

Iowa Criminal and Juvenile Justice Plan 2002 Update

**Submitted by:
The Iowa Criminal and Juvenile Justice Planning Advisory Council**



This report and other CJJP publications can be found at:
<http://www.state.ia.us/dhr/cjpp/recpub.html>

Introduction

Iowa Code Section 216A.135 requires the Criminal and Juvenile Justice Planning Advisory Council (CJJPAC) to submit a long-range plan for Iowa's justice system to the Governor and General Assembly every five years and to update this plan annually. The Council's most recent long-range plan was prepared and submitted in February 2000. This plan, and the goals it lays out for Iowa's criminal and juvenile justice system can be found at the website maintained by the Iowa Division of Criminal and Juvenile Justice Planning (CJJP), which provides staff support to the CJJPAC. Also at CJJP's website is a general overview of the duties and activities of the CJJP along with numerous reports and information about criminal and juvenile justice programs and operations.

This report is intended as an e-document and relies mainly on links to other documents which, when combined, make up the complete report. The outline that follows names the issues being presented by the CJJPAC and is both a table of contents and a "site-map" for the report.

The Issues

Iowa's County Jails

Sentencing and policies at the state level often affect jail populations; such policy debates often proceed without information that could help guide decision-making. Also, at any given time there are counties in Iowa considering the need for expanding jail capacity in their areas. As part of this process, counties are often concerned with programming needs (e.g., mental health, substance abuse treatment, etc.) in addition to capacity issues. However, information on these topics is often lacking, and varies among counties. [READ THE ISSUE PAPER](#)

Prison Population Issues

Iowa's prison population has increased during a period of tight state budgets. During the year 2000, the Nation's prison population grew 1.3%, which is the lowest growth rate since 1972. In comparison, Iowa's prison population grew 10%, and ranked fifth highest among the states in one-year growth rates. [READ THE ISSUE PAPER](#)

Mental Health and Iowa's Correctional Population

In Iowa, as is true throughout the nation, policy-makers, system officials, service practitioners and others are struggling with issues related to the mental health treatment needs of prison and community-based corrections populations. [READ THE ISSUE PAPER](#)

Senate File 543 Monitoring Report

Senate File 543, enacted during the 2001 legislative session, changes the maximum penalty for first-offense Burglary-3rd degree, and establishes new sentencing options available to the court. Because of the increased discretion extended to judges by this legislation, the General Assembly requested the Department of Corrections (DOC) provide a report concerning use of these new provisions. In turn, the DOC and the Criminal and Juvenile Justice Planning Advisory Council requested that CJJP complete a monitoring report describing the use of Senate File 543 provisions. [READ THE ISSUE PAPER.](#)

Justice Data Warehouse

CJJP, with the assistance and cooperation of Iowa's Judicial Branch, the Iowa Technology Department and others, has established a data resource to provide the judicial, legislative and executive branches of state government, and others, with improved statistical and decision support information pertaining to justice system activities. The Iowa Justice Data Warehouse recently was awarded the first ever *Certificate of Recognition for Technical Innovation* by the National Justice Research and Statistics Association. Through this CJJPAC 2002 Update, CJJP is introducing a new Justice Data Warehouse section of their website. At this site are examples of the use of this new data source as well as an assortment of state, district and county level data from the warehouse. [VISIT THE JUSTICE DATA WAREHOUSE WEBSITE](#)

Long-Range Goals for Iowa's Criminal and Juvenile Justice System

Every five years, the CJJPAC develops long-range goals for Iowa's justice system. February 2000 was the release date of the report containing CJJPAC's most recent goals. The report was prepared to provide helpful information to policy makers, system officials, practitioners and others interested in improving Iowa's justice system and is structured around the following planning areas:

- Violence Reduction And Crime Prevention
- Public Confidence In The Justice System
- Minority Overrepresentation In The Justice System
- Coordination Of Government Responsibilities And System Operations
- Information Systems -- Planning And Monitoring
- Technology
- Sanctions, Supervision, Treatment And Services For Adult Offenders
- Sanctions, Supervision, Treatment And Services For Juvenile Offenders

[READ THE REPORT](#)

NOTE: This "Iowa Criminal and Juvenile Justice Plan – 2002 Update" is a PDF file containing all the issue papers described above, except for the "Justice Data Warehouse" and the "Long-Range Goals for Iowa's Criminal and Juvenile Justice System." This PDF file does contain a link to CJJP's website for the Justice Data Warehouse and a link to a February 2000 report titled "Long-Range Goals for Iowa's Criminal and Juvenile Justice System." If you experience any difficulty accessing either of these sites from this document, please try going directly to CJJP's publication web page: <http://www.state.ia.us/dhr/cjpp/recpub.html> or call CJJP at 515-242-5823.

Iowa's County Jails

Issue

Sentencing and policies at the state level often affect jail populations; such policy debates often proceed without information that could help guide decision-making. Also, at any given time there are counties in Iowa considering the need for expanding jail capacity in their areas. As part of this process, counties are often concerned with programming needs (e.g., mental health, substance abuse treatment, etc.) in addition to capacity issues. However, information on these topics is often lacking, and varies among counties.

Purpose of Jail

County jails in Iowa serve the following functions:

1. Short-term holding facility for inmates being processed
2. Pretrial detention to assure court appearance for trial and sentencing of offenders at high risk for flight and/or violence
3. Short-term (less than one year) incarceration of sentenced misdemeanants and felony drunken drivers

Statewide Jail Information

[Attachment A](#) is a copy of the current statewide county jail and lockup monthly inmate statistical report. [Attachment B](#) is a sample of the maps and tables that are compiled by the Iowa Department of Corrections based on this information.

In addition to the statewide jail statistical report, information from other state databases could potentially assist in understanding jail trends. For example, information from the Iowa Court Information System may describe charging trends and volumes, and the Iowa Correctional Offender Network may describe the number and types of offenders under pre-trial release supervision.

Also, a statewide criminal justice information integration effort is underway to examine ways to share relevant information across the various automated data systems. The effort involves data sharing and integration among the courts, law enforcement, corrections and others. While the project has only recently been underway, there may be potential in finding ways of supporting improvements in information available to jail administrators, as well as identifying jail information that could be useful to other justice system officials.

Locally Available Jail Information

A formal survey of the availability and use of each jail's information has not been conducted. However, it is known that a number of larger jails have automated information systems that assist them in their day-to-operations. A number of these systems have information on the criminal charges lodged against the offender; track legal status (e.g., awaiting trial, serving sentence, probation/parole hold, etc.); and calculate average length of stay, for example.

This locally available statistical information is often used to forecast future jail populations for the county, and if it were available statewide, it would assist in determining the potential impact on jails of proposed legislation that would change sentencing laws and/or practices. Currently, potential jail impacts are included in the Iowa General Assembly's correctional impact statements prepared by the Legislative Fiscal Bureau. However, these are based solely on jail imprisonment rates as contained in the Justice Data Warehouse, which contains statewide conviction and sentencing data from the clerks of the district court. Historically, only a small portion of jail inmates are actually serving sentences; the majority of inmates are awaiting trial.

While locally available information contains more detail on incoming inmates than currently provided in the statewide jail inmate statistical reports, it is likely that each jail's database is designed differently, and may operate on a number of different computer platforms. In other words, both computer hardware and software issues would complicate any effort to obtain more detailed information from county jails as a whole – and this is without considering the jails that still rely on manual methods to keep track of their inmates.

Understanding Jail Needs

The desirability of jail information goes well beyond the number of bookings, jail capacity and average daily population. Some planners and administrators have voiced the need for assessment of those admitted to jail. For example, offender-specific information that might be desirable for planning purposes includes:

- Mental health needs
- Low IQ/low social functioning
- Disabilities
- Substance abuse treatment needs

Statewide Jail Trends

By bringing together jail data from multiple annual reports published by the Iowa Department of Corrections, it is possible to analyze trends in jail populations and capacities. The following charts also include prison population statistics for comparison purposes. Observations on the data include the following findings:

- Since FY1991, statewide jail capacity has increased 113%, and average daily jail populations have increased 111%. During FY2001, jails as a whole were operating at 75% of capacity.
- Iowa's largest jails (those holding over 100 inmates on average during FY2001) experienced higher rates of growth in capacity and number of inmates. Since FY1991, jail capacity of these large jails grew 194%, and average daily jail populations increased 137%. During FY2001, these large jails as a group were operating at 85% of capacity, although they have often operated above capacity in prior years. It should also be noted that some inmates of large jails have been transferred to other county jails with space, including some out-of-state due to overcrowding.
- In comparison, Iowa's prison capacity has increased at a faster rate than jails statewide, but slower than the growth rate for the largest jails. While the state

prison population has nearly doubled since FY1991, this rate of growth is slower than the growth in jail inmate populations. However, Iowa's prison population has been consistently overcrowded during the years studied, operating at as high as 158% of capacity. At Fiscal Year-end 2001, Iowa's prison population was operating at 120% of capacity.

- Iowa's total jail population has represented a fairly consistent percentage of the prison population over recent years. In FY2001, the average daily jail population was 39% of the prison population. County jail administrators and county supervisors may therefore want to be aware of prison population projections, as they may provide an indication of how jail populations may grow in the future.

Iowa Jail and Prison Statistics: FY1991 - FY2001

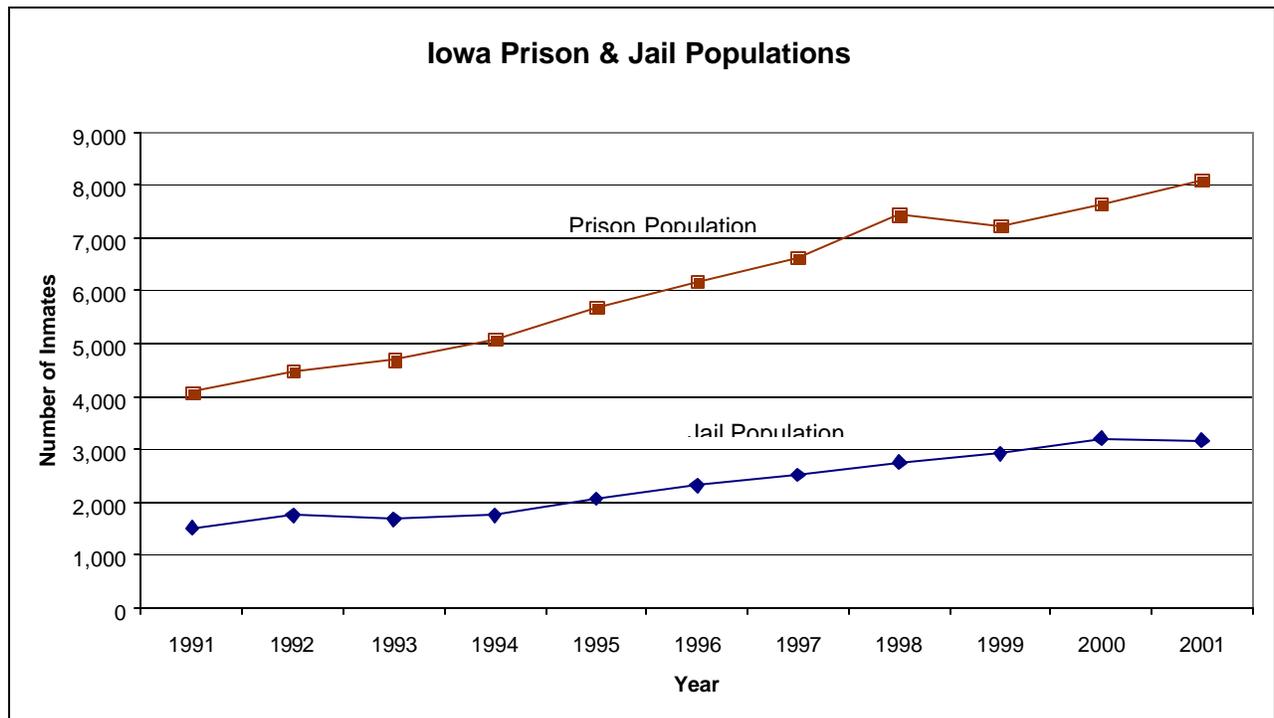
Fiscal Year	Jails: Statewide			Jails > 100 in Population			Prison: Statewide		
	Average Daily Statewide Jail Capacity	Average Daily Jail Population	Population as % of Capacity	Average Daily Jail Capacity	Average Daily Jail Population	Population as % of Capacity	Statewide Prison Capacity	Prison Population June 30	Population as % of Capacity
1991	1,975	1,501	76%	651	690	106%	3,045	4,077	134%
1992	2,110	1,749	83%	729	848	116%	3,165	4,485	142%
1993	2,184	1,673	77%	788	763	97%	3,603	4,695	130%
1994	2,184	1,746	80%	911	848	93%	3,603	5,089	141%
1995	2,415	2,063	85%	949	960	101%	3,603	5,692	158%
1996	2,651	2,310	87%	1,180	1,122	95%	4,201	6,176	147%
1997	2,798	2,516	90%	1,199	1,226	102%	4,201	6,636	158%
1998	3,043	2,753	90%	1,401	1,371	98%	5,701	7,431	130%
1999	3,115	2,911	93%	1,439	1,498	104%	5,701	7,231	127%
2000	3,415	3,202	94%	1,690	1,732	102%	6,772	7,646	113%
2001	4,205	3,169	75%	1,917	1,638	85%	6,772	8,101	120%
Percent Growth, FY1991-2001:			Percent Growth, FY1991-2001:			Percent Growth, FY1991-2001:			
Jail Capacity			Jail Capacity			Prison Capacity			
113%			194%			122%			
Avg. Daily Jail Population			Avg. Daily Jail Population			Prison Population			
111%			137%			99%			

Note: "Jails over 100 in population" was based on FY2001 average daily populations. These jails are: Black Hawk, Linn, Polk, Pottawattamie, Scott and Woodbury.

Source, jail data: Iowa Department of Corrections, compiled from jail statistical reports
 Source, prison data: E-1 Reports

Iowa Prison and Jail Populations

Fiscal Year	Average Daily Jail Population	Prison Population June 30	Jail Pop as % of Prison Pop
1991	1,501	4,077	37%
1992	1,749	4,485	39%
1993	1,673	4,695	36%
1994	1,746	5,089	34%
1995	2,063	5,692	36%
1996	2,310	6,176	37%
1997	2,516	6,636	38%
1998	2,753	7,431	37%
1999	2,911	7,231	40%
2000	3,202	7,646	42%
2001	3,169	8,101	39%



Prison Population Issues

Issue

Iowa's prison population has increased during a period of tight state budgets.

Iowa's Prison Population in Comparison with National Trends

During the year 2000, the Nation's prison population grew 1.3%, which is the lowest growth rate since 1972.¹ In comparison, Iowa's prison population grew 10%, and ranked fifth highest among the states in one-year growth rates.²

Moreover, between July 1, 2000 and December 31, 2000, state prison populations as a whole declined by one-half of one percent.³ Iowa's prison population, however, increased 4% over the same period, or by over 300 inmates.

Factors Contributing to Iowa's Prison Growth⁴

1. *Increase in new prison admissions (new court-ordered prison commitments and probation revocations)*. New admissions increased by about 29% between FY1996 and FY2001.
2. *Increase in admissions of drug offenders*. New admissions of drug offenders nearly doubled between FY1996 and FY2001. This increase is related to the increased manufacture and trafficking in methamphetamines in the state, and subsequent focus on the apprehension and prosecution of this type of offender. Drug offenses are the most common offense type among newly admitted prisoners.
3. *Housing federal prisoners*. At mid-year 2001, there were 147 federal prisoners within Iowa's prison system.
4. *Increase in prisoners discharging their sentences due to having served their entire sentences in full*. Changes in Board of Parole policies and practices have led to an increase in average inmate length of stay throughout the 1990's. Consequently, there has been a large increase in inmates expiring their sentences and being released with no community supervision. Releases of inmates due to expiration of sentence increased by about 155% between FY1996 and FY2001.
5. *The long-term effect of abolishing parole*. Parole and most of the earned time that would have reduced offenders' sentences was abolished for a number of violent crimes effective July 1, 1996. As a result, the expected length of stay of these offenders has increased dramatically. While this change has had little impact on Iowa's prison population to date, about 718 additional prisoners will be incarcerated within ten years.
6. *Getting "tough on crime"*. At midyear 1994, Iowa's prisons held 5,090 inmates. At midyear 2001, there were 8,101 prisoners. This represents an increase of 3,011 inmates. As shown in the following chart, correctional impact statement information

¹ Bureau of Justice Statistics, U.S. Department of Justice, "Prisoners in 2000", August 2001 Bulletin, p. 1.

² *Ibid.*, p. 5. States with higher one-year growth rates were Idaho, North Dakota, Mississippi and Vermont.

³ *Ibid.*, p. 3.

⁴ Much of the information in this section is excerpted from Division of Criminal and Juvenile Justice Planning, Iowa Department of Human Rights, "Iowa Prison Population Forecast: FY2002-2011", October 2001, pp. 8-11.

demonstrates that legislative changes have contributed to the increase in prisoners. In recent years, however, the legislature has enacted laws that would potentially reduce the projected increase in prisoners.

**Summary of Past Correctional Impact Statements:
1994-2001 Legislative Changes**

Bill Cite	Short Description	Estimated Impact on Prison Population
<i>2001 Legislative Session (Impact for FY2006):</i>		
SF 63	Child Endangerment	73
SF 537	Substance Abuse Treatment Facility	-167
SF 543	Various Sentencing Changes	-116
<i>2000 Legislative Session (Impact for FY2005):</i>		
SF 2265	Lascivious Acts Extend Supervision	7
SF 2276	Earned Time for Inmates	-166
<i>1999 Legislative Session (Impact for FY2004):</i>		
HF 94	Mfg. and Delivery of Meth. To Minor	1
HF 209	Elude Law Enforcement	74
HF 501	Willful Injury	217
<i>1998 Legislative Session (Impact for FY2003):</i>		
HF 2002	Expansion of Crimes - 85%*	0
HF 2369	Sex Assault HIV Test	22
SF 2385	Domestic Abuse Mandatory	9
<i>1997 Legislative Session (Impact for FY2002):</i>		
HF 542	Assaults on Jail/Prison Employees	65
HF 661	Mandatory Reporters	15
HF 666	Amphetamines	174
HF 707	OWI	62
SF 503	Mfg Meth - Minor Present	2
<i>1996 Legislative Session (Impact for FY2001):</i>		
HF 2109	Terminate/Injuring Pregnancy	3
HF 2316	Sex Predators**	63
SF 284	Forgery	278
SF 482	Ongoing Criminal Conduct	22
SF 2114	Certain Violent Crimes - 85%	140
SF 2154	Methamphetamines	101
SF 2269	3rd Offense Domestic Abuse	42
SF 2381	Dependent Adult Abuse	82
SF 2410	Medically Relevant Tests	133

Summary of Past Correctional Impact Statements (cont.):

1995 Legislative Session (Impact for FY2000):

HF 528	Weapons, Gangs	5
SF 93	Sex Offender Registry	38
SF 120	Inmate Literacy/Education	206
SF 293	Mandatory - Dangerous Weapon	5
SF 443	Assaults on Police Officers	24

1994 Legislative Session (Impact for FY1999):

HF 2270	Parole/Work Release Revocations	-9
SF 2265	Harassment, Stalking	13
SF 2319	Weapons, Drugs	80

Total Impact, 1994-2001 Legislation: 1,498

*Although this change has no five-year impact, the long-term impact is substantial.

**CJJP reports that this law is being used less often than originally projected.

Notes:

- Bills passed with no significant impact on prisons, and those where the impact could not be determined, are excluded.
- Five-year impacts do not encompass the same time period.

Source: Legislative Service Bureau; Legislative Fiscal Bureau;

Division of Criminal & Juvenile Justice Planning

Community-Based Corrections Capacity: Do We Have Enough?

In the year 2000, Iowa ranked 40th among the states in the rate of violent crime, and 36th in the rate of property crime.⁵ Iowa also ranked 42nd in the rate of persons under adult correctional supervision that year.⁶ However, Iowa incarcerates 31.4% of its correctional population, which ranks 24th highest among the states.⁷

Iowa had a higher percentage of offenders in community-based corrections in the past. The following chart shows that during the early and mid-1980's, between 82% and 85% of offenders in either prison or community-based corrections were in community-based corrections. However, this proportion declined during the 1990's. At mid-year 2001, only 77% of offenders were in community-based corrections.

These findings suggest that increasing community-based corrections capacity would appear to be warranted, and may provide a means to alleviate continued prison growth. Last year, the Iowa General Assembly enacted legislation to establish a substance abuse

⁵ Federal Bureau of Investigation, U.S. Department of Justice, "Crime in the United States 2000", October 2001, pp. 68-74.

⁶ Bureau of Justice Statistics, U.S. Department of Justice, "National Correctional Population Reaches New High", attachment to the press release, August 2001, p. 3. The correctional population includes probation, parole, jail and prison.

⁷ Ibid.

Prison and Community-Based Corrections Populations				
Populations on June 30th:				
Year	Prison	CBC*	Total	% CBC
1981	2,446	10,950	13,396	82%
1982	2,646	12,205	14,851	82%
1983	2,684	13,841	16,525	84%
1984	2,597	14,155	16,752	84%
1985	2,635	14,514	17,149	85%
1986	2,722	14,454	17,176	84%
1987	2,789	15,559	18,348	85%
1988	2,890	15,765	18,655	85%
1989	3,322	16,618	19,940	83%
1990	3,842	15,880	19,722	81%
1991	4,077	15,142	19,219	79%
1992	4,485	16,337	20,822	78%
1993	4,695	16,887	21,582	78%
1994	5,090	17,057	22,147	77%
1995	5,692	18,876	24,568	77%
1996	6,176	19,779	25,955	76%
1997	6,636	21,159	27,795	76%
1998	7,431	23,729	31,160	76%
1999	7,231	24,744	31,975	77%
2000	7,646	26,919	34,565	78%
2001	8,101	27,082	35,183	77%
% Growth:				
Past 20 yrs.	231%	147%	163%	
Past 10 yrs.	99%	79%	83%	

* Pre-trial, probation and parole populations.
 Source: Iowa Department of Corrections; E-1 Reports

treatment facility with a structured treatment program for probationers with substance abuse problems. Such a facility would be an additional intermediate sanction available within Iowa's Corrections Continuum. Intermediate sanctions are levels of supervision between street probation and prison incarceration. Therefore, if increased capacity for community-based corrections were contemplated by decision-makers, a review of capacities at each level of the Iowa Corrections Continuum would be warranted. Such a review would necessarily include examination of the types of offenders under supervision within each level, as well as availability of sanctions by geographical location. The Iowa Department of Corrections is currently working to develop the capacity of its new Iowa Correctional Offender Network (ICON) to generate information that could be used for such a review.

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Mental Health and Iowa's Correctional Population

Issue

Throughout the nation, policy-makers, system officials, service practitioners and others are struggling with issues related to the mental health treatment needs of prison and community-based corrections populations. Some of the issues being faced in Iowa and elsewhere include:

- Past and projected increases in the number of offenders with mental health problems.
- Appropriateness of funding levels and funding mechanisms; adequacy of treatment availability and treatment approaches.
- Difficulties in understanding and coordinating local, state and federal treatment resources, responsibilities, and restrictions.
- Mandates that require officials to provide mental health treatment whenever it is needed by an offender in their custody or under their supervision.
- Lack of consistency in the nature and availability of services from one county to the next, and how this is impacted by managed care approaches and existing distinctions of state vs. county responsibilities and authorities.
- Lack of understanding, consensus or direction on how to respond to offenders with both substance abuse and mental health problems.
- Lack of understanding, consensus or direction on how to respond to offenders with both mental health problems and long-standing criminal life-styles.
- Obstacles to providing or coordinating mental health treatment interventions to those offenders who move in and out of county jails, state prisons and community-based corrections' facilities and programs.
- Lack of resources and information with which to assess the scope and nature of offender populations' mental health treatment needs..
- Benefits and difficulties of recognizing the prevention of mental health problems as a crime prevention approach.
- Benefits and difficulties of identifying offenders' mental health problems and mental illnesses at the earliest stages of their involvement with the criminal justice system.
- Philosophical debates and clinical perspectives on the definitions of mental health problems, mental illness, substance abuse, and addiction.

Discussion

Taken together, these and related issues faced by local and state governments present challenges tremendously difficult to meet given their scope and the differences of opinion they represent. However, numerous past and current efforts to study or improve Iowa's mental health system have attempted to acknowledge the special needs of the state's correctional populations. Similarly, policies and programs have been established within the criminal justice system specifically in response to offenders' mental health needs. The extent to which changes made in either system have had their desired effects or a positive influence on the other system has no doubt varied.

Early in 2002, Iowa's Mental Health and Developmental Disabilities (MHDD) Commission (housed within the Iowa Department of Human Services) issued its Annual Report to the Governor and General Assembly. In this report, the Commission presented some far-reaching recommendations for changes to Iowa's mental health system. What follows is a direct excerpt of the recommendations in this report, bolded and underlined as in the original report:

“Recommendations:

- ***Restructuring of the legal mental health authority: Develop and empower a meaningful mental health authority for the state, with both the responsibility and authority to establish and implement a coordinated system of care for children and adults with mental illness, brain injury and developmental disabilities.*** *The commission has had longstanding concerns that the MH/DD system as a whole is fragmented, and that there has not been an adequately empowered single point of authority and accountability for the system. This concern predated the recent infra-structural changes that have been proposed for DHS, including the elimination of the MHDD division administrator position. With these changes, the concern becomes even more pressing and urgent. The commission feels that without the creation of such a central point of authority and responsibility, it will be impossible to move forward with any of the recommendations contained herein.*
- ***Parity:*** *For more than twenty years the legislature and the two sitting Governors have discussed various parity proposals. To date, nothing has been passed into law. This is a critical policy that must be enacted for the well being of all Iowans. The MHDD commission strongly urges the signing of parity legislation into law that covers persons with mental illness and substance abuse illness.*
- ***Core Services:*** *The current institution-based mandates should be replaced by a defined set of core community services that must be*

provided to children and adults with serious mental illness and developmental disabilities.

- *Eligibility: Uniform eligibility criteria for core services should be created and standardized on a statewide basis. This includes both clinical criteria as well as financial eligibility criteria.*
- *Legal settlement: This commission recognizes that this is a very complex issue with many implications. However, the commission feels strongly that the current legal settlement policy is wrong and needs to be eliminated. The commission supports the replacement of legal settlement with a policy in which funding follows the individual rather than legal settlement. This will likely require an increase in the state's contribution to funding for core community services.*
- *Restructuring of oversight bodies:*
 - *The role of citizen oversight commissions should be strengthened and retained. The MHDD commission and the State County Management Committee should be combined in an effort to minimize redundancy and help to create a clear point of accountability at a state level. This body should have oversight over the mental health authority described in the point above.*
 - *In the event that accreditation should be moved from DHS to DIA, the commission recommends that*
 - *Rulemaking for accreditation should remain the purview of the citizen oversight commission.*
 - *Technical assistance should continue to be made available to accredited providers.*
- *Relationship between DHS and the Department of Corrections (DOC): The commission is concerned that more and more individuals with mental illness appear to be winding up in correctional settings. The commission recommends closer coordination and communication between DHS and DOC specifically to:*
 - *Improve transition between correctional settings and community-based settings for offenders with mental illness and developmental disability.*
 - *Increase funding for, and improve treatment of offenders with mental illness and developmental disabilities while in correctional settings.*
 - *Decrease the number of individuals with mental illness in correctional settings.*
- *Children's MH and DD services: The commission is very concerned that Iowa's children's mental health and disability service system is*

particularly fragmented and dysfunctional. This situation is worsening in the context of increased restrictions on reimbursement for mental health services for children with emotional and behavioral disorders. A major effort will be necessary in order to achieve the goal of creating a coordinated system of mental health services for children that is easy to access and links children, parents, schools and health care providers.

- *Compliance with Olmstead: The commission urges full support and funding for and implementation of the Iowa Plan for Community Development in an effort to fully comply with the Olmstead decision.*
- *Unserved individuals: Individuals with brain injury as well as those with developmental disabilities without cognitive impairment, often “fall through the cracks” of the current system. Equitable access to services for such individuals is critical and must be addressed with both changes in legislation/code as well as additional allocation of resources.*
- *Enhance support and training for direct-care workers. Recruitment to these positions is an ongoing problem, and turnover is extremely high. These types of positions are vital to an effective service delivery system and require additional support. Training requirements should be increased and implemented and salaries, benefits, and incentives should be increased.*
- *Personal Assistance Services: Funding should be made available for consumer-controlled personal assistance services for all Iowans with disabilities. The state must be a contributor to this funding, but it should also pursue federal funding for this.*
- *Develop a statewide system of peer support: Fund and expand a consumer-driven network covering the entire state to provide peer support and counseling, and opportunities for self-advocacy for Iowans with all types of disabilities.*
- *State funding share to counties: Community services and allowable growth must be restored to the original appropriation for FY '02. Not doing so will result in decreased access to and quality of services.*

Finally, the commission recognizes that many of the recommendations above clearly depend upon funding issues, and the commission is cognizant of the current fiscal environment both at a state and national level. The commission feels that it is critical that the state of Iowa maximize federal funding for mental health and disability services. The commission is very concerned that with decreases in DHS staffing, the opposite is likely to happen. Specific strategies must be developed to counter this.”

The Criminal and Juvenile Justice Planning Advisory Council has not reviewed these recommendations since their release, and their inclusion in this report is not meant as an endorsement. Rather, they are presented here to increase awareness of them so their merits can be more fully assessed. They also are included here to further describe some of the issues listed earlier in this report and to point out a number of other issues and challenges Iowa faces in its efforts to improve how it supports and delivers mental health services and other services to Iowans with all types of disabilities. For more information about the MHDD Commission and the Iowa Department of Human Services, and to obtain the report containing the above recommendations, see <http://www.dhs.state.ia.us/>.

There have been a number of other recent initiatives in Iowa whose focus have been on the state's mental health service delivery systems or the mental health needs of Iowa's correctional populations. One such initiative is the Iowa Mental Health Forum which recently held community sessions, conducted surveys, reviewed findings and recommendations from numerous past reports about Iowa's mental health system, and convened a state-wide summit to advocate and educate the public around mental illness. Its proceedings and findings contributed to the recommendations of the MHDD Commission. More information about the Forum and a listing of its recommendations can be obtained by contacting the State Public Policy Group; 200 10th Street, 5th Floor; Des Moines, Iowa 50309; phone: 515-243-2000; email: sppg@sppg.com.

Another effort to heighten awareness and search for solutions can be seen in the work of the Commission on the Status of Mental Health of Iowa's Corrections Population. This initiative, sponsored by the Community Corrections Improvement Association, Cedar Rapids, Iowa, held eight public hearings in different areas of the state and surveyed over 300 participants of these forums about a number of issues. A "Fall 2001" report from this Commission stated:

"Three initial findings emerge from the convenience sample of those engaged in corrections issues provided by the Commission on the Status of Mental Health of Iowa's Corrections Population's public hearing: 1) there is consensus among those engaged in the issue [of mental health services to corrections' populations] that the system is not fulfilling its mandates; this varies by mandate and judicial district; 2) there is a sense of urgency among those engaged in the issue to address the overarching issues which exacerbate problems in the corrections system; and 3) there is no general agreement among the same individuals for the solutions tested, such as a "no closed doors" program. While these indications do not provide a conclusive blueprint, they do provide the basis for enlightened policy development...

One of the most often mentioned criticisms of Iowa's current system besides the lack of communication among key parties and the rigidity of funding silos was the lack of policies or programs specifically addressing the release of individuals from treatment centers, jails, or prisons. Many

people also mentioned if the money is going to be spent anyway, why not spend it trying to prevent crimes through earlier screenings on people to help them before they end up in the corrections system.”

The Commission on the Status of Mental Health of Iowa’s Corrections Population is planning a statewide conference for the spring of 2002 to continue their activities and discussions. More information about the Community Corrections Improvement Association and the report cited above can be found at <http://iowacbc.org/> or by contacting the Community Corrections Improvement Association at 951 29th Ave SW, Cedar Rapids, IA 52404.

The work of others as described above does not comprise all of what has been happening to address mental health issues as they relate to Iowa’s corrections populations. For example, special needs prison units, new residential facility programming, and offender assessment processes are being improved by the Iowa Department of Corrections and the state’s Judicial District Departments of Correctional Services. Also, the Iowa Department of Human Services is now embarking on an effort to develop and provide training to enhance service delivery for correctional consumers with mental illness. Furthermore, having some time ago recognized the broader areas of concern discussed in this report, Iowa Governor Vilsack and Lt. Governor Pederson recently recommended steps to:

“Redesign the mental health and developmental disabilities system for better services.

The current mental health and developmental disabilities system lacks a uniform definition of eligibility for services. It also lacks uniformity in the services provided. Finally, its sources of funding are uneven across counties. A phased approach to the redesign is recommended by moving service management to the local level. Focus of the redesign would be on:

- *Development of a core set of services;*
- *Establishment of a common eligibility;*
- *Services based on residency;*
- *Transition to more market-based facilities;*
- *Maximizing federal, state, and county resources for persons with disabilities served by counties in their local communities.”*

When the Division of Criminal and Juvenile Justice Planning (CJJP) was requested to prepare this report, information on the status of other states’ involvement with the issues was sought. As has already been mentioned, it seems that almost all states are facing similar issues. Some are seeing the need to change policies and find new resources to avoid or respond to federal court orders related to offenders’ rights to adequate treatment in correctional settings. Other states voice a particular concern that the deinstitutionalization of mental health services over the last few decades resulted in a gradual, and now marked, increase in the placement of mentally ill persons in prisons and jails mainly because there is no other place for them to go. States are finding it difficult to assess both the nature and

scope of the problem given a lack of uniform assessments of offenders entering jails and at other key offender processing points.

While no easy answers for Iowa were found in the other states, numerous efforts can be seen across the nation that are trying new approaches with offender assessment procedures and case management, intensive judicial oversight, cross-system training, re-entry/transition services, and more. However, attempting to achieve large scale structural changes, such as those envisioned in some of the recommendations listed above, seem to call for state-specific efforts because of the complicated and unique mix of local and state authorities and responsibilities that comprise each state's mental health and corrections systems

The Criminal and Juvenile Justice Planning Advisory Council requested that this staff report be prepared -- largely to help focus attention on the mental health service needs of offenders in Iowa's corrections population. At a number of its meetings over the last year, concerns over the lack of adequate mental health treatment planning and interventions for offenders have been discussed and debated. Members of this Council are aware that there are a number of initiatives now underway, planned or being recommended that could have a significant impact on how Iowa is addressing the mental health needs of its corrections populations. CJJP has been directed by the Council to assist others as these plans proceed and as recommendations are considered. It is anticipated that the Council will revisit this issue throughout the coming state fiscal year.

Special Note: The primary focus of this brief report has been on mental health treatment and Iowa's adult corrections population. The Criminal and Juvenile Justice Planning Advisory Council, the Iowa Juvenile Justice Advisory Council (which also receives staff support from CJJP) and others also have voiced concern over the adequacies of the mental health treatment that is available to children, youth and families in Iowa's child welfare and juvenile justice systems. Most of the issues raised in this report are further complicated when other issues involving schools, parents and child welfare service agencies are brought into the discussion. It seems reasonable to assume that efforts to improve the structure of Iowa's mental health system for adult offenders must also carefully take into account the special needs of children and youth involved in the justice system either as delinquents or as children in need of assistance.

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Senate File 543 Monitoring Report: First Half FY2002

Introduction

Senate File 543, enacted during the 2001 legislative session, changes the maximum penalty for first-offense Burglary-3rd degree, and establishes new sentencing options available to the court:

- An alternative determinate prison sentence for certain Class D felons
- Extended felony sentence reconsideration from 90 days to one year

Because of the increased discretion extended to judges by this legislation, the General Assembly has requested the Department of Corrections (DOC) provide a preliminary report by February 1, 2002 concerning use of these new provisions. In turn, the DOC and the Criminal and Juvenile Justice Planning Advisory Council have requested that CJJP complete a monitoring report describing the use of Senate File 543 provisions.

Summary

- Thus far, 81 persons have been convicted of first-offense Burglary-3rd or attempts. A reduction in the use of prisons is occurring, due to lower incarceration rates for these offenses.
- There has been little impact of the other SF 543 provisions to date on convictions, sentences and the use of correctional resources. This is likely due to the following factors:
 - Case processing times. SF 543 largely affects sentencing for crimes committed on or after July 1, 2001. Case processing times for Class D felonies average six months (between filing date and disposition date). Regarding the extended reconsideration of sentence provisions, the impact may not be apparent until the end of FY2002 because judges have up to one year to exercise their authority under this option.
 - Need for policy development. Particularly with regard to the Class D determinate sentence, many judges, prosecutors and defense attorneys may have been limiting use of this option during the first few months until they become more familiar with the law, and determine when and how to apply it (or recommend its application) in individual cases. More experience with the law may eventually lead to more frequent use.
 - Other considerations. No systematic survey of officials regarding provisions of SF 543 has been conducted. There are therefore likely to be numerous other reasons for limited use of SF 543 provisions to date. For example, some judges and prosecutors may not have attended informational sessions regarding SF 543. Others may have elected not to use determinate Class D felony provisions because they prefer that the Board of Parole continue to determine the appropriate timing for release of prison inmates.

First-Offense Burglary-3rd Degree

Provision. The penalty for first-offense Burglary-3rd degree involving an unoccupied motor vehicle, truck or boat is reduced from a Class D felony to an aggravated misdemeanor. First-offense Attempted Burglary-3rd of vehicles and boats is reduced from an aggravated misdemeanor to a serious misdemeanor.

Impact on Convictions. A total of 80 offenders were convicted under the new first-offense burglary penalties during the first half of FY2002, rather than being convicted of a Class D felony. One offender was convicted of serious misdemeanor attempted burglary rather than being convicted of an aggravated misdemeanor. The total number of convictions for Burglary-3rd and attempts during the first half of FY2002 are similar to the six-month average for FY2001.

Offender-Based Convictions: Burglary-3rd degree				
	FY2001		FY2002	
	Total for Year	6-Month Average	First 6 Months	1st-Offense Only
Burglary-3rd	942	471	460	80
Attempted Burglary-3rd	232	116	96	1

Impact on Sentences. About 14% of offenders convicted of first-offense Burglary-3rd were sentenced to prison, which is less than half of the imprisonment rate of those convicted of Class D felony Burglary-3rd in FY2001. Instead, incarceration rates (prison and jail) for those convicted of first-offense Burglary-3rd are similar to rates for aggravated misdemeanor burglary prior to the law change.

Burglary Incarceration Rates		
	% Sentenced to Prison	% Sentenced to Jail
First-Offense Burglary-3 rd (Agg Misd)	14%	20%
<i>Comparison with FY2001:</i>		
Burglary-3rd (Class D)	32%	NA
Attempted Burglary (Agg Misd)	13%	17%

Impact on Prison Admissions. The observed reduction in imprisonment rates for first-offense Burglary-3rd has led to a reduction in new court-ordered prison commitments of offenders with

lead crimes of Burglary-3rd, when compared with the six-month average for FY2001.¹ Three offenders were admitted to prison for lead offenses of first-offense Burglary-3rd. Other prison inmates are also serving sentences for first-offense Burglary-3rd, but not as a lead offense.

New Prison Admissions: Burglary-3rd degree (Lead Offenses Only)				
	FY2001		FY2002	
	Total for Year	6-Month Average	First 6 Months	First-Offense Only
Burglary-3rd:				
<i>Total New Prison Admissions</i>	279	140	109	3
New Court-Ordered Commitments	138	69	43	2
New - Probation Revocations	141	71	66	1
Attempted Burglary-3rd:				
<i>Total New Prison Admissions</i>	21	11	9	0
New Court-Ordered Commitments	6	3	2	0
New - Probation Revocations	15	8	7	0

Impact on Average Length of Stay in Prison and Jail. An insufficient amount of time has elapsed to compare the average length of stay in prison for offenders convicted of first-offense Burglary-3rd with those convicted of Class D felony Burglary-3rd. However, based on a sample of year 2001 prison exits, one may expect that offenders imprisoned for first-offense Burglary-3rd will serve less time on average than if they had been convicted of a Class D felony. Non-violent Class D felons released in 2001 served an average of 15 months in prison prior to “first release”, while non-violent aggravated misdemeanants served an average of 9 months. Non-violent offenses include burglary, other property crimes, and drug offenses. Releases include parole, work release, sentence reconsideration, expiration of sentence, and other forms of release. “First release” is the first prison exit that occurs on the prison commitment.

Regarding offenders sentenced to jail on conviction for first-offense Burglary-3rd, the average length of the jail term (the portion to be actually served in jail and not suspended) was 53 days. This is slightly less than the average jail term for aggravated misdemeanor Attempted Burglary-3rd during FY2001, which was 67 days.

¹ The lead offense is the crime that holds the inmate in prison for the longest amount of time, as determined by the tentative discharge date. The lead offense is usually, but not always, the most serious offense.

Optional Determinate Class D Felony Sentence

Provision. A judge may sentence a person convicted of a Class D felony to a determinate term of at least one year, but less than the five-year maximum sentence, if mitigating circumstances exist and are specifically stated on the record. This provision is limited largely to those whose crimes are not against persons², and offenders who commit new offenses while in prison, on parole or on work release are not eligible for the determinate term.

Impact on Prison Admissions. Hundreds of new prison admissions involve Class D felony sentences eligible to receive the optional determinate sentence. However, only 15 offenders received determinate terms during the first half of FY2002.

New Prison Admissions: Class D Felony Non-Persons/Non-OWI				
	FY2001		FY2002	
	Total for Year	6-Month Average	First 6 Months	Total Determinate Sentences
Total New Prison Admissions:	995	498	522	15*
New Court-Ordered Commitments	522	261	245	12
New - Probation Revocations	473	237	277	2

* Includes one admission due to parole revocation.

Impact on Average Length of Stay in Prison. CJJP conducted an analysis of a sample of Class D non-violent felons released from prison during 2001, including examination of these offenders' criminal histories and disciplinary reports received while in prison. This information was used to create the following chart:

For Prior Incarceration History of This:	Determinate Term Should Be No More Than This:
No Prior Jail or Prison	2 years
One or More Prior Jail Terms	2 years and 6 months
One Prior Prison Term	2 years and 10 months
Two or More Prior Prison Terms	3 years and 2 months

Note: The determinate terms listed above represent the longest sentence that a judge may give an offender without creating the potential for the offender to serve more than the historical average time served for the offense.

This information formed the basis for examining whether persons sentenced under the determinate option are likely to serve less than, the same as, or more than what they would have

² The law excludes convictions for forcible felonies, drunken driving, murder/manslaughter offenses (Chapter 707), assault (Chapter 708) and sexual abuse (Chapter 709), as well as felonies listed in Section 901A.1 and Section 902.12 of the *Iowa Code*.

served if sentenced to an indeterminate term. CJJP’s analysis shows that nine or 60% of those receiving determinate terms are projected to serve the same or less time than they would have served if they had received indeterminate terms, based on their criminal histories. Hereafter, we will refer to this group as Group A. The remainder, six or 40% of those receiving determinate terms are projected to serve more time in prison than they would have otherwise served if convicted of a Class D felony and sentenced to an indeterminate term. This latter group (Group B) included one offender who was ineligible to receive the determinate term due to having committed her crime while on parole.³

Determinate Terms: Impact on Average Length of Stay in Prison (LOS)

Criminal History	Total # of Offenders	Group A		Group B	
		# in Group A	Avg. Difference in LOS	# in Group B	Avg. Difference in LOS
No Prior Jail or Prison	8	5	- 4 mos.	3	+ 19 mos.*
One or More Prior Jail Terms	1	0	--	1	+ 3 mos.
One Prior Prison Term	4	3	- 5 mos.	1	+ 7 mos.
Two or More Prior Prison Terms	2	1	- 7 mos.	1	+ 5 mos.

*This average is substantially affected by one case where the offender was sentenced to 2 consecutive 4.5 year terms, and will serve about 42 months more than if sentenced to an indeterminate Class D felony. The average difference in LOS for the two other cases is + 8 months.

"Average Difference in LOS" is the projected average number of months more or less in prison that the offender category will serve due to determinate sentencing, compared with similar offenders sentenced to indeterminate terms.

Group A: Will serve the same or less time than they would have otherwise.

Group B: Will serve more than they would have otherwise if convicted of Class D felonies.

Of Group B offenders, three or 50% were originally charged with a more serious offense. Therefore, the prosecution and defense may have reached an agreement in these cases for the defendant to plead to a lower level felony in exchange for a determinate term that would hold the offender in prison for longer than the average Class D felon. However, it is also likely that at least some prosecutors, defense attorneys and/or judges involved in Group B sentences were unaware that these offenders were receiving sentences that would require them to serve longer prison terms than they would have otherwise.

No Differences in Sentencing by Rural vs. Urban Counties. At the request of some members of the Iowa General Assembly as well as the Department of Corrections, CJJP examined whether any rural/urban differences in use of the optional determinate term existed. Please keep in mind that the number of determinate terms examined is small, and therefore these findings are preliminary. CJJP examined offenders receiving determinate terms in two separate

³ The Attorney General’s office has pointed out this offender’s ineligibility for determinate sentencing to the county attorney. As of this writing, the sentence still stands. However, the offender was temporarily released from prison for a court appearance on January 21, 2002, which may or may not be related to this issue.

groups: a) those projected to serve the same or less than they would have otherwise, or Group A; and b) those projected to serve more time than the average, or Group B.

Regarding both groups, there were no substantial differences found with regard to urban/rural sentencing practices, when compared with first-half FY2002 new prison admissions for non-violent, non-OWI Class D felons.

New Prison Admissions: Class D Felony Non-Persons/Non-OWI			
	All DF Non-Violent FY2002*	Determinate Group A	Determinate Group B
% Convicted in Urban Counties	51%	56%	50%
% Convicted in Rural Counties	49%	44%	50%

* First-half FY2002 admissions

Urban counties were defined as Black Hawk, Linn, Polk, Scott and Woodbury.

Majority of Determinate Terms Arose in 7th Judicial District. CJJP did find geographic differences in application of determinate terms. Nine or 60% of determinate sentences were due to convictions in the 7th Judicial District. All but one term arose from counties in southern and eastern Iowa.

Determinate Terms by Judicial District		
Judicial District	Determinate Group A	Determinate Group B
1st	---	---
2nd	1	---
3rd	---	---
4th	---	---
5th	1	1
6th	---	---
7th	6	3
8th	1	2

No Differences in Sentencing by Offenders' Race/Ethnicity. Also at the request of various officials, CJJP examined whether there were differences in determinate terms for various race and ethnic groups. Again, due to the low numbers involved, these findings are preliminary. Regarding both groups, there were no substantial differences found with regard to offenders' race/ethnicity in the application of determinate terms, when compared with first-half FY2002 new prison admissions for non-violent, non-OWI Class D felons.

New Prison Admissions: Class D Felony Non-Persons/Non-OWI

Offenders' Race/Ethnicity	All DF Non-Violent FY2002*	Determinate Group A	Determinate Group B
% White (non-Latino)	76%	78%	100%
% African-American	18%	22%	---
% Latino and Other Races	6%	---	---

* First-half FY2002 admissions

No Differences in Sentencing by Offenders' Sex. CJJP also examined determinate terms by offenders' sex. Regarding Groups A and B, there were no substantial differences found with regard to offenders' sex in the application of determinate terms, when compared with first-half FY2002 new prison admissions for non-violent, non-OWI Class D felons.

New Prison Admissions: Class D Felony Non-Persons/Non-OWI

Offenders' Sex	All DF Non-Violent FY2002*	Determinate Group A	Determinate Group B
% Female	16%	22%	17%
% Male	84%	78%	83%

* First-half FY2002 admissions

Extended Felony Sentence Reconsideration

Provision. Allows a judge up to one year to reconsider the sentence of a felon. Previously, the judge had up to 90 days to reconsider the sentence.

No Impact on Prison Admissions. CJJP examined the possibility that judges might increase sentences to prison for offenders that they will later release under the new sentence reconsideration provisions. As documented below, probation revocations during the first half of FY2002 have increased when compared with the six-month average for FY2001, while new court-ordered prison commitments have decreased. Overall, there has been a slight increase in total new prison admissions. However, due to the opposing trends in new court-ordered commitments and probation revocations, it appears unlikely that extended sentence reconsideration has led to the observed overall increase.

New Prison Admissions			
	FY2001		FY2002
	Total for Year	6-Month Average	First 6 Months
<i>Total New Prison Admissions</i>	3,271	1,636	1,664
New Court-Ordered Commitments	2,125	1,063	1,006
New - Probation Revocations	1,146	573	658

No Impact on Prison Releases Due to Sentence Reconsideration. The number of releases due to sentence reconsideration during the first half of FY2002 is similar to the FY2001 six-month average number of such releases.

Prison Releases: Sentence Reconsideration			
	FY2001		FY2002
	Total for Year	6-Month Average	First 6 Months
Number of Releases	264	132	124

No Impact on Prisoner Average Length of Stay. There is no substantial difference in the length of prison stays for offenders released due to sentencing reconsideration during the first half of FY2002, when compared with the length of stays for FY2001 releases. While it appears that first-half FY2002 releases are trending toward longer prison stays (note the increase in the 5-to-11.9 month range), average length of stay remains at four months.

It should also be noted that prior to enactment of Senate File 543, some offenders were serving up to one year or more in prison prior to release due to sentence reconsideration. A number of

judges have confirmed that they found a way under previous law to use their sentence reconsideration authority in a manner resulting in prison stays exceeding 90 days for felons. Another factor in lengths of stay exceeding 90 days (particularly in the 3-to-4.9 month range) is the length of time required by corrections officials to process inmates for release to community supervision.

**Prison Releases:
Sentence Reconsideration**

Length of Prison Stay	FY2001	FY2002*
up to 90 days	26%	28%
3.0 to 4.9 months	55%	46%
5.0 to 11.9 months	18%	25%
12+ months	1%	1%
<i>Average Time Served</i>	4 months	4 months

* First-half FY2002 releases

More Judges Exercising Sentence Reconsideration Authority. The number of judges involved in first-half FY2002 releases due to sentence reconsideration exceeds the six-month average number of judges involved in such releases in FY2001. However, as noted previously, there has been no increase to date in the number of releases due to sentence reconsideration. Therefore, the observed increase in judges exercising this authority is, at least thus far, not having an impact on releases.

**Number of Judges Involved in Releases
Due to Sentence Reconsideration**

	FY2001		FY2002
	Total Judges for Year	6-Month Average	N Judges First 6 Months
1 Reconsideration	35	18	28
2 Reconsiderations	22	11	16
3+ Reconsiderations	28	14	12
<i>Total Judges</i>	85	43	56

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