010	109	265
2011 (Code Modifications)	140	324
2012	109	282
2013	107	262
2014	38	264
<b>Total</b>	<b>503</b>	<b>1,397</b>
<b>Average</b>	<b>101</b>	<b>279</b>

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).

For youth, hospitalizations have remained fairly steady from 2010-2014, while emergency room visits remained steady from 2010-2013 with a sharp increase observed during 2014. For adults, hospitalizations have declined since 2011 with a notable decrease observed between 2013-2014. Adult emergency room visits remained steady from 2010-2013 and decreased during 2014 (Table 2).

**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
2014	0	10	28	38	0	157	107	264
<b>Total</b>	<b>54</b>	<b>45</b>	<b>403</b>	<b>502</b>	<b>413</b>	<b>274</b>	<b>724</b>	<b>1,411</b>
<b>Average</b>	11	9	81	100	83	55	145	282

Source: Iowa Department of Public Health

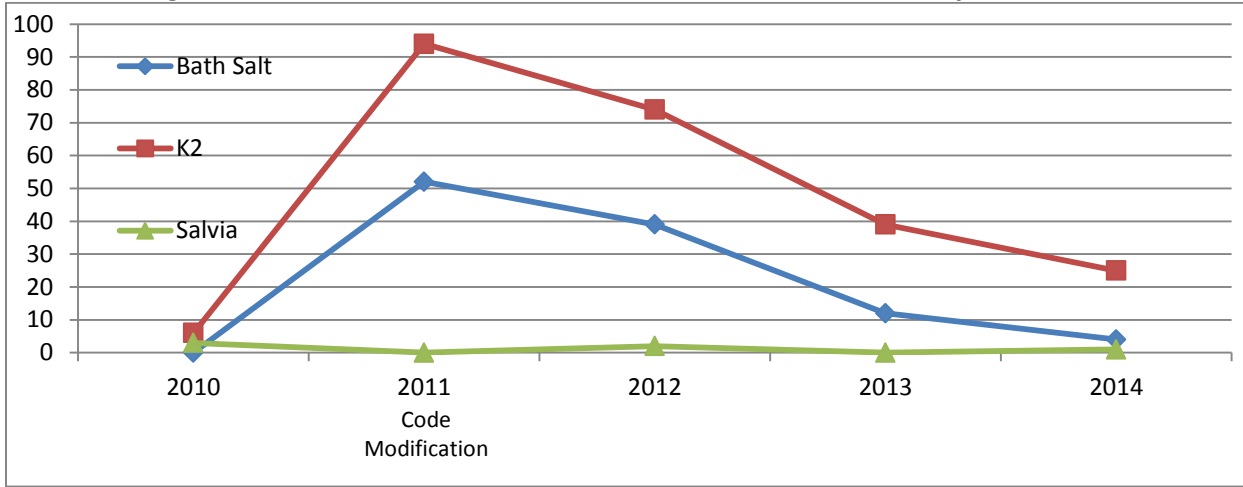
Another source of information on this topic is the statewide Poison Control Center located in Sioux City. Health care facilities can contact the Poison Control Center (although they are not required) if they have inquiries about synthetics or would like guidance and recommendations related to patient 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 2010-2014, 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 four months of 2015 indicate that we can expect calls and treatments reported in 2014 for bath salts and salvia to be low and consistent through calendar year 2015. We would expect calls and treatments for K2 to be slightly lower or consistent during CY2015 as was reported in CY2014.

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	39	0	0
2014	6	4	24	25	1	1
2015 (Jan-April)	4	3	10	10	0	0
<b>Total</b>	<b>122</b>	<b>110</b>	<b>245</b>	<b>248</b>	<b>6</b>	<b>6</b>

Source: Iowa Poison Control Center

### **III. Aggravated Theft**

Senate File: 2250: Established Aggravated Theft as a charging alternative to Robbery.

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 or robbery 2<sup>nd</sup>, a class C felony, 70%. Anecdotal information indicated that some jurisdictions, in these instances, also used theft 5<sup>th</sup> in combination with simple assault, two simple misdemeanor offenses.

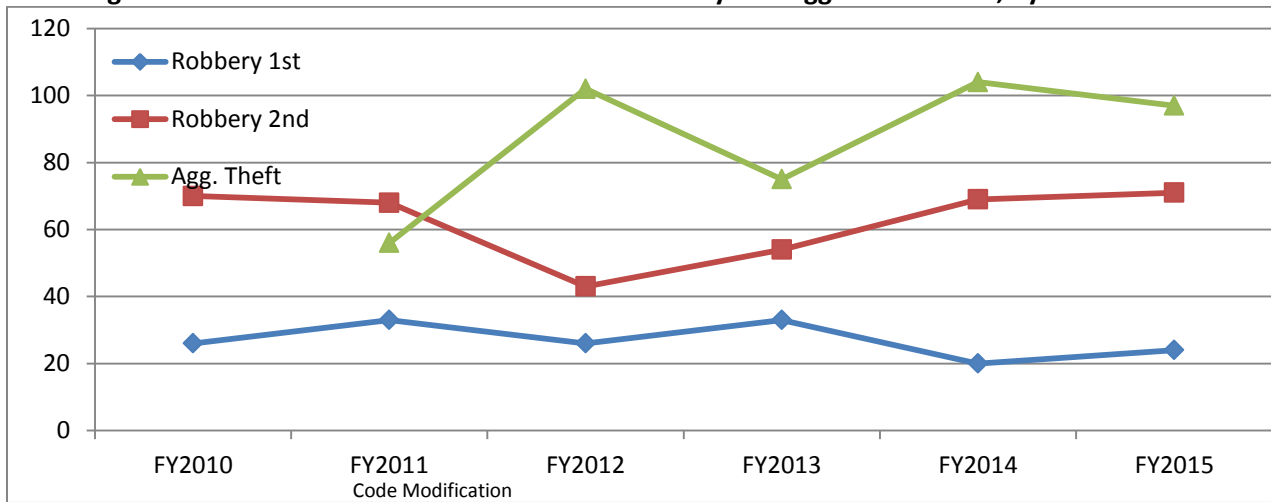
Data were examined one year prior to the enactment of §714.3A to examine changes in charging and convicting practices (FY 2010-FY 2015). Charges and convictions for robbery 1<sup>st</sup>, robbery 2<sup>nd</sup>, and aggravated theft were obtained from the Iowa Justice Data Warehouse (JDW). In addition, offenders who were convicted of the theft 5<sup>th</sup>/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**

	<b>Robbery 1<sup>st</sup></b>	<b>Robbery 2<sup>nd</sup></b>	<b>Aggravated Theft</b>	<b>Total</b>
<b>FY 2010</b>				
# Charges	265	323	NA	--
# Convicted	26	70	NA	--
<b>FY 2011 (Code Modification)</b>				
# Charges	255	223	74	552
# Convicted	33	68	56	157
<b>FY 2012</b>				
#Charges	250	251	129	630
#Convicted	26	43	102	171
<b>FY 2013</b>				
#Charges	305	221	112	638
#Convicted	33	54	75	162
<b>FY 2014</b>				
#Charges	237	240	131	608
#Convicted	20	69	104	193
<b>FY 2015</b>				
#Charges	249	219	114	582
#Convicted	24	71	97	192

Source: Iowa Justice Data Warehouse

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



Source: Iowa 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 2015). Offenders convicted of robbery 1<sup>st</sup> have remained largely stable from FY 2010- FY 2015.

#### **Robbery and Aggravated Theft Convictions by Race**

African-Americans accounted for about half of all robbery 1<sup>st</sup> convictions for each of the fiscal years, with the exception of FY 2014 (Table 4). The percentage of African-Americans convicted of robbery 2<sup>nd</sup> was greater than the percentage of whites in all observed fiscal years, with the exception of FY 2012 and FY 2015.

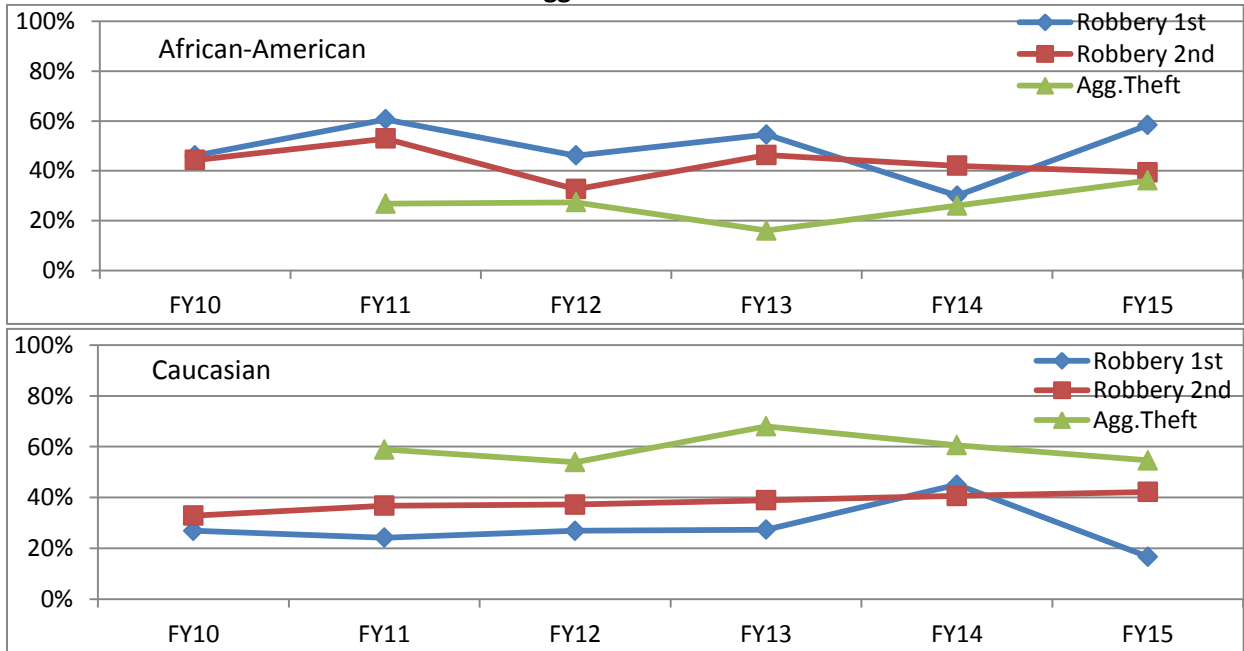
The total number of convictions for aggravated theft nearly doubled in FY 2012 but declined in FY 2013 and returned to FY 2012 levels in FY 2014 and FY 2015. The racial distribution for FY 2011 through FY 2014 was similar, with a greater percentage of whites convicted of aggravated theft compared to 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 1<sup>st</sup>, 2<sup>nd</sup> and Aggravated Theft, by Race**

	FY 2010		FY 2011		FY 2012		FY 2013		FY 2014		FY 2015	
	#	%	#	%	#	%	#	%	#	%	#	%
<b>Robbery 1st</b>												
White	7	26.9%	8	24.2%	7	26.9%	9	27.3%	9	45.0%	4	16.7%
African-American	12	46.1%	20	60.6%	12	46.1%	18	54.5%	6	30.0%	14	58.3%
Other <sup>1</sup>	7	26.9%	5	15.2%	7	26.9%	6	18.2%	5	25.0%	6	25.0%
<b>Total Offender</b>	<b>26</b>	<b>100%</b>	<b>33</b>	<b>100%</b>	<b>26</b>	<b>100%</b>	<b>33</b>	<b>100%</b>	<b>20</b>	<b>100%</b>	<b>24</b>	<b>100%</b>
<b>Robbery 2nd</b>												
White	23	32.9%	25	36.8%	16	37.2%	21	38.9%	28	40.6%	30	42.2%
African-American	31	44.3%	36	52.9%	14	32.6%	25	46.3%	29	42.0%	28	39.4%
Other*	16	22.9%	7	10.3%	13	30.2%	8	14.8%	12	17.4%	13	18.3%
<b>Total</b>	<b>70</b>	<b>100%</b>	<b>68</b>	<b>100%</b>	<b>43</b>	<b>100%</b>	<b>54</b>	<b>100%</b>	<b>69</b>	<b>100%</b>	<b>71</b>	<b>100%</b>
<b>Aggravated Theft</b>												
White	--	--	33	58.9%	55	53.9%	51	68.0%	63	60.6%	53	54.6%
African-American	--	--	15	26.8%	28	27.4%	12	16.0%	27	26.0%	35	36.1%
Other*	--	--	8	14.3%	19	18.6%	12	16.0%	14	13.5%	9	9.3%
<b>Total</b>	<b>--</b>	<b>--</b>	<b>56</b>	<b>100%</b>	<b>102</b>	<b>100%</b>	<b>75</b>	<b>100%</b>	<b>104</b>	<b>100%</b>	<b>97</b>	<b>100%</b>

Source: Iowa Justice Data Warehouse

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



Source: Iowa Justice Data Warehouse

<sup>1</sup> Includes offender's whose race is unknown.

#### **IV. Residential Treatment Backlog**

In FY 2009 capital appropriations to the Iowa 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 residential facilities in the state. The data include total wait list figures as well a break out of work release and OWI wait list facilities. There is benefit to observing work release and OWI wait lists separate from the total figures as these facilities are of higher cost. The reports used to produce the data cannot be generated retroactively; therefore total and work release/OWI facility wait list figures are unavailable for certain years. Waiting list populations may change daily depending upon changes in supervision status.

As of August 11<sup>th</sup> 2015, there were 779 offenders on waiting lists for residential facilities, 236 of whom were waiting for placement into work release or OWI facilities. It would appear that while total waiting list figures have remained similar from 2011-2015 (777 vs. 779), the work release/OWI facility waiting lists decreased between 2013-2015 (279 vs. 236). It appears that expansion of residential facility capacity has little influence on waiting list figures.

The Legislative Services Agency reports that in 2015 the daily marginal cost for residential facilities was \$11.85, while the marginal cost for prisons was \$18.43. This translates into a cost differential of \$6.58 per day, per person.

It is somewhat difficult to determine any cost differences for those waiting placement in the community, as these offenders are likely to receive an array of community-based supervision services at varying levels of intensity, all of which would influence the daily costs. The FY 2015 median wait time for this group was 22 days, and the average was 33 days.

**Table 5: State Residential Facilities Population and Waiting List Total Counts (Detail) <sup>2</sup>**

JD	Facility	Capacity	2015 Population			2015 Waiting List			2012 Waiting List	2011 Waiting List
			Male	Female	Total	Male	Female	Total	Total	Total
1	Dubuque	80	63	9	72	19	0	19	19	19
1	Waterloo	150	137	0	137	31	0	31	35	62
1	West Union	48	39	5	44	11	0	11	10	14
1	Waterloo Cntr for Change	45	0	37	37	0	2	2	--	--
	District Total	323	239	51	290	61	2	63	64	95
2	Beje Clark Mason City	51	36	11	47	30	2	32	11	5
2	Curt Forbes Ames	45	34	6	40	24	3	27	12	32
2	Fort Dodge	60	43	5	48	29	2	31	13	26
2	Marshalltown	51	44	8	52	17	4	21	10	26
	District Total	207	157	30	187	100	11	111	46	89
3	Sheldon	30	29		29	17	0	17	14	21
3	Sioux City	99	76	15	91	43	25	68	102	159
	District Total	129	105	15	120	60	25	85	116	180
4	Council Bluffs (Inst)	78	58	13	71	21	12	33	37	24
4	Council Bluffs (Treatment)	46	29	0	29	9	0	9	5	5
	District Total	124	87	13	100	30	12	42	42	29
5	Des Moines Women	48	0	48	48	0	30	30	26	23
5	Ft DSM Bldg #65	40	44	0	44	13	0	13	0	0
5	Ft DSM Bldg #66	--	0	0	0	0	0	0	14	10
5	Ft DSM Bldg #68	80	77	0	77	67	0	67	40	27
5	Ft DSM Bldg #70	120	126	0	126	128	1	129	64	71
5	SOTP	--	0	0	0	0	0	0	0	0
	District Total	288	247	48	295	208	31	239	144	131
6	Cedar Rapids G. Hinzman	83	50	31	81	29	24	57 <sup>3</sup>	42	43
6	Cedar Rapids Lary Nelson	90	110	0	110	62	0	62	18	33
6	Coralville Hope House	55	59	0	59	15	0	15	59	19
	District Total	228	219	31	250	106	24	134	119	95
7	Davenport Residential	64	64	0	64	18	0	18	27	20
7	Davenport Work Rel/OWI	120	94	24	118	47	10	57	45	95
	District Total	184	158	24	182	65	10	75	72	115
8	Burlington	60	61	0	61	12	0	12	14	6
8	Ottumwa	76	57	14	71	18	0	18	57	37
	District Total	136	118	14	132	30	0	30	71	43
	Statewide	1,619	1,330	226	1,556	660	115	779 <sup>4</sup>	674	777
	Capacity				1,619				1,509	1,509
2011 waiting list drawn on August 23, 2011										
2012 waiting list drawn on September 12, 2012										
2015 waiting list drawn on August 11, 2015										

Source: Iowa Department of Corrections

<sup>2</sup> 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

<sup>3</sup> Four offenders had an unknown sex. They are counted within the waiting list total however are not counted within the male or female category.

<sup>4</sup> Ibid.



**Table 6: State Residential Facilities Population and Work Release/OWI Facility Waiting List Counts  
(Detail) <sup>56</sup>**

JD	Facility	2015 Population			2015 Waiting List			2014 Waiting List	2013 Waiting List
		Male	Female	Total	Male	Female	Total	Total	Total
1	Dubuque	16	3	19	1	0	1	8	7
1	Waterloo	67	0	67	6	0	6	15	15
1	West Union	15	1	16	4	0	4	8	8
1	Waterloo Cntr for Change	0	12	12	0	0	0	0	--
	District Total	98	16	114	11	0	11	31	30
2	Beje Clark Mason City	10	3	13	9	0	9	8	5
2	Curt Forbes Ames	16	2	18	8	0	8	15	13
2	Fort Dodge	22	1	23	10	1	11	8	6
2	Marshalltown	21	5	26	2	2	4	8	9
	District Total	69	11	80	29	3	32	39	33
3	Sheldon	9	0	9	4	0	4	11	5
3	Sioux City	45	6	51	12	6	18	15	36
	District Total	54	6	60	16	6	22	26	41
4	Council Bluffs (Inst)	28	4	32	7	6	13	11	6
4	Council Bluffs (Treatment)	6	0	6	2	0	2	2	3
	District Total	34	4	38	9	6	15	13	9
5	Des Moines Women	0	25	25	0	11	11	17	5
5	Ft DSM Bldg #65	35	0	35	4	0	4	4	2
5	Ft DSM Bldg #66	0	0	0	0	0	0	0	--
5	Ft DSM Bldg #68	52	0	52	20	0	20	15	22
5	Ft DSM Bldg #70	40	0	40	71	0	71	66	55
5	SOTP	0	0	0	0	0	0	1	0
	District Total	127	25	152	95	11	106	103	84
6	Cedar Rapids G. Hinzman	0	9	9	0	2	2	1	3
6	Cedar Rapids Lary Nelson	35	0	35	15	0	15	15	11
6	Coralville Hope House	22	0	22	6	0	6	5	9
	District Total	57	9	66	21	2	23	21	23
7	Davenport Residential	24	0	24	3	0	3	3	9
7	Davenport Work Rel/OWI	31	11	42	13	3	16	20	25
	District Total	55	11	66	16	3	19	23	34
8	Burlington	37	0	37	4	0	4	6	8
8	Ottumwa	22	6	28	5	0	5	6	17
	District Total	59	6	65	8	0	8	12	25
	Statewide	553	88	641	205	31	236	268	279

2013 waiting list drawn on August 8, 2013  
 2014 waiting list drawn on September 26, 2014  
 2015 waiting list drawn on August 11, 2015

Source: Iowa Department of Corrections

<sup>5</sup> 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.

<sup>6</sup> Capacities for Work Release and OWI facilities cannot be clearly distinguished from the residential population in most facilities because the beds are interchangeable.

Offenders new to enter residential facilities tend to enter facilities under Probation or Work Release supervision. Since FY 2011 the number of offenders who entered residential facilities as new admissions increased from 5,124 to 5,384.

**Table 7: New Residential Facility Admissions by Supervision Status**

	<b>FY2015</b>	<b>FY2014</b>	<b>FY2013</b>	<b>FY2012</b>	<b>FY2011</b>
Work Release	2,002	1876	1,641	1,897	1,732
OWI Continuum	316	329	394	371	469
Parole	45	56	48	30	44
Interstate Compact Parole	5	7	4	8	2
Federal	584	586	522	532	537
Probation	2,134	2,115	2,042	1,943	2,115
Interstate Compact Probation	16	11	11	6	18
Pretrial Release With Supervision	38	52	44	69	78
Jail (Designated Site)	38	47	50	62	29
Special Sentence	202	159	139	97	98
CCUSO Release with Supervision	4	0	0	0	0
<b>Total</b>	<b>5,384</b>	<b>5,240</b>	<b>4,895</b>	<b>5,015</b>	<b>5,124</b>

*Source: Iowa Justice Data Warehouse*

## **V. 70% Crimes**

Senate File: 1151: Established mandatory minimums for forcible felonies.

Signed by the Governor: 1996

Effective: 1997; Modified: 2003

Crime Code: §902.12

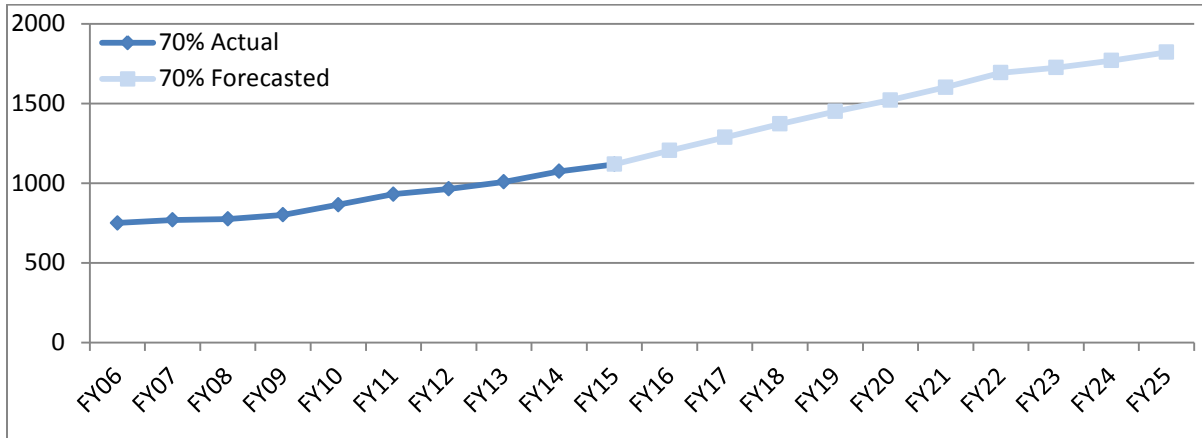
In 1996, the Iowa General Assembly adopted SF 1151 in response to a federal initiative called Violent Offender Incarceration and Truth in Sentencing (VOI/TIS). This incentivized grant program encouraged states to increase correctional capacity for adults convicted of certain violent crimes. This effort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

Like other states, Iowa adopted the 85% requirement of the federal legislation when SF1151 passed in 1996. The 85% requirement required that inmates convicted of certain crimes were to serve 85% of their sentence before becoming parole eligible. This requirement was modified in 2003, when inmates covered by these 85% 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.

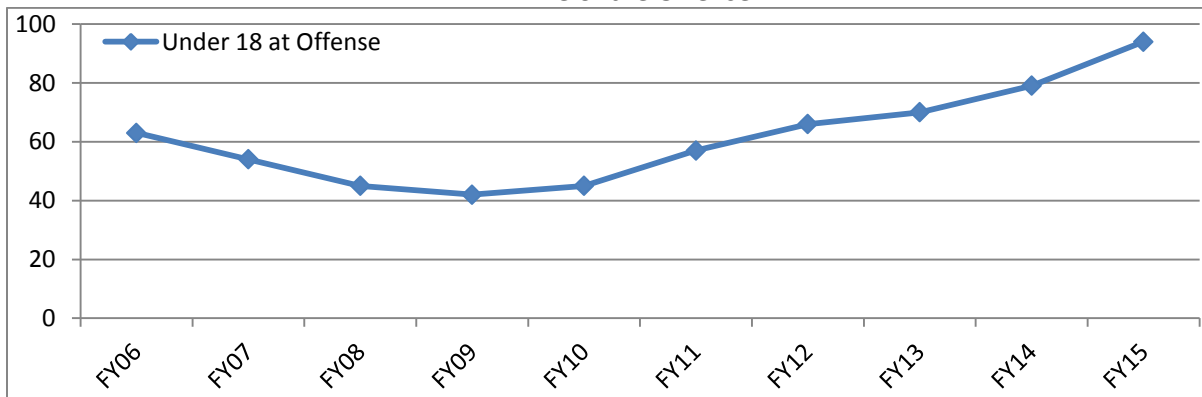
While the admission of new prisoners on 70% mandatory sentences has remained relatively stable since FY 1998, the number of prisoners in the population serving mandatory 70% sentences has steadily risen and is expected to increase in the next decade, absent policy reform.

**Figure 6: Actual and Projected Inmates in Prison Population Serving Mandatory Sentences, by Fiscal Year Based on FY2015 Prison Forecast**



Source: Iowa Justice Data Warehouse

**Figure #: Actual Inmates in Prison Population Serving Mandatory Sentences who were Under 18 at the Time of the Offense**



Source: Iowa Justice Data Warehouse

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 1<sup>st</sup> or robbery 2<sup>nd</sup> (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 1<sup>st</sup> or Robbery 2<sup>nd</sup>, 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 [CJJ 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 at time of offense, who enter prison were significantly more likely to be admitted to prison on mandatory 70% offenses than other charges.<sup>7</sup>
- 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 mandatory minimum.
- The number of offenders serving sentences for Robbery 2<sup>nd</sup> has stabilized, while Robbery 1<sup>st</sup> offenders will continue to increase until such time that releases balance admissions; at this juncture, the original Robbery 1<sup>st</sup> offenders admitted to prison with 70% mandatory terms are not yet eligible for release consideration.
- Once several Robbery 2<sup>nd</sup> 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 2<sup>nd</sup> offenders prior to establishment of the 70% sentence.
- African-Americans are overrepresented in the Robbery 1<sup>st</sup> and Robbery 2<sup>nd</sup> cohorts; on 6/30/12, more than half the offenders serving sentences for Robbery 1<sup>st</sup> as their most serious conviction (based on offense class) were African-Americans. Inmates convicted of Robbery 2<sup>nd</sup> were equally divided between African-Americans and Whites (including 14 of Hispanic ethnicity).

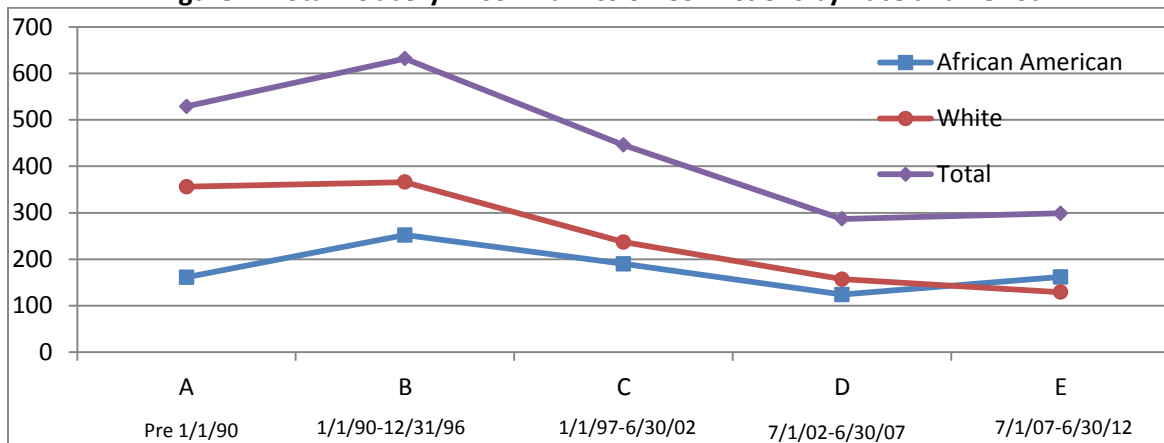
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<sup>7</sup> Since the 2014 Iowa Supreme Court's ruling regarding Lyle v. State, mandatory minimums for juveniles can be avoided but this decision is made with judicial discretion. In FY2015, eight of the 18 juvenile offenders new to prison had their mandatory minimum waived.

- Starting in FY 2008, more African-Americans than Whites 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.<sup>8</sup>

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

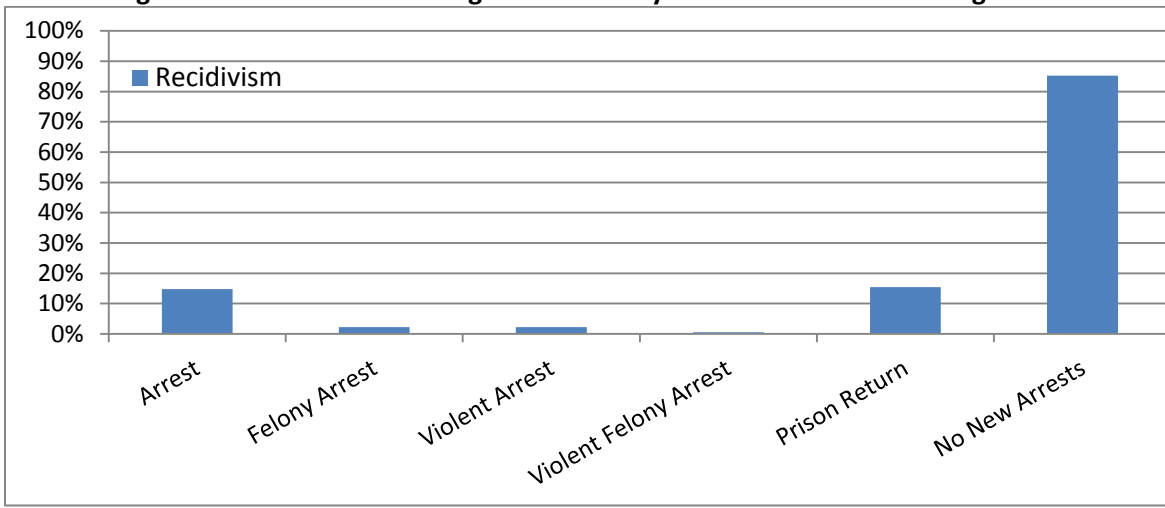


Source: ICON Adhoc

- Since implementation of mandatory sentencing, the percentage of reduced charges from Robbery 1<sup>st</sup> to Robbery 2<sup>nd</sup> 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.

<sup>8</sup> 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

**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 2<sup>nd</sup> 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 1<sup>st</sup> 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 Iowa<sup>9</sup>. 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.

9 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: Enhanced penalties for domestic abuse involving 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 472 disposed charges brought under Iowa Code 708.2A(5), with 245 convictions and 43 convictions as originally charged, according to the Justice Data Warehouse (JDW). During FY 2013-FY 2015, charges, convictions, and convicted as charged incidents have increased for this crime. The number of 708.2A(5) charges resulting in an alternative conviction largely remained steady from FY 2014-FY 2015.

**Table 8: 708.2A(5) Charges and Convictions, Fiscal Year<sup>10</sup>**

<b>Offense Level</b>	<b>Disposed Charges</b>	<b>Dismissed/ Acquitted</b>	<b>Convicted</b>	<b>Convicted as Charged</b>	<b>Convicted of Other</b>
FY 2013 County Totals	472	150	245	43	204
FY 2014 County Totals	526	149	331	83	257
FY 2015 County Totals	544	155	366	121	246

*Source: Iowa Justice Data Warehouse*

There were 246 charges of 708.2A(5) which resulted in some type of conviction under a different crime code. The information in Table 7 displays the types of convictions 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=83). Charges were largely adjusted to other Aggravated Misdemeanors (n=116).

<sup>10</sup> 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 9: 708.2A(5) Charges Resulting in Other Conviction (FY 2015)**

Description	N
ASSAULT	13
ASSAULT CAUSING BODILY INJURY-1978	29
ASSAULT INTENT TO INFLICT SERIOUS INJURY-1978	7
DISORDERLY CONDUCT - LOUD OR RAUCOUS NOISE	7
DISORDERLY CONDUCT - FIGHTING OR VIOLENT BEHAVIOR	3
DOMESTIC ABUSE ASSAULT - 2ND OFFENSE	11
DOMESTIC ABUSE ASSAULT - 3RD OR SUBSEQUENT OFFENSE	1
DOMESTIC ABUSE ASSAULT- 1ST OFFENSE	15
DOMESTIC ABUSE ASSAULT DISPLAY OR USE WEAPON - 1ST OFFENSE	15
DOMESTIC ABUSE ASSAULT IMPEDING FLOW OF AIR/BLOOD	83
DOMESTIC ABUSE ASSAULT- INJURY OR MENTAL ILLNESS - 1ST OFF	56
HARASSMENT - 2ND DEGREE	1
HARASSMENT / 3RD DEGREE	3
ROBBERY 2 <sup>nd</sup> DEGREE	1
(blank)	1
<b>Total</b>	<b>246</b>

Source: Iowa Justice Data Warehouse

**Table 10: 708.2A(5) Charges Resulting in Other Conviction (FY 2015)**

Conviction Class	N
C Felony	1
D Felony	1
Aggravated Misdemeanor	116
Serious Misdemeanor	86
Simple Misdemeanor	41
(blank)	1
<b>Total</b>	<b>246</b>

Source: Iowa Justice Data Warehouse

## **VII. 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). The number of offenders convicted of this crime has doubled since code modification from 9 offenders to 18(FY 2013 – FY 2015). During this same time period, the number of disposed charges has more than doubled (82 vs. 198).

**Table 11: 728.12(3) Disposed Charges and Convictions, by Fiscal Year**

	Original Code		Modified Code		
	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Disposed Charges	25	30	26	82	198
Convictions	3	6	9	22	48
Offenders Convicted	3	6	9	21	18

Source: Iowa Justice Data Warehouse

## VIII. 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 and can be helpful in the exoneration or conviction of an offender. It is difficult to determine how many convictions have 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 have been lacking good DNA evidence.

**Table 12: Iowa DNA Hits by Offense and Fiscal Year**

	FY 2011 Hits		FY 2012 Hits		FY 2013 Hits		FY 2014 Hits		FY 2015 Hits		Total	
	N	%	N	%	N	%	N	%	N	%	N	%
Burglary	126	59.7%	107	52.7%	104	52.5%	129	55.8%	114	53.3%	580	54.9%
Sex Offense	36	17.1%	36	17.7%	29	14.6%	40	17.3%	43	20.1%	184	17.4%
Deaths	2	0.9%	4	2.0%	7	3.5%	3	1.3%	1	0.5%	17	1.6%
Theft	19	9.0%	30	14.8%	31	15.7%	33	14.3%	32	15.0%	145	13.7%
Robbery	5	2.4%	4	2.0%	9	4.5%	7	3.0%	6	2.8%	31	2.9%
Misc. or No Data	23	10.9%	22	10.8%	18	9.1%	19	8.2%	18	8.4%	100	9.5%
<b>Total</b>	<b>211</b>	<b>100%</b>	<b>203</b>	<b>100%</b>	<b>198</b>	<b>100%</b>	<b>231</b>	<b>100%</b>	<b>214</b>	<b>100%</b>	<b>1057</b>	<b>100%</b>
<b>Hits Against IA Offenders</b>	<b>22</b>	<b>--</b>	<b>16</b>	<b>--</b>	<b>19</b>	<b>--</b>	<b>22</b>	<b>--</b>	<b>26</b>	<b>--</b>	<b>105</b>	<b>--</b>

Source: Iowa Department of Public Safety

Historically, DNA hits are received at higher rates for crimes involving burglary (54.9%), sex offenses (17.4%) and theft (13.7%). According to the DPS, extending 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). The expansion began on July 1<sup>st</sup>, 2014 but was not retroactive. The Department of Public Safety (DPS) indicates that since the beginning of the expansion there has been a lag in sample submission until new cases were adjudicated, although the number of samples received has been gradually increasing over the course of FY2015.

## **IX. 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 2015 there were 5,528 charges of Interference disposed in Iowa courts and 3,224 offenders convicted. These are the lowest figures observed even prior to crime code modification. While it was suggested that the "loosening" of the requirement for proving injury could result in more convictions, it does not appear that charges or convictions have increased.

CJP will continue to monitor the impact of the new provision and report back to the Council in the future.

**Table 13: Interference Charges and Convictions**

	Old Crime Code		Modified Crime Code	
	FY 2012	FY 2013	FY 2014	FY 2015
Disposed Charges	5,797	6,169	5,845	5,528
Disposed Convictions	3,542	3,703	3,463	3,315
<b>Offenders Convicted by Conviction Class</b>				
C Felony	1	0	1	0
D Felony	17	15	35	96
Aggravated Misd.	173	156	137	177
Serious Misd.	13	19	46	49
Simple Misd.	3,192	3,357	3,133	2,902
<b>Offenders Convicted</b>	<b>3,396</b>	<b>3,547</b>	<b>3,352</b>	<b>3,224</b>

Source: Iowa Justice Data Warehouse

## **X. Probation Revocations by Judicial District by Race**

On September 24<sup>th</sup>, 2014, members of the CJPAC requested data examining probation revocations by district by race. Between FY2011-FY2014, probation revocations remained fairly stable, during FY2015 revocation rates declined by 17.6%. It appears that the trends in revocation rates by race have remained consistent throughout the reported years. It should also be noted that African-Americans are generally overrepresented in our criminal justice system, as is also reflected in the data below.

**Table 14: Probation Revocations by District by Race**

	White		African-American		American-Indian		Asian or Pacific Islander		Total	
	N	%	N	%	N	%	N	%	N	%
<b>FY2015</b>										
1JD	175	70.3%	72	28.9%	0	0.0%	2	0.8%	249	100%
2JD	140	81.9%	24	14.0%	6	3.5%	1	0.6%	171	100%
3JD	72	73.5%	13	13.3%	11	11.2%	2	2.0%	98	100%
4JD	68	97.1%	2	2.9%	0	0.0%	0	0.0%	70	100%
5JD	293	74.0%	95	24.0%	4	1.0%	4	1.0%	396	100%
6JD	73	70.2%	30	28.8%	1	1.0%	0	0.0%	104	100%
7JD	44	60.3%	29	39.7	0	0.0%	0	0.0%	73	100%
8JD	110	89.4%	12	9.8%	1	0.8%	0	0.0%	123	100%
Compact	2	20.0%	7	70.0%	0	0.0%	1	10.0%	10	100%
<b>Total</b>	<b>977</b>	<b>75.5%</b>	<b>284</b>	<b>21.9%</b>	<b>23</b>	<b>1.8%</b>	<b>10</b>	<b>0.8%</b>	<b>1,294</b>	<b>100%</b>
<b>FY 2014</b>										
1JD	173	59.0%	119	40.6%	1	0.3%	0	0.0%	293	100%
2JD	170	86.3%	24	12.2%	2	1.0%	1	0.5%	197	100%
3JD	99	82.5%	9	7.5%	10	8.3%	2	1.7%	120	100%
4JD	80	93.0 %	5	5.8%	1	1.2%	0	0.0%	86	100%
5JD	349	73.8%	113	23.9%	8	1.7%	3	0.6%	473	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%
<b>Total</b>	<b>1,168</b>	<b>74.3%</b>	<b>363</b>	<b>23.1%</b>	<b>32</b>	<b>2.0%</b>	<b>8</b>	<b>0.5%</b>	<b>1,571</b>	<b>100%</b>
<b>FY 2013</b>										
1JD	165	63.0%	96	36.6%	0	0.0%	1	0.4%	262	100%
2JD	135	81.8%	25	15.2%	3	1.8%	2	1.2%	165	100%
3JD	79	75.2%	10	9.5%	15	14.3%	1	1.0%	105	100%
4JD	88	96.7%	3	3.3%	0	0.0%	0	0.0%	91	100%
5JD	350	75.3%	101	21.7%	3	0.6%	11	2.4%	465	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	141	85.4%	23	13.9%	0	0.0%	1	0.6%	165	100%
Compact	5	50.0%	5	50.0%	0	0.0%	0	0.0%	10	100%
<b>Total</b>	<b>1,114</b>	<b>74.8%</b>	<b>335</b>	<b>22.5%</b>	<b>23</b>	<b>1.5%</b>	<b>17</b>	<b>1.1%</b>	<b>1,489</b>	<b>100%</b>

<b>FY 2012</b>										
1JD	142	56.3%	109	43.2%	1	0.4%	0	0.0%	252	100%
2JD	153	80.1%	32	16.7%	3	1.6%	3	1.6%	191	100%
3JD	74	76.3%	14	14.4%	9	9.3%	0	0.0%	97	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	108	65.1%	55	33.1%	2	1.2%	1	0.6%	166	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%
<b>Total</b>	<b>1,124</b>	<b>73.7%</b>	<b>372</b>	<b>24.4%</b>	<b>21</b>	<b>1.4%</b>	<b>7</b>	<b>0.5%</b>	<b>1,524</b>	<b>100%</b>
<b>FY 2011</b>										
1JD	144	61.0%	91	38.5%	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	62	93.9%	3	4.5%	1	1.5%	0	0.0%	66	100%
5JD	310	69.2%	134	29.9%	2	0.4%	2	0.4%	448	100%
6JD	85	64.6%	40	30.8%	5	3.8%	0	0.0%	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%
<b>Total</b>	<b>1,058</b>	<b>71.8%</b>	<b>385</b>	<b>26.0%</b>	<b>25</b>	<b>1.7%</b>	<b>7</b>	<b>0.5%</b>	<b>1,475</b>	<b>100%</b>

Source: Iowa Justice Data Warehouse

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

**XI. Elder Abuse**

Senate File 2239: Defines Elder Abuse for the first time in Iowa Code Chapter 235F.

Signed by the Governor: May 5, 2014

Effective: July 1, 2014

This bill creates a process for obtaining a civil protective order for vulnerable elders in cases involving physical injury, sexual assault, neglect and financial exploitation. Individuals who violate an issued protective order can be found in contempt of court and subject to jail time.

The impact of this bill could be examined by observing the number of petitions for civil protective orders filed for relief of elder abuse. State Court Administration reports that this information is difficult to extract although we hope to have better data on this topic next year.

**XII. Coach-Student Sex**

House File 2474: Expands the criminal offense of and related penalties for sexual exploitation to include persons issued a school coaching authorization.

Signed by the Governor: May 23, 2014

Effective: July 1, 2014

Iowa Code 709.15 relates to the sexual exploitation by a counselor, therapist or school employee. This law provided that the definition of a school employee is expanded to include individuals issued a coaching authorization. It is possible that expansion of this definition could increase the number of crimes observed under code 709.15.

From FY2012-FY2015 the number of charges for this crime has remained relatively low with the exception of FY2013. During FY2013 there were actually 17 total cases but one case received 49 charges.

**Table 15: Disposed Charges and Convictions for 709.15(5) Sexual Exploitation by a School Employee**

	Old Crime Code		Modified Crime Code	
	FY 2012	FY 2013	FY 2014	FY 2015
Disposed Charges	5	69	12	22
Disposed Convictions	6	11	2	3

*Source: Iowa Justice Data Warehouse*



### **XIII. 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 December 2015, CJP released a report studying the prevalence of human trafficking in Iowa. This analysis found that convictions at the state-level for crimes involving human trafficking are rare. However, it is difficult to know whether this finding speaks to the actual prevalence of the crime in Iowa and/or indicates barriers in the tracking of these offenses. To better explain these findings, CJP contacted a variety of state and federal agencies as well as local task force members knowledgeable about human trafficking in Iowa. It was generally acknowledged that data which captures the prevalence and nature of human trafficking within the state is currently unavailable. It is believed human trafficking occurs at higher rates than state-level data captures but the extent of that rate is simply unknown.

### **XIV. Sentencing Practices for Juveniles**

Senate File 448: An Act relating to the commission of a class “A” felony by a person under eighteen years of age, providing penalties, and including effective date and applicability provisions.

Signed by the Governor: April 24, 2015

Effective: July 1, 2015

Senate File 448 relates to the commission of a class “A” felony by a person under eighteen years of age, providing penalties, and including effective date and applicability provisions. This act was signed by the Governor on April 24<sup>th</sup>, 2015 with an effective date of July 1<sup>st</sup>, 2015. This act provides additional sentencing options for the adult court for juveniles convicted of class “A” felonies. As of November, 2015 there were 24 offenders convicted of A felonies who were under 18 at time of offense who had been resentenced and 20 offenders waiting to be resentenced.

While no legislative activity took place, the Supreme Court ruling of *Lyle v. State* filed on July 18<sup>th</sup>, 2014 also found that juveniles should not be automatically subjected to serve the 902.12 mandatory minimum for crimes including murder, attempted murder, sex abuse, kidnapping, robbery or vehicular homicide without considering offender level characteristics such as age, maturity and family history. As of October, 2015, there were 101 inmates incarcerated with a 902.12 mandatory minimum conviction who were under 18 at the time of the offense. Of these 101 inmates, 72 have been resentenced. Of those resentenced, 48 have had their minimum parole date removed meaning that the mandatory sentence requirement they would have otherwise served is removed allowing for earlier release. It should be noted that Iowa Code 901.5(14) also provides that “if the defendant, other than a child being prosecuted as a youthful offender, is guilty of a public offense other than a class “A” felony, and was under the age of eighteen at the time the offense was committed, the court may suspend the sentence in whole or in part, including any mandatory minimum sentence, or with the consent of the defendant, defer judgment or sentence, and place the defendant on probation upon such conditions as the court may require.”<sup>11</sup>

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<sup>11</sup> <https://www.legis.iowa.gov/docs/code/901.5.pdf>