



JUSTICE ADVISORY BOARD

Three-Year Criminal and Juvenile Justice Plan

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Iowa Department of Human Rights – Division of Criminal and Juvenile Justice Planning

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2020 JUSTICE ADVISORY BOARD

Three-Year Criminal and Juvenile Justice Plan

Executive Summary

In 2019, the Legislature passed House File (HF) 634 that established the Justice Advisory Board (JAB) in the Department of Human Rights, Division of Criminal and Juvenile Justice Planning (CJJP). The JAB is required, per Iowa Code §216A.135, to develop and submit a plan and report to the Legislature and Governor.

The three-year criminal and juvenile justice plan, developed by the JAB, identifies the following priorities, goals, and recommendations, which are described in the full report with specific action steps. Achieving the goals will require coordinated efforts from multiple justice entities and the legislature.

1) Racial Justice

Goals:

- a. End racial profiling
- b. Eliminate racial disparities to create an unbiased juvenile and adult criminal justice system
- c. Eliminate disparities in excessive use of force and death in custody

Recommendations:

- Collect and analyze data to identify racial profiling and disparities in the juvenile and criminal justice systems
- Review and consideration of correctional and racial impact statements on legislation prior to passage to identify any impact on the prison population and racial disparity.
- Ban racial profiling
- Correct identified systemic disparities in the justice system, including:
 - Entry into the system - Provide pre-charge opportunities for low-risk juvenile and adult offenders
 - Pre-trial release – Provide alternatives to bonds and pre-trial services for adults and detention alternatives for juveniles
 - Reduce juvenile offenders prosecuted as adults - Modify the Iowa code and enhance funding for juvenile offender services

2) Mental Health

Goals:

- a. Identify offenders who need mental health care and provide appropriate services and placement in the juvenile and criminal justice systems
- b. Provide safe treatment and living conditions for those with mental health needs in the juvenile and criminal justice system

Recommendations:

- Standardize mental health screening tools to enhance early intervention and diversion strategies for juvenile and adult offenders (e.g. crisis intervention teams, tele-health, available in-patient treatment, mental health courts)
- Provide effective mental health treatment and medications for incarcerated offenders and transition plans as offenders reenter the community

3) Community-based corrections and alternatives to incarceration

Goals:

- a. Reduce entry to prison
- b. Reduce revocations to prison
- c. Increase the use of effective treatment courts
- d. Document lessons-learned from COVID-19

Recommendations:

- Enhance community-based correctional services to include additional alternatives to prison (e.g. restorative justice and treatment courts)
- Review changes due to COVID and public safety

4) Sex offenders

Goals:

- a. Examine the effectiveness of the special sentence
- b. Examine technical violations
- c. Examine the efficacy of sex offender residency restrictions
- d. Support survivors / victims

Recommendations:

- Determine the effectiveness of the Special Sentence supervision and residency restrictions in reducing sex offenses
- Provide promising practices to support victims/survivors of sex offenses

The JAB will also be studying changes to the justice system as a result of the COVID-19 pandemic and identify modifications that have positive short- and long-term effects.

The JAB has selected the existing Juvenile Justice Advisory Council (JJAC) to serve as the juvenile justice system subcommittee, required by §216A.137.2. The JJAC also completes a three-year plan that is submitted to the federal Office of Juvenile Justice and Delinquency Prevention (OJJDP). The JJAC has tentatively identified priority areas on juvenile justice. There is overlap in some of the priorities (racial justice, mental health, and waiving juveniles to adult court). The JAB and JJAC will work together to accomplish those common goals and action steps.

The JAB recognizes that to achieve the identified goals and recommendations will require coordinated efforts from all three branches of government. The JAB and CJJP staff will partner with policy makers and assist in implementing the recommendations.

2020 JUSTICE ADVISORY BOARD

Three-Year Criminal and Juvenile Justice Plan

History and Introduction

The following report is the first three-year criminal and juvenile justice plan for the state created by the Justice Advisory Board (JAB). In 2019, the Legislature passed House File (HF) 634 that established the JAB in the Department of Human Rights, Division of Criminal and Juvenile Justice Planning (CJJP). The legislation also eliminated three existing advisory bodies - the Criminal and Juvenile Justice Planning Advisory Council (CJJPAC), the Public Safety Advisory Board (PSAB), and the Sex Offender Research Council (SORC). The JAB has assumed many of the responsibilities, duties, and objectives of the three entities eliminated by the Act.

The JAB is required, per Iowa Code §216A.135, to develop and submit a plan and report to the Legislature and Governor:

1. *The board shall submit a three-year criminal and juvenile justice plan for the state, beginning December 1, 2020, and every three years thereafter, by December 1. The three-year plan shall be updated annually. Each three-year plan and annual update of the three-year plan shall be submitted to the governor and the general assembly by December 1.*
2. *The three-year plan and annual updates shall include but are not limited to the following:*
 - a. *Short-term and long-term goals for the criminal and juvenile justice systems.*
 - b. *The identification of issues and studies on the effective treatment and supervision of adult and juvenile sex offenders in institutions, community-based programs, and the community.*
 - c. *Analysis and recommendations of current criminal code provisions.*
 - d. *The effectiveness and efficiencies of current criminal and juvenile justice policies, practices, and services.*
 - e. *Collection of criminal and juvenile justice data.*
 - f. *Recommendations to improve the criminal and juvenile justice systems.*

The JAB consists of 28 members (22 voting members and 6 ex officio (nonvoting members), appointed as specified in §216A.132, all residing within the state of Iowa. The duties of the board are enumerated in §216A.133. The purpose of the JAB is to:

- a. develop short-term and long-term goals to improve the criminal and juvenile justice systems;
- b. identify and analyze justice system issues;
- c. develop and assist others in implementing recommendations and plans for system improvement;

- d. provide the General Assembly with an analysis of current and proposed Criminal Code provisions; and
- e. provide for a clearinghouse of justice system information to coordinate with data resource agencies and assist others in the use of justice system data.

The development of the Justice Advisory Board Three-Year Plan began at the first meeting, September 18, 2019. At that meeting, the board members identified many issues affecting the criminal and juvenile justice systems. During subsequent meetings, presentations on a number of the identified issues were heard and discussed. In addition, the JAB received reports on the activities and recommendations of the Governor’s FOCUS Committee on Criminal Justice Reform and the Juvenile Justice Advisory Council. The CJJP staff facilitated several discussions and provided data and research on identified topics. As a result of the time, information reviewed, and consideration by the board members, the priorities, goals, and action steps were agreed upon.

There are several recommendations and action steps that will require input, guidance, and action from additional stakeholders (e.g. legislators, state and local agencies, and additional stakeholders). The JAB and CJJP staff will partner with the specific entities needed to complete the action steps and goals.

The report includes priorities, goals, and recommendations to the General Assembly as required. Recommendations supported by the JAB are based on a majority vote. The JAB respectfully submits this report and welcomes the opportunity to provide any additional assistance to the Iowa Legislature upon request.

Juvenile Justice Priorities and Goals

The JAB has selected the existing Juvenile Justice Advisory Council (JJAC) to serve as the juvenile justice system subcommittee, required by §216A.137.2. The JJAC completes a three-year plan, which is submitted to the federal Office of Juvenile Justice and Delinquency Prevention (OJJDP). The JJAC has tentatively identified juvenile justice priority areas and goals for federal fiscal years 2022-2024. There is overlap in some of the priorities and the JAB and JJAC will work together to accomplish those specific goals and action steps. There will also be updates from the JJAC during JAB meetings.

The JJAC has currently drafted the following five priorities and a set of goals for each priority. A final draft will be finalized and approved by the JJAC at a later date.

Priority 1: Prevention and Intervention

Goal 1: Identify, inventory, and study prevention programs for youth who are not involved in the juvenile justice system that are effective, with the goal of determining how to further their success.

Goal 2: Expand early intervention and Pre-Charge Diversion (PCD) programs. The Disproportionate Minority Contact (DMC) Subcommittee of the JJAC has assisted in developing PCD in three communities, with favorable outcomes.

Priority 2: Mental Health

Goal 1: Determine the need for mental health, substance abuse, and family therapy services for juvenile offenders.

Goal 2: Collect data to analyze ongoing needs for services and to measure success.

Priority 3: Transition of Youth

Goal 1: For juveniles involved in the juvenile court system, allow the court to extend jurisdiction up to the age of 21 years of age.

Goal 2: Study effective community-based and residential rehabilitative models to provide the appropriate level of care for moderate and high-risk offenders, up to the age of 21 years of age.

Goal 3: Do not allow juvenile offenders to be waived to adult court except for youth alleged to committing felony offenses.

Goal 4: Standardize juvenile reentry best practices.

Priority 4: Female Equity

Goal 1: To ensure that a female and racial equity lens is intentionally used in all areas, train the JJAC and service providers on female and racial equity.

Goal 2: Provide an adequate level of care for high-risk girls in the juvenile justice system.

Priority 5: Disproportionate Minority Contact

Goal 1: Minimize system contact for low risk youth of color by developing formal state-wide diversion opportunities at early juvenile justice system processing.

Goal 2: Formalize collaboration with Iowa Task Force for Young Women.

Goal 3: Investigate issues regarding refugee and immigrant youth with the intent of informing and educating juvenile court officers and judges.

Goal 4: Research and affect change for high-risk youth of color eligible for State Training School (STS) placement according to Iowa Code Section 232.52 (2).

Justice Advisory Board - Priorities, Goals, and Action Steps

Priority 1: Racial Justice

The work that the Justice Advisory Board (JAB) intends to accomplish coincides with growing national recognition of the need to end racial injustices. Iowa's NAACP and the ACLU are collaborating with lawmakers on issues and actions needed to work towards racial equity in many different areas. Efforts are also underway at the local level. The Local and Regional Government Alliance on Race and Equity is working with several cities in Iowa (Des Moines, Iowa City, Dubuque, and Cedar Rapids).

The Iowa Justice Action Network is a statewide group of citizens concerned with criminal justice reform. It recently held a community forum to discuss racial inequality in Iowa's criminal justice system and created an action list for local and state reform. Policing was one of the action areas identified, including holding officers accountable, unarmed interactions with the community, publicizing data on disproportionality, funding community policing, and state policies on racial profiling, use of force, and citizen review of police encounters.

The Governor's FOCUS Committee on Criminal Justice Reform is currently prioritizing reducing racial disparities in the justice system. That group has focused on finding ways to collect and analyze data to better understand who is being stopped by police, ban racial profiling by police, and more broadly, identify ways to prevent disparate treatment by law enforcement.¹

The Division of Criminal and Juvenile Justice Planning (CJJP) recently issued a report that compiled data showing disparities among youth within the juvenile justice system and made recommendations for systemic changes. The report highlights the need to do more to eliminate disparities. It found several troubling and unacceptable trends for African American youth compared to Whites: 6.5 times more likely to enter the system with low level offenses, increased likelihood of detention for probation violations, 9.8 times more likely to be waived to adult court, and 14.3 times more likely to be direct filed to adult court.²

Sharing the sentiments and efforts of many others, the JAB's first priority is to address racial justice. Racial justice refers to a justice system that is equitable, fair, and impartial at each decision point along the criminal justice continuum. Decisions are made based on factors irrespective of race, ethnicity, or origin.

¹Recommendations of the Governor's FOCUS Committee on Criminal Justice Reform: Promoting an Unbiased Criminal Justice System. (October 29, 2020)

https://governor.iowa.gov/sites/default/files/documents/FOCUS%20Committee%20Report%202020.pdf?utm_medium=email&utm_source=govdelivery

² Iowa Department of Human Rights, Division of Criminal and Juvenile Justice Planning. (2020). *Racial Disparities – An Analysis of Three Decision Points in Iowa's Juvenile Justice System.*

<https://humanrights.iowa.gov/sites/default/files/media/5%20-%20Racial%20%20Disparities%20-%203%20Decision%20Points%20in%20JJ%20Nov%202%2C%202020.pdf>

Racial inequality is simply not acceptable. There are obvious disparities between people of color and whites in the criminal justice system, ranging from police arrests to the disproportionate numbers of African American youth and adults who are incarcerated. *“Deeply racialized systems are costly and depress outcomes and life chances for us collectively. To advance equity, government must focus not only on individual programs, but also on policy and institutional strategies that are driving the production of inequities.”*³ Some inequalities may be the result of practices that are deeply embedded in the system, such as criminalizing or more harshly penalizing certain offenses. Other times, it may be the result of implicit biases among key players in the justice system in their responses to people of color. The reasons for disparities need to be investigated through the collection of data and the state needs to appropriately respond.

The JAB has prioritized racial justice and has committed to take actions to achieve three goals:

- end racial profiling
- eliminate racial disparities in the juvenile and criminal justice system
- eliminate disparities in use of force and death in custody

To accomplish these goals, systemic changes are necessary throughout the criminal justice system, and include:

- law enforcement at the time of the initial encounter
- court system – judges, county attorneys, defense attorneys, juvenile court personnel
- correctional staff overseeing custody in adult jails and prisons, and juvenile detention and residential facilities
- adult probation and parole officers and juvenile court officers who supervise offenders in the community

Each of the goals and actions are outlined in the table below, and more information is provided in the following section of the report.

Table 1: Summary of Racial Justice Priority

Priority One: Racial Justice
Goal 1: End Racial Profiling
<i>Traffic and Pedestrian Stops, Warnings, and Searches</i>
Action Item 1: Work with the FOCUS Committee to identify data elements necessary to collect on police stops and searches
Action Item 2: Make evidence-based, best-practice recommendations
Action Item 3: Support legislation that aims to prevent racial-profiling and promote unbiased policing efforts

³ The Government Alliance on Race and Equity. <https://www.racialequityalliance.org/>

Goal 2: Eliminate racial disparities to create an unbiased juvenile and criminal justice system
<i>Pre-Charge and Pre-Trial Diversion</i>
Action Item 1: Investigate the assignment of bail bonds and granting of pre-trial release with services Action Item 2: Examine the use of pre-charge diversion programs in the juvenile and adult systems Action Item 3: Explore strategies to end the school-to-prison pipeline
<i>Iowa Code, the Court System, and Sentencing Practices</i>
Action Item 1: Investigate racial disparity in waivers to adult court and the impact of waivers Action Item 2: Work with Juvenile Justice Advisory Council to propose recommendations on waivers Action Item 3: Analyze sentencing practices for racial disparity Action Item 4: Propose code and sentencing recommendations to reduce or eliminate racial disparity
<i>Jail and Prison</i>
Action Item 1: Investigate methods and cost of collecting jail data Action Item 2: Partnering with the Department of Corrections (DOC) to examine opportunities for treatment and services, while in prison, by race Action Item 3: Assess racial disparity in parole releases
<i>Systemwide</i>
Action Item 1: Evaluate racial bias and cultural competency training of school resource officers (SRO), law enforcement, court personnel, and correctional staff Action Item 2: Identify institutional bias and develop strategies to create a more equitable system Action Item 3: Include an assessment of the impact of COVID on areas studied
Goal 3: Eliminate disparities in excessive use of force and death in custody
<i>Law Enforcement and Corrections</i>
Action Item 1: Review and report on best practices that reduce excessive use of force, including de-escalation techniques Action Item 2: Examine use of force policies and recommend changes Action Item 3: Identify standardized methods for collecting reports of excessive use of force Action Item 4: Analyze racial disparities in death in custody Action Item 5: Analyze racial disparities in use of force by law enforcement and correctional officers

Racial Justice Implementation Activities

THREE-YEAR GOAL: End Racial Profiling

Racial profiling is defined as any police-initiated action that relies on the race, ethnicity, or national origin rather than the behavior of an individual or information that leads the police to a particular individual who has been identified as being, or having been, engaged in criminal activity.⁴

The first step towards ending racial profiling is to put methods in place to identify racial profiling incidents. Better documentation of racial profiling is necessary to determine its frequency in Iowa. The following short-term actions have been proposed by JAB:

- 1) Work with the FOCUS committee to determine the data elements needed to identify racial profiling during traffic stops and pedestrian stops.
- 2) Support legislation to collect data on racial profiling during arrests and traffic stops.

⁴ U.S. Department of Justice. (November 2010). Resource Guide on Racial Profiling Data Collection Systems: Promising Practices and Lessons Learned. p. 6. (NCJ Number: 184768).
<https://www.ncjrs.gov/pdffiles1/bja/184768.pdf>

The JAB has identified some key data elements that are currently not available; for any traffic stop, not just citations and warnings:

- civilian race and ethnicity
- the reason for the stop
- the duration of the stop
- search information
- result of the stop (arrest – released)

To better understand the impact of disparate treatment, the collection of qualitative data describing the experience of being profiled is also recommended.

The JAB is interested in developing collaborative relationships with other state partners to develop strategies to collect the data. The NAACP is currently working with the Iowa Department of Transportation (IDOT) on issues associated with collecting citizen's race and ethnicity as a part of the driver's license record. Other potential partners, such as the Department of Public Safety and the Governor's Traffic and Safety Bureau may be able to aid in the collection of data from police departments.

The JAB is continuing the recommendation, adopted by the PSAB, to support legislation banning anti-racial profiling and promoting unbiased policing efforts, which requires:

1. *Defining racial profiling*
2. *Law enforcement agencies to collect data on officer-involved stops*
3. *Review and analysis of law enforcement officer stops*
4. *Adequate training for law enforcement personnel to prevent profiling*

The Governor's FOCUS Committee on Criminal Justice Reform recently recommended:

1. *Require and automate data collection on race from traffic stops*
2. *Analyze and study the resulting data, and provide annual reports on the findings*
3. *Adopt a statutory ban on disparate treatment in law enforcement activities and the delivery of police services*

The JAB will partner with the existing efforts to accomplish this goal.

THREE-YEAR GOAL: Eliminate racial disparities to create an unbiased juvenile and criminal justice system

Eliminating racial disparities to create an unbiased juvenile and criminal justice system is a goal that requires decision makers (e.g. law enforcement, adult and juvenile courts, probation, parole, prisons) to engage in equitable actions at each decision point along the criminal justice continuum from pre-arrest through correctional supervision. Implicit bias and cultural competency training are two possible avenues for achieving this goal. Each action area is described in more depth below:

Pre-Charge and Pre-Trial

The JAB recognizes that opportunities exist to work towards racial equity even before entrance into the court system. The board would like to take an initial step in gathering more information and collecting and analyzing data on processes for both adults and juveniles, specifically:

- 1) Investigating the assignment of bail bonds and pre-trial release with services
- 2) Examining the use of pre-charge diversion programs in the juvenile and adult systems
- 3) Explore strategies to end the school-to-prison pipeline

The JAB would like to investigate bonds and pre-trial release for explicit or implicit racial bias and disparity. Research on these topics is sparse and outdated. The Bureau of Justice Statistics' last update of its Survey of Inmates in Local Jails was in 2002, with the next update tentatively scheduled for 2021. In Iowa, there is no central depository of jail data, making data collection on pre-trial detention difficult. The Board recommends that this data be collected and centralized.

Studies that examine other geographical areas are more plentiful and have shown that African American defendants are more likely to be detained pre-trial than Whites, which has indirect implications for them in having to pay for bond or face staying behind bars. Also, bond amounts for African Americans tend to be higher and they are less likely than Whites to qualify for other options like pre-trial release without bond.⁵

Another area of interest for the JAB is pre-charge diversion programs, including a review of any programs that exist in Iowa and any racial differences in referral to these programs. For example, the Governor's Office of Drug Control Policy received a federal grant in 2019 to implement a pre-arrest and pre-trial diversion program for low-level drug offenders in three Iowa counties. CJJP serves as the contracted evaluator and is currently working with the counties to collect data on program participants. In addition, the JJAC's Disproportionate Minority Contact (DMC) Subcommittee has provided technical assistance to communities to initiate pre-charge diversion programs for juveniles.

Finally, the JAB would like to explore strategies to end the school-to-prison pipeline. Specifically, the board is interested in gathering information and data on any racial disparities in youth referred to juvenile court by the SROs. In addition to referral data, the board would like to examine the extent that SROs are used in Iowa schools, background and training requirements for SROs, their roles/responsibilities, and adherence to best practices.⁶ A collaborative partner in undertaking this task may be the JJAC.

⁵ Sawyer, W. (October 2019). *How race impacts who is detained pretrial*. Prison Policy Initiative. https://www.prisonpolicy.org/blog/2019/10/09/pretrial_race/

⁶ National Association of School Resource Officers, Inc. (2018). *Standards and Best Practices for the School Resource Officer Programs*. <https://www.nasro.org/clientuploads/About-Mission/NASRO-Standards-and-Best-Practices.pdf>

Iowa Code, the Court System, and Sentencing Practices

Iowa Code, the court system and sentencing practices are areas that have been noted by the JAB to have numerous points where inequity or racial disparities exist or commonly exist in the U.S. Previous councils have examined these areas in the past and this board would like to continue those efforts by:

- 1) Investigating racial disparity in juvenile offenders waived to adult court and the impact of waivers (e.g. sentencing, recidivism)
- 2) Working with the JJAC to propose recommendations on waivers
- 3) Analyzing sentencing practices for racial disparity
- 4) Proposing code and sentencing recommendations to reduce or eliminate racial disparity

CJJP provided the JAB some data on juvenile waivers to adult court. That study found racial disparities amongst youth that had a direct file charge to adult court, youth who were waived to adult court by the juvenile court, and in the youth prison population.

- Direct File Youth who were African American or Hispanic were more likely to receive a prison sentence.
- Cases for Adult Waiver Youth who were White were dismissed or deferred more often when compared to African American or Hispanic youth.
- In the current prison population, of those who were admitted prior to age 18, African-Americans comprised 50.7% of the population while Whites comprised 37.0%.

The JAB is interested in further study to identify decision points that may result in racial disparities among youth who are waived to adult court. In addition, a review of other states' laws and policies is needed, specifically for mandatory waivers (direct file) of older youth (16 and 17 years of age). The JAB will invite the JJAC to collaborate on a joint recommendation.

Mandatory minimum sentences have been studied by the PSAB.⁷ PSAB recommended modifications to robbery mandatory minimum legislation prior to the passage of HF2064 in FY2016. A portion of the bill was then repealed in 2019, eliminating robbery 3 (aggravated misdemeanor). The JAB would like to continue to study and make recommendations on mandatory minimum sentences and its impact on African Americans.⁸ In addition to robbery mandatory minimums, the JAB intends to research the impact of the legislature's elimination of aggravated theft as a non-felony charge on African Americans and investigate any racial disparities in robbery charges.

Penalty options for equalizing the amount of crack and powder cocaine has been discussed for a decade by PSAB. Iowa data presented to the PSAB suggest that this disparity in penalties contributes to disproportionate incarceration of African-Americans. Research illustrates that

⁷ Stageberg, P. & Rabey, S. (2013). *An Analysis of the use of 70% Mandatory Minimum Sentences in Iowa*. https://humanrights.iowa.gov/sites/default/files/media/Violent_Offender_70Pct_Report%5B1%5D.pdf

⁸ A 2013 CJJP analysis studied mandatory minimum sentences imposed by §902.12 of the Iowa Code (the "70% rule"). It found a disproportionate impact on minorities, showing that 37% of offenders serving mandatory minimums were African American (compared to 26% of African Americans in the total prison population).

the physiological and psychotropic effects of crack and powder cocaine are the same, and that the drugs are now widely acknowledged as pharmacologically identical.

Iowa Code §124.401 was amended in 2017 for offenses that involve possession of crack cocaine. The amounts of crack cocaine classified as Class B and Class C felonies were increased, while the powder cocaine amounts did not change. This reduced the disparities between crack versus powder cocaine amounts, but did not equalize them. The table below shows the current amounts of crack cocaine and powder cocaine with their corresponding penalties. The JAB recommends equalizing the quantity for each class level and sentence, so that fewer African Americans are incarcerated for longer periods of time than Whites.

Table 2: Cocaine Possession Penalties in Iowa as of 2017

Iowa Code	Class Level and Sentence	Crack Cocaine	Powder Cocaine
§124.401(1)(a)	B Felony Up to 50 years Mandatory Minimum one-third Fine <\$1,000,000	Over 200 grams	Over 500 grams
§124.401(1)(b)	B Felony Up to 25 years Mandatory Minimum one-half Fine \$5,000 - \$100,000	40 to 200 grams	100 to 500 grams
§124.401(1)(c)	C Felony Up to 10 years Fine \$1,000 - \$50,000	Under 40 grams	Under 100 grams

CJJP examined data on charging practices, prison entries, and lengths of stay in prison for all powder cocaine and crack cocaine charges prior to and after the 2017 law change. The data show that charges for crack cocaine possession decreased for African Americans after the law went into effect (82.3% to 77.7%). African Americans entering prison also decreased for both powder cocaine (71.2% to 60.0%) and crack cocaine (90.9% to 85.9%) after the law went into effect. Mean length of stay in prison cannot be examined yet due to the recency of the law change and some offenders not yet having enough time to have exited prison.

**Table 3: Cocaine Related Charges and Prison Entries Pre- and Post-2017
(White and African American Only)**

	Charges				Prison Entries			
	White		African American		White		African American	
	n	%	n	%	n	%	n	%
Prior to Law Change (SFY15-17)								
All Powder related charges	95	31.3%	135	44.4%	15	12.7%	84	71.2%
All Crack related charges	14	6.2%	186	82.3%	18	7.1%	230	90.9%
After Law Change (SFY18-20)								
All Powder related charges	97	30.0%	158	48.9%	12	16.0%	45	60.0%
All Crack related charges	15	8.2%	143	77.7%	17	11.4%	128	85.9%

Additionally, the JAB will monitor marijuana legalization and outcomes in other states. This is important because Iowa ranks as the fifth highest state in racial disparities for marijuana arrests.⁹ In Iowa, a Black person is 7.3 times more likely to be arrested than a white person for marijuana possession even though usage is similar.¹⁰ The collateral consequences of a drug charge can be substantial.

Finally, the JAB is interested in analyzing sentencing practices for racial disparity. Prior to legislation being passed, Iowa law currently mandates correctional and racial impact statements to identify any impact on the prison population and racial disparity. These statements need to be carefully reviewed and given consideration by the legislature and other decision makers, prior to passage.

⁹American Civil Liberties Union.(April 2020). *A Tale of Two Countries: Racially Targeted Arrests in the Era of Marijuana Reform*. https://www.aclu-ia.org/sites/default/files/tale_of_two_countries_racially_targeted_arrests_in_the_era_of_marijuana_reform.pdf

¹⁰ Ibid.

Jail and Prison

Jail and prisons are two other areas where racial disparities exist. Action items identified by the JAB include:

- 1) Investigating methods and cost of collecting jail data
- 2) Partnering with the Department of Corrections (DOC) to examine opportunities for treatment and services, while in prison, by race
- 3) Partnering with DOC to assess racial disparity in parole releases and revocations while on parole.

Currently jail data is not available on a statewide level. This gap limits the ability to gain further insight into disparities within the criminal justice system. The JAB recommends that efforts be made to determine the feasibility and cost of acquiring, housing, and maintaining statewide jail data. CJPJ will partner with DOC to review and analyze the identified data.

Systemwide

Systemwide action items identified seek to broadly address individual, institutional, and environmental biases and factors contributing to racial disparities. The JAB identified three systemwide items.

- 1) Evaluate racial bias and cultural competency training of school resource officers (SRO), law enforcement, court personnel, and correctional staff
- 2) Identify institutional bias and develop strategies to create a more equitable system
- 3) Include an assessment of the impact of COVID-19 on areas studied

Racial bias and cultural competency trainings for criminal and juvenile justice staff have potential to reduce systemwide biases and racial disparity. Training models should be assessed to determine the effectiveness, quality, availability, and routinely evaluated to verify their ongoing efficacy. Alongside training for individuals, efforts should be made to identify and remedy institutional bias. Additionally, the impact of COVID-19 has had an impact across the justice system. The JAB believes it is important to study and assess the impact COVID-19 has in relation to existing racial disparities, in particular that of early releases and revocations.

THREE-YEAR GOAL: Eliminate disparities in excessive use of force and death in custody

A number of national cases over the years resulting in violence and death by law enforcement against African American civilians has called for eliminating racial disparities in the use of force during policing. According to the National Institute of Justice, there are different levels of force.¹¹ The “use” of force refers to the “amount of effort required by police to compel compliance by an unwilling subject.” The level of force needed in trying to get someone to

¹¹ National Institute of Justice. (2020). *Overview of Police Use of Force*. <https://nij.ojp.gov/topics/articles/overview-police-use-force>

comply varies depending on the officer and the given situation. There are no universal rules governing when force should be used and to what extent.

The Supreme Court has ruled all police use of force is governed by a standard of reasonableness, such as the seriousness of the crime, whether the suspect is resisting or attempting to flee, and whether they pose a threat to officers' or others' safety (*Graham v. Connor*, 490 U.S. 386 (1989)). The use of deadly force violates the Fourth Amendment, unless the suspect poses a deadly threat or serious harm to police officers (*Tennessee v. Garner*, 471 U.S. 1 (1985)).¹²

Iowa HF2647 (2020), amends and adds provisions relating to the certification, training, and prosecution of peace officers, and the use of chokeholds. The bill requires Iowa law enforcement officers to receive annual training in de-escalation and bias prevention; bans chokeholds with some exceptions; prevents the rehiring of police who were fired or quit because of misconduct; and allows the attorney general to prosecute officers whose actions result in death.¹³

The JAB would like to seek more information on the use of force by law enforcement as a first step. Research is needed to:

- explore what constitutes “excessive force”,
- review best practices and policies for the use of force and the investigation process of incidents where misconduct may have occurred,
- learn what other states are doing to reduce excessive force, and
- develop a methodology for collecting data in Iowa.

The JAB proposes for Iowa, the establishment of a process and responsible entity conduct the following immediate actions:

- 1) Define excessive force, and study and review best practices that reduce excessive use of force
- 2) Examine use of force policies (e.g. rules or standards guiding police departments on when to use force and the process for investigating incidents where force was used by law enforcement) and recommend changes
- 3) Identify standardized methods for collecting data. For example, the NIJ/FBI data does not make the distinction between excessive vs. appropriate use-of-force, as this is a politicized and contentious topic. Instead, use-of-force is characterized by the type and level of force (involving death, serious bodily injury, or the use of a firearm is considered serious).¹⁴

¹²Schwartz, M. (2020). *How the Supreme Court Enables Police Excessive Force*. New York Law Journal. <https://www.law.com/newyorklawjournal/2020/06/05/how-the-supreme-court-enables-police-excessive-force/?slreturn=20200913105821>

¹³ HF2647. <https://www.legis.iowa.gov/legislation/BillBook?ga=88&ba=hf2647>

¹⁴ Federal Bureau of Investigation. National Use-of-Force Data Collection. <https://www.fbi.gov/services/cjis/ucr/use-of-force>

CJJP will analyze the data, by race and gender to examine whether disparities exist in “death in custody” and “use of force” by law enforcement and correctional officers.

There are several possible existing data sources that could be utilized to aid in collecting the data.

- In January, 2019, the FBI began collecting nationwide data on police use of force from law enforcement agencies. It is collecting information on subjects and officers involved and details about the incident when use of force results in death, serious bodily injury, or discharge of a firearm at a person.¹⁵
- The Use of Force Project collects information on police policies from the largest 100 cities in the United States. It issued a report analyzing the effect of the type of policies on deadly incidents and maintains a policy database on its website.¹⁶
- News releases from jails and correctional facilities are issued when there is a death in custody.
- Internal investigations occur when police are involved in an incident where a weapon is used or death occurs.

Several state partners may be sought for assistance in collecting data including the Department of Corrections (DOC), the Department of Public Safety (DPS), and the Office of Ombudsman.

Priority 2: Mental Health

The JAB has prioritized mental health in the criminal and juvenile justice system and is committed to take actions to achieve two goals:

- Identify those who need mental health care and provide appropriate services and placement in the juvenile and criminal justice system for offenders
- Provide safe treatment and living conditions for those with mental health needs within the juvenile and criminal justice system

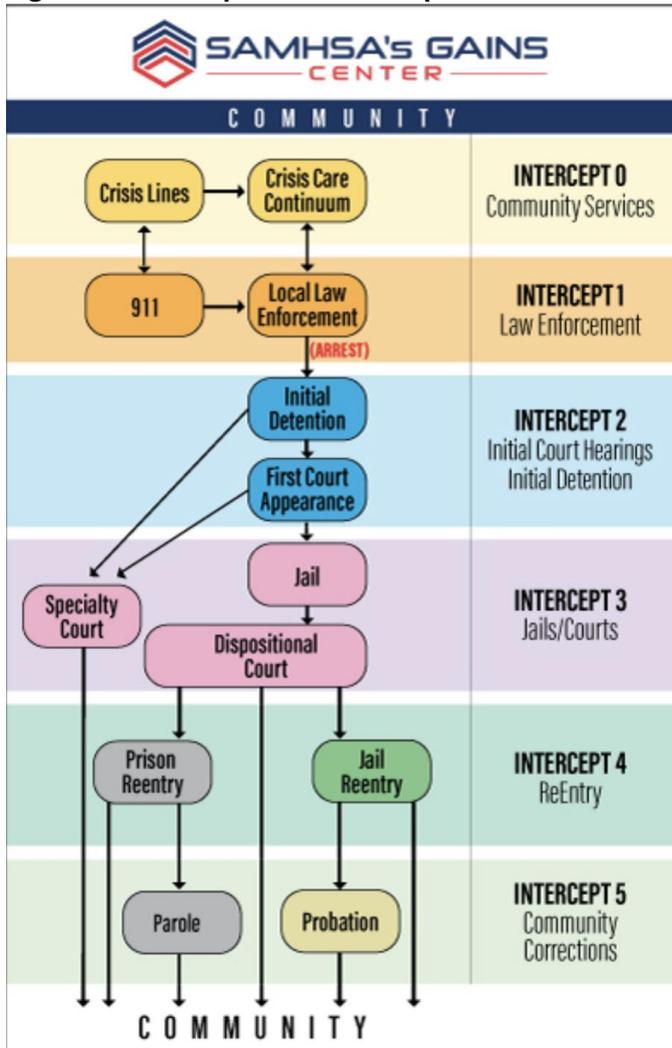
The sequential intercept model is used in the criminal justice system to identify how people with mental health and substance abuse issues come into and move through the system. Each step in the model is an opportunity for intervention and can help communities identify resources or gaps in service.¹⁷

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ U.S Department of Health & Human Services, Substance Abuse and Mental Health Services Administration. *The Sequential Intercept Model*. <https://www.samhsa.gov/criminal-juvenile-justice/sim-overview>

Figure 1. The Sequential Intercept Model



Source: U.S Department of Health & Human Services, Substance Abuse and Mental Health Services Administration. *The Sequential Intercept Model*. Retrieved from: <https://www.samhsa.gov/sites/default/files/GAINS-SIM-Intercept-flowchart.jpg>

Mental health services are needed at each point in the criminal and juvenile justice system continuum-- from the initial encounter to community reentry. Key services in the criminal justice system include:

- tools for law enforcement to identify and respond to those with mental health needs
- diversion programs
- mental health courts
- appropriate living conditions and services in jails and prisons
- medication
- community resources

More community resources are needed at the front end of the continuum to prevent entry into the criminal justice system and also at the back end to help those reentering the community be successful. The JAB has acknowledged that differences in community resources exist in the state and would like to study and compare rural and urban areas and mental health regions, which would include exploring tele-health and other online resources available to communities and how those might be better coordinated for individuals in (or at-risk of being in) the criminal and juvenile justice systems.

Each of the goals and actions are outlined in the table below and more information is provided in the following section of the report.

Table 4: Summary of Mental Health Priority

Priority 2: Mental Health
Goal 1: Identify those who need mental health care and provide appropriate services and placement in the juvenile and criminal justice system for offenders
<i>Action Area – Law Enforcement</i>
Action Item 1: Investigate tools that can be used by law enforcement to identify those with mental health problems Action Item 2: Investigate and evaluate any models that use partnerships between law enforcement and community mental health
<i>Action Area – Pre-Charge</i>
Action Item 1: Study mental health diversion models for offenders to determine effectiveness.
<i>Action Area – Courts</i>
Action Item 1: Evaluate court models that specifically work with people with mental health needs
Goal 2: Provide safe treatment and living conditions for those with mental health needs within the juvenile and criminal justice system
<i>Action Area - Jails and Department of Corrections</i>
Action Item 1: Investigate methods and models for successful living conditions for those who need mental health care Action Item 2: Identifying methods and resources to ensure incarcerated individuals who need mental health medication receive it Action Item 3: Examine methods to capture medication use and expenditures in jails in compliance with HIPAA
<i>Action Area – Community-Based Corrections</i>
Action Item 1: Identify and examine gaps and available community-based resources for offenders in need of mental health medications and/or services

Mental Health Implementation Activities

THREE-YEAR GOAL: Identify those who need mental health care and provide appropriate services and placement in the juvenile and criminal justice system

Law enforcement

The JAB recognizes that opportunities exist to ensure those with mental health needs are appropriately identified and cared for during their initial encounter with law enforcement. The following actions are proposed:

- 1) Investigate tools that can be used by law enforcement to identify those with mental health problems
- 2) Investigate and evaluate any models that use partnerships between law enforcement and community mental health

The first step is proper identification (or diagnosis) of mental health needs. This could occur at any point in the sequential intercept model, but is best at the earlier stages so offenders with mental health needs are recognized and given appropriate services and placements as soon as possible. Law enforcement and others who work at the “front-end” need access to tools or screeners to help identify people who need mental health services. Similarly, screenings for drug users are needed to identify co-occurring disorders, where mental health is the primary driver of drug use.

Crisis Intervention Teams (CITs) and Crisis Response Teams (CRTs) are collaborative partnerships between law enforcement and community mental health providers. According to National Alliance on Mental Illness (NAMI), these teams provide benefits to law enforcement by quickly and safely responding to situations, reducing arrests of people with mental illness, and providing appropriate services.¹⁸ The JAB will complete an inventory of Iowa’s CITs and CRTs to establish the geographic availability in Iowa and review the effectiveness of these existing approaches.

Other models from other states will be reviewed and studied. Resources and strategies to examine include:

- Tele-health
- In-patient treatment prior to arrest
- Hiring social workers to accompany police officers

For example, the LEAD (Law Enforcement Assisted Diversion) program in Seattle is a well-recognized diversion program for low-level drug crime, prostitution, and crimes associated with poverty. The program partners law enforcement with case managers who can provide

¹⁸ U.S Department of Health & Human Services, Substance Abuse and Mental Health Services Administration. Crisis Intervention Team (CIT) Programs. [https://www.nami.org/Advocacy/Crisis-Intervention/Crisis-Intervention-Team-\(CIT\)-Programs](https://www.nami.org/Advocacy/Crisis-Intervention/Crisis-Intervention-Team-(CIT)-Programs)

immediate crisis response and psychosocial assessment, and services for substance use treatment and housing. “LEAD effectively disrupts the cycling of individuals with behavioral health issues through our criminal legal system and uses a low barrier, harm reduction-based model of care to help participants work toward achieving stability in the community.”¹⁹ More information is needed to investigate if diversion models such as LEAD may be useful for law enforcement in responding to mental health crises.

Pre-Charge Diversion

The JAB will review and study the effectiveness and implementation process of diversion models for offenders with mental illness, which include programs in Iowa. The establishment of effective pre-charge diversion programs will divert individuals from entering the criminal and juvenile justice systems and provide treatment for the issues affecting each person.

Specialty Courts

The next opportunity for intervention is the courts to provide alternatives for individuals with mental health needs in place of more traditional court services. The JAB proposes to:

- 1) Inventory existing specialty court models specifically for people with mental health needs in Iowa and examine the effectiveness of these models. In addition, the JAB will review national models.

Currently, there are four Mental Health Courts in Iowa. A review of each model will assist in determining effectiveness, uniformity of processes, and availability of services.

Due to a federal grant awarded to the Governor’s Office of Drug Control Policy, CJJP evaluated drug courts with “enhanced” mental health services. It found that “enhanced” drug courts were limited in their capacity to serve offenders with severe mental illness, but the mental health services available were generally regarded by staff as being beneficial to the court and offenders, especially given limited community mental health resources. “Enhanced” drug court participants fared better than a matched group of drug probationers and a historical comparison group of drug court offenders on measures of recidivism (new convictions) within a three-year follow up period.²⁰ The program ended in 2016.

THREE-YEAR GOAL: Provide safe treatment and living conditions for those with mental health needs within the juvenile and criminal justice system

Jails and Department of Corrections

For mentally ill offenders at the “back end” who are already serving time for their crime, the JAB’s goal is for jails and prisons to provide safe treatment and living conditions. The board

¹⁹Law Enforcement Assisted Diversion (LEAD). <https://www.kingcounty.gov/depts/community-human-services/mental-health-substance-abuse/diversion-reentry-services/lead.aspx>

²⁰ Davidson, C. (2016). *Evaluation of the Statewide “Enhanced” Drug Courts Offering Mental Health Services for Substance Abusing Offenders in Iowa*. https://humanrights.iowa.gov/sites/default/files/media/CJJP_Enhanced_Drug_Court_Report.pdf

intends to gather more information on effective housing for and treatment of offenders with mental health problems by taking the following actions:

- 1) Investigate methods and models for successful living conditions for those who need mental health care
- 2) Identify methods and resources to ensure incarcerated individuals receive the mental health medications needed
- 3) Examine methods to capture medication use and expenditures in jails in compliance with the Health Insurance Portability and Accountability Act (HIPAA)

A literature review of best practices for housing inmates with mental health issues should be conducted. For example, the efficacy of having separate living quarters for inmates who need mental health services within a jail or prison. Current prison and jail programs for offenders with mental health issues should be inventoried. Also, investigating the use of certain practices, such as solitary confinement (extended social isolation), for those who suffer from mental illness is warranted. Research has shown that the use of solitary confinement not only has adverse psychological and physical effects on inmates, but can actually exacerbate mental health problems.²¹

Finally, studying inmate medication use and costs could be explored. The DOC has policies for medication administration and compliance for traditional offenders and civilly committed psychiatric offenders. Iowa Administrative Code §201.50.15, subsections 7 through 9, outlines procedures for medication management by jail staff.²²

Community-Based Corrections

For offenders living in the community, mental health services are vital to ensure they are successful. In order to determine the gap of services in communities, the JAB will:

- 1) Identify and examine affordable and accessible prescription drug programs and mental health treatment resources available for offenders living in the community

This action encompasses mental health resources available to all populations in the community who are at risk of entering the criminal justice system, including individuals experiencing homelessness, probationers, and parolees.

Offenders released from DOC institutions are provided a short supply of medication, which can be extended if applicable through a partnership with SafeNetRx. DOC policy states:

All patients leaving the institution for discharge of sentence, parole, parole furlough, shock probation, work release, OWI facilities, residential care facilities, etc., will be given an appropriate supply of medication, as determined by the DOC's licensed medical practitioners, not to exceed a 30-day supply. If specified, the patient's prescription information may also include instructions on how to have 2 additional refills, good for 90 days from the patient's date of release, transferred to a community pharmacy of the

²¹Medical New Today. *What are the effects of solitary confinement on health?*

<https://www.medicalnewstoday.com/articles/solitary-confinement-effects#mental-health-effects>

²² Iowa Code Chapter 50 <https://www.legis.iowa.gov/docs/jac/rule/08-29-2018.201.50.15.pdf>.

*patient’s choosing. Mental health medications may be obtained at no cost from the SafeNetRX pharmacy; all other medications must be paid for by the patient. If the medication order expires prior to 30 days from the date of departure, the quantity of medication dispensed will be sufficient to last until the expiration date of the medication order. Prescriptions for controlled substances will not be transferrable or refillable.*²³

Medications can be covered by Medicaid for those who are eligible. “Medicaid is a combined state and federal program that provides health coverage to people with low income, including those who are unable to work because of a mental health disability.”²⁴

Priority 3: Community-based Corrections and Alternatives to Incarceration

The United States continues to have the highest incarceration rate in the world despite decades of decreasing crime rates. In Iowa, the increasing prison population in the early 1990’s sparked the development of the Prison Population Forecast by CJJP and subsequent annual releases of the report because of sustained overcrowding. The JAB supports efforts to limit the reliance on incarceration without compromising public safety.

The board has identified community-based corrections and alternatives to incarceration as a priority. Four goals and actions are outlined in the table below, and more information is provided in the following section of the report.

Table 5: Summary of Community-based Corrections and Alternatives to Incarceration

Priority Three: Community-based corrections and alternatives to incarceration
Goal 1: Reduce entry to prison
Action Item 1: Analyze DOC funding and structure to ensure it reflects the priorities of the corrections system for both prison and CBC
Action Item 2: Review prison sentencing by county/district
Action Item 3: Examine alternative methods such as transformative or restorative justice
Goal 2: Reduce revocations to prison
Action Item 1: Examine the types of interventions that have demonstrated decreases in revocations
Action Item 2: Understand needs of offenders and how those needs can be met from their viewpoint
Action Item 3: Study results of and obtain data from the Board of Parole’s “Community success program”
Action Item 4: Evaluate risk assessment to determine if there’s racial bias and its effectiveness

²³ State of Iowa Department of Corrections, Policy and Procedures, Chapter 6 Health Services, HSP-504. https://doc.iowa.gov/sites/default/files/hsp-504_exit_health_consultation_0.pdf

²⁴Resources to Recover. Mental Health Resources in Iowa. <https://www.rtor.org/directory/mental-health-resources-in-iowa/>

Goal 3: Increase the use of effective treatment courts
Action Item 1: Study different models and effectiveness of different types of treatment courts
Action Item 2: Examine the funding sources for different types of treatment courts
Goal 4: Document lessons learned from COVID-19
Action Item 1: Study the impact of COVID-19 on jail and prison numbers and any association with crime/public safety

Community-Based Corrections and Alternatives to Incarceration Implementation Activities

THREE-YEAR GOAL: Reduce entry to prison

To reduce offenders from entering prison, JAB will:

- 1) Analyze DOC funding and structure to ensure it reflects the priorities of the corrections system for both prison and Community-Based Corrections (CBC)
- 2) Review prison sentencing by county/district
- 3) Examine alternative community-based strategies such as transformative or restorative justice

THREE-YEAR GOAL: Reduce revocations to prison

Reducing admissions to prison due to revocations is another avenue to reduce the prison population. The FY2019 Prison Population Forecast reported Iowa’s prisons were 22.2% overcapacity and estimated that it would continue to rise over the next ten years. The report notes that between FY 2010 to 2019 the number of parole returns to prison increased by 130.9%.²⁵ The board is particularly interested in which interventions and programs are successful in decreasing revocations. The board has proposed the following action items to determine effective ways to reduce revocations to prison.

- 1) Examine types of interventions that have demonstrated decreases in revocations
- 2) Understand needs of offenders and how those needs can be met from their viewpoints
- 3) Study results of and obtain data from the Board of Parole’s “Community Success Program”
- 4) Evaluate risk assessments to determine if there’s racial bias and its effectiveness

While there is little information maintained in Iowa on the viewpoints of offenders identifying specific needs of offenders, CJJP is currently partnering with the DOC, the Urban Institute, and the Arnold Foundation to study prison culture and climate. The study involves focus groups with inmates in the Iowa Correctional Institution for Women. The findings will be shared with the JAB.

²⁵ Berta, M. & TenNapel, M. (2019). *Iowa Prison-Population Forecast FY 2019 - FY 2029*. <https://humanrights.iowa.gov/sites/default/files/media/2019%20Iowa%20Prison%20Population%20Forecast.pdf>

THREE-YEAR GOAL: Increase the use of effective treatment courts

Treatment courts seek to divert individuals with substance abuse or other issues from prison or jail into treatment. It is widely held that these courts can be effective and cost efficient.²⁶ Iowa has nearly 40 specialty treatment courts across the state focusing on adult drug and/or OWI, juvenile drug, mental health/co-occurring disorders, family dependency, domestic violence, and veterans.

Table 6. Number and Type of Specialty Treatment Courts²⁷

Court Type	N
Family Dependency Treatment Court	12
Adult Criminal Drug Court	10
Juvenile Drug Court	6
Mental Health Court	4
Adult Hybrid OWI/Drug Court	2
Designated OWI Court	1
Juvenile Female Specialty Court	1
Juvenile Male Specialty Court	1
Veterans Treatment Court	1
Total	38

Recently a study of the effectiveness of Iowa’s specialty courts was mandated by HF2492.²⁸ The study conducted by the National Center for State Courts concluded it was not currently feasible to conduct a study on the effectiveness of Iowa drug courts due to the reporting timeline and because Iowa drug courts are not generally in good compliance with the national drug court model. The report provided an overview of Iowa treatment courts, recommendations for improvement, and future research.²⁹ Since then, the Iowa Judicial Branch (JB) received a grant from the federal Bureau of Justice Assistance to implement the recommendations, including hiring of a statewide problem-solving court coordinator. In addition, the JB is implementing standard data collection and staff training in preparation for future research. The JAB will review findings obtained by the JB, including:

- 1) Study different models and effectiveness of different types of treatment courts.
- 2) Examine the funding sources for different types of treatment courts.

²⁶ National Center for State Courts (2018). *The State of Specialty Treatment Courts in Iowa: Opportunities for Enhancement and Suggestions for Research*. p. 15. <https://www.legis.iowa.gov/docs/publications/DF/1033936.pdf>

²⁷ Data provided by Eric Howard, Statewide Problem Solving Court Coordinator, via e-mail on November 16, 2020.

²⁸ HF2492 <https://www.legis.iowa.gov/docs/publications/LGE/87/HF2492.pdf>

²⁹ National Center for State Courts (2018). *The State of Specialty Treatment Courts in Iowa: Opportunities for Enhancement and Suggestions for Research*. <https://www.legis.iowa.gov/docs/publications/DF/1033936.pdf>
<https://www.legis.iowa.gov/docs/publications/DF/1033936.pdf>

THREE-YEAR GOAL: Document lessons learned from COVID-19

The impact of COVID-19 has had consequences across the justice system including releases of individuals in jails and a decrease in admissions (due to a slowed criminal court system), and releases of individuals from prison. The JAB believes it is important to understand the impact and long-term effects of these practices. CJJP will assist the JAB to:

- 1) Study the impact of COVID-19 on jail and prison numbers and any association with crime/public safety.

Priority 4: Sex Offenders

Sex offenses are serious crimes that can have long-term effects on victims. Unfortunately, estimates of sexual violence are high. The Center for Disease Control and Prevention reports nearly one in five women and one in 38 men have experienced completed or attempted rape during their lifetime.³⁰

The JAB has identified sex offenders as a priority and is committed to take actions to achieve four goals:

- examine the effectiveness of the special sentence
- examine technical violations
- examine the efficacy of sex offender residency restrictions
- support survivors/victims

Each of the goals and actions are outlined in the table below, and more information is provided in the following section of the report.

Table 7: Summary of Sex Offenders Priority

Priority Four: Sex Offenders
Goal 1: Examine the effectiveness of the special sentence
Action Item 1: Determine if the special sentence reduces sex offending
Action item 2: Determine if the sentence or duration is appropriate for all cases
Goal 2: Examine technical violations
Action Item 1: Gather information on types of technical violations accrued by sex offenders and which violations result in revocation to prison.
Goal 3: Examine the efficacy of sex offender residency restrictions
Action Item 1: Determine if residency restrictions reduce sex offending
Goal 4: Support survivors/victims
Action Item 1: Support survivors and victims of sexual abuse
Action Item 2: Examine the appropriateness of restorative justice

³⁰ Center for Disease Control and Prevention. Injury Prevention & Control.
<https://www.cdc.gov/injury/features/sexual-violence/index.html>

Sex Offender Implementation Activities

THREE-YEAR GOAL: Examine the effectiveness of the special sentence

In 2005, Iowa passed legislation that increased penalties for certain sex offenses and created “special sentences” for individuals convicted of a sex offense under Iowa Code §709, §726.2, and §728.12 (1), (2), or (3). The special sentence places offenders on either 10-year or lifetime community supervision after the completion of their original sentences. Offenders convicted of A, B, and C felony sex offenses are placed on lifetime community supervision while those with D felony, serious misdemeanor, and aggravated misdemeanor convictions are placed on 10-year supervision.³¹ The purpose of the special sentence was to reduce future victimization through extended supervision and monitoring of this population.

An analysis of the special sentence by CJJP in 2015 found no significant differences in new sex offense convictions between a sample group of those serving a special sentence and a pre-special sentence cohort. However, the findings showed the special sentence group had lower rates of new convictions than the comparison group.³²

These findings led the PSAB and SORC to make recommendations to modify Iowa’s special sentence by allowing the court to determine if an offender could be removed from special sentence supervision based on an evidentiary hearing.³³ An extended study on the efficacy of the special sentence by CJJP is currently underway and will be completed in 2021. The JAB will monitor and review evidence regarding the effectiveness of the special sentence in order to:

- 1) Determine if the special sentence reduces sex offending
- 2) Determine if the sentence or duration is appropriate for all cases

THREE-YEAR GOAL: Examine technical violations

One of the consequences of the special sentence has been an increase in the numbers of individuals under community supervision, and, subsequently, the number of revocations. The 2019 Prison Population Forecast reports from 2010 to 2019 special sentence returns have increased 176.0%.³⁴ The analysis of the special sentence by CJJP in 2015 found 64.8% of special sentence revocations were for non-sex related reasons.³⁵ The JAB will:

- 1) Gather information on types of technical violations accrued by sex offenders and which violations result in revocation to prison.

³¹ Iowa Code Chapter 903B <https://www.legis.iowa.gov/docs/ico/chapter/903B.pdf>

³² Johnson, S. & Davidson, C. (2015). *An Analysis of the Sex Offender Special Sentence in Iowa*. https://humanrights.iowa.gov/sites/default/files/media/CJJP_2015%20SORC%20Annual%20Report%20-%20An%20Analysis%20of%20the%20Sex%20Offender%20Special%20Sentence%20in%20Iowa.pdf

³³ Ibid.

³⁴ Berta, M. & TenNapel, M. (2019). *Iowa Prison-Population Forecast FY 2019 - FY 2029*. <https://humanrights.iowa.gov/sites/default/files/media/2019%20Iowa%20Prison%20Population%20Forecast.pdf>

³⁵ Johnson, S. & Davidson, C. (2015). *An Analysis of the Sex Offender Special Sentence in Iowa*. https://humanrights.iowa.gov/sites/default/files/media/CJJP_2015%20SORC%20Annual%20Report%20-%20An%20Analysis%20of%20the%20Sex%20Offender%20Special%20Sentence%20in%20Iowa.pdf

THREE-YEAR GOAL: Examine the efficacy of sex offender residency restrictions

In addition to examining the effectiveness of the special sentence and the use of technical violations in reducing future offending, the JAB will also seek evidence to:

- 1) Determine if residency restrictions (live at least 2,000 feet from schools, parks, etc.) reduce sex offending.

THREE-YEAR GOAL: Survivors/victims

Along with examining the efficacy of the management of sex offenders, the JAB is committed to:

- 1) Supporting survivors and victims of sexual abuse
- 2) Examining the appropriateness of restorative justice

These action items could include endorsing promising practices by the Iowa Office of the Attorney General's Crime Victim Assistance Division and the Iowa Coalition Against Sexual Assault, and identifying and learning from other communities (e.g., Meskwaki, etc.) to support victims.