

# **An Analysis of the use of 70% Mandatory Minimum Sentences in Iowa**

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# Table of Contents

<b>PREFACE .....</b>	<b>V</b>
<b>POLICY.....</b>	<b>VI</b>
RECOMMENDATIONS.....	VI
<b>I. EXECUTIVE SUMMARY .....</b>	<b>VIII</b>
ANALYSIS #1 – THE EFFECTS OF MANDATORY SENTENCES ON THE PRISON POPULATION: .....	VIII
ANALYSIS #2 - DEMOGRAPHIC DIFFERENCES BETWEEN MANDATORY SENTENCE SERVERS AND OTHER INMATES: .....	VIII
ANALYSIS #3- ROBBERY ANALYSIS: .....	IX
<b>II. INTRODUCTION .....</b>	<b>1</b>
<b>III. LITERATURE REVIEW .....</b>	<b>3</b>
<b>IV. HISTORICAL BACKGROUND OF MANDATORY SENTENCES IN IOWA .....</b>	<b>5</b>
Table 1: 1996-2001 VIO/TIS Funding .....	5
Table 2: Offenses Covered by the 70% Initiative.....	6
<b>V. METHODOLOGY .....</b>	<b>7</b>
ANALYSIS #1 – THE EFFECTS OF MANDATORY SENTENCES ON THE PRISON POPULATION: .....	7
ANALYSIS #2 - DEMOGRAPHIC DIFFERENCES BETWEEN MANDATORY SENTENCE SERVERS AND OTHER INMATES: .....	7
ANALYSIS #3- ROBBERY ANALYSIS: .....	7
<b>VI. THE EFFECTS OF MANDATORY SENTENCES ON THE PRISON POPULATION .....</b>	<b>9</b>
Figure 1: Number of New Prison Admissions Serving 70/85% Sentences, by Fiscal Year .....	9
Figure 2: Number of New Prison Admissions Serving 70/85% Sentences, by Offense Class and Fiscal Year ..	10
Figure 3: Actual and Projected Inmates in Prison Population Serving 70/85% Sentences, by Offense Class and Fiscal Year.....	10
Figure 4: Number of Prisoners at the End of each FY by Parole Eligibility .....	12
Figure 5: End of FY Prisoners not Eligible for Release Due to Mandatory or Life Sentence .....	12
Table 3: Number of Prisoners at the End of each Fiscal Year by Release Eligibility .....	13
<b>VII. DEMOGRAPHIC DIFFERENCES BETWEEN MANDATORY SENTENCE SERVERS AND OTHER INMATES.....</b>	<b>14</b>
Table 4: FY13 New Prison Admissions, by Conviction Offense Class.....	14
RACE .....	14
Figure 6: Percentage of New African-American Admissions by Sentence Type and Fiscal Year .....	14
GENDER .....	15
AGE AT PRISON ENTRANCE .....	15
EDUCATION .....	15
BIRTHPLACE .....	15
Table 5: FY13 New Prison Admission Population, by Sentence Type, Race, Sex, Age, Birthplace.....	16
Table 6: FY13 Caucasian and African-American New Prison Admissions by Birthplace.....	16
OFFENDER RISK (LSI-R).....	17
Table 7: FY13 New Prison Admission Population, by Sentence Type and LSI-R Total Score .....	17
Table 8: Criminal History LSI-R Sub-Score, FY13 New Prison Admissions, by Sentence Type .....	18
Table 9: Prior Convictions, FY13 New Prison Admissions, by Sentence Type.....	18

<b>VIII. DEMOGRAPHIC DIFFERENCES BETWEEN MANDATORY SENTENCE SERVERS AND VIOLENT FELONY INMATES.....</b>	<b>19</b>
<i>Table 10: FY13 New Crimes Against Persons Felony Prison Admissions, by Conviction Offense Class .....</i>	<i>19</i>
<i>RACE .....</i>	<i>19</i>
<i>GENDER .....</i>	<i>19</i>
<i>AGE AT PRISON ENTRANCE .....</i>	<i>19</i>
<i>EDUCATION .....</i>	<i>19</i>
<i>BIRTHPLACE .....</i>	<i>19</i>
<i>Table 11: FY13 New Violent Felony Prison Admissions, by Sentence Type, Race, Sex, Age and Birthplace ....</i>	<i>20</i>
<i>Table 12: FY13 New Prison Admissions, by Race and Birthplace .....</i>	<i>20</i>
<i>OFFENDER RISK (LSI-R) .....</i>	<i>21</i>
<i>Table 13: FY13 New Violent Prison Admissions' LSI-R Total Score, by Sentence Type.....</i>	<i>21</i>
<i>Table 14: FY13 Violent Prison Admissions, by Sentence Type and LSI-R Criminal History Sub-Score.....</i>	<i>21</i>
<i>PRIOR CONVICTIONS .....</i>	<i>22</i>
<i>Table 15: FY13 New Violent Prison Admissions, by Sentence Type and Prior Convictions .....</i>	<i>22</i>
<b>IX. ROBBERY ANALYSIS .....</b>	<b>23</b>
<i>REPORTED CRIME.....</i>	<i>23</i>
<i>Table 16: Part A Violent Crimes Reported to Iowa Uniform Crime Reports 1995-2011 .....</i>	<i>24</i>
<i>Figure 7: Total Reported Violent Crime, % Change from Previous Year, Violent Crime versus Robbery .....</i>	<i>24</i>
<i>ROBBERY ADJUDICATION .....</i>	<i>25</i>
<i>Figure 8: Total Robbery Charges and Dispositions, by Fiscal Year .....</i>	<i>25</i>
<i>Figure 9: Robbery-1 Charges and Dispositions, by Fiscal Year .....</i>	<i>26</i>
<i>Figure 10: Robbery-2 Charges and Dispositions, by Fiscal Year .....</i>	<i>26</i>
<i>Figure 11: Robbery-1 and Robbery-2 Convictions, by Fiscal Year.....</i>	<i>27</i>
<i>Figure 12: Robbery-1 and Robbery-2 Percent Convicted as Charged, by Fiscal Year.....</i>	<i>27</i>
<i>ROBBERY PRISON ADMISSION COHORT .....</i>	<i>28</i>
<i>Table 17: FY13 New Prison Admissions Serving 70% Mandatory Sentences .....</i>	<i>28</i>
<i>CHARACTERISTIC OF OFFENDERS CHARGED WITH ROBBERY .....</i>	<i>29</i>
<i>Table 18: Robbery-1 or Robbery-2 New Prison Admissions, by Judicial District and Period (FY1970-2012) .</i>	<i>29</i>
<i>Figure 13: Robbery-1 or Robbery-2 New Prison Admissions (Total), by Period (FY1970-FY2012).....</i>	<i>30</i>
<i>SEX.....</i>	<i>30</i>
<i>Table 19: New Robbery Prison Admission Arresting Offense, by Sex.....</i>	<i>30</i>
<i>Table 20: Number of New Robbery Prison Admissions per Period, by Sex.....</i>	<i>30</i>
<i>RACE .....</i>	<i>31</i>
<i>Table 21: Number of New Robbery Prison Admissions per Period, by Race .....</i>	<i>31</i>
<i>Figure 14: Number of New Prison Admissions Stemming from Robbery Charges, per Period, by Race.....</i>	<i>31</i>
<i>Table 22: New Robbery Prison Admissions due to Robbery Charges, by Race .....</i>	<i>31</i>
<i>Table 23: New Robbery Prison Admissions due to Robbery Conviction, by Race.....</i>	<i>31</i>
<i>AGE.....</i>	<i>32</i>
<i>Figure 15: Robbery Arresting Offense, by Age.....</i>	<i>32</i>
<i>Table 24: New Prison Admissions due to Robbery Charges, by Age.....</i>	<i>32</i>
<i>Figure 16: Age of New Prison Admissions Stemming from Robbery Charges, by Period.....</i>	<i>33</i>
<i>Table 25: New Robbery Prison Admissions, by Period, by Age .....</i>	<i>34</i>
<i>Figure 17: New Prison Admissions Stemming from Robbery Charges, by Period, Offenders 41 and Older .....</i>	<i>34</i>
<i>EDUCATION .....</i>	<i>35</i>

Table 26: New Robbery Prison Admission Education, by Arresting Offense and Fiscal Year .....	35
Figure 18: New Robbery Prison Admission Education by Period .....	35
Table 27: New Robbery Prison Admissions Education per Period, by Education .....	35
BIRTHPLACE .....	36
Table 28: New Robbery Prison Admission Arresting Offense, by Birthplace .....	36
Figure 19: New Robbery Prison Admission Birthplace by Period .....	36
Table 29: New Robbery Prison Admission Birthplace by Period .....	36
FY2011-FY2012 COHORT, BY WEAPON .....	37
Table 30: FY11-FY12 Robbery Prison Admissions, by Robbery Weapon .....	37
Table 31: FY11-FY12 Robbery Prison Admission, by Conviction Type and Weapon .....	38
Figure 20: FY11-FY12 Robbery Prison Admissions by Weapon Type and Race .....	38
Table 32: FY11-FY12 Robbery Prison Admissions by Weapon Type and Race .....	38
Table 33: FY11-FY12 Robbery Arrest Prison Admissions, by Sentence Type and Weapon .....	39
ROBBERY PRISON POPULATION .....	40
Figure 21: Entries to Prison, Offenders Charged with Robbery .....	40
Figure 22: New Robbery-1 and Robbery-2 Prison Admissions (FY1990-2013).....	41
Table 34: End-of-Year Population of Robbers in Prison.....	42
Figure 23: Robbers in the Prison Population at the End-of-Fiscal Year (FY1993-2013).....	42
Figure 24: First Releases of Robbery Inmates, by Fiscal Year (FY1986-FY2013) .....	43
Figure 25: First Releases of Robbery Inmates, by Fiscal Year and Departure Type, by Fiscal Year .....	44
Figure 26: First Releases of Robbery-2 Inmates, by Fiscal Year, Departure and Sentence Type (FY1990- FY2013) .....	44
Figure 27: First Releases of Robbery-2 Inmates, by Departure and Sentence Type .....	45
Figure 28: First Releases of Robbery-1 Inmates, by Fiscal Year of Departure and Sentence Type (FY1990- FY2013) .....	45
Figure 29: Robbery-1 and Robbery-2 Releasee Median Days to First Release, by Fiscal Year .....	46
ROBBERY CHARGES AND CONVICTIONS AMONG PRISON INMATES .....	47
Figure 30: New Robbery Prison Admissions Charge Reduction, by Admission Year .....	47
Figure 31: New Robbery Prison Admissions by Percent of Charge Reduction .....	48
Figure 32: New Non-70% Violent Admissions by Percent of Charge Reduction .....	48
Figure 33: Conviction Offense, Prison Admissions Charged with Robbery, by Fiscal Year.....	49
Figure 34: Prison Commitment Offense of Alleged Robbers Admitted to Prison, by Fiscal Year.....	49
Figure 35: New Robbery Prison Admissions by Charge Reduction and Prior Prison .....	50
RECIDIVISM OF ROBBERY COHORT .....	50
Figure 36: Recidivism of Robbery Cohort by One- and Three-Year Recidivism .....	50
Table 35: Recidivism of Robbery Cohort by One- and Three-Year Recidivism.....	51
Figure 37: 2003 Violent Offender Recidivism Report: Recidivism of Robbery Offenders Released from Iowa Prison.....	51
Figure 38: Recidivism Occurring Between Early Release and 85% Discharge Date .....	52
Table 36: Recidivism Occurring Between Early Release and 85% Discharge Date .....	52
RACIAL IMPLICATIONS OF THE 70% MANDATORY MINIMUM SENTENCE .....	53
Table 37: Total Robbery Arrests in Iowa, 1997-2011 .....	53
Figure 39: Black Percentage of Robbery Arrests, 1997-2011 .....	54
Figure 40: Black Percentage of Robbery Convictions.....	54
Figure 41: Percentage of African-American Convictions for Robbery-1 and Robbery-2 .....	55
Table 38: New Prison Admissions Stemming from Robbery Charges, by Race.....	55
Table 39: New Prison Admissions Stemming from Robbery Charges, by Race and Sentence Type .....	55

<i>Figure 42: Total Robbery Prison Admissions, by Race and Period .....</i>	<i>56</i>
<i>Figure 43: Robbery-1 Prison Admissions, by Race and Period (FY1970-FY2012) .....</i>	<i>56</i>
<i>Figure 44: Robbery-2 Prison Admissions by Race and Period (FY1970-FY2012) .....</i>	<i>57</i>
<i>Figure 45: African-Americans End-of-FY Percentage of 70% and non-70% Inmates.....</i>	<i>57</i>
<i>Figure 46: Percentage of Robbery Charges Reduced by Race and Fiscal Year (FY1990-FY2013) .....</i>	<i>58</i>
<i>Figure 47: Median Length of Stay in Days for Robbery-2, by Pre- and Post-70% Law, by Race.....</i>	<i>58</i>
<b>X. CONCLUSION AND DISCUSSION.....</b>	<b>59</b>
<b>XI. REFERENCES.....</b>	<b>61</b>

## PREFACE

The Public Safety Advisory Board (PSAB) was created by the Iowa General Assembly in 2010 to provide independent advice to the Legislative and Executive Branches pertaining to operation of Iowa's justice system. Included among the PSAB's statutory responsibilities are analyzing current and proposed criminal code provisions and providing research, evaluation, and data to facilitate improvement in the criminal justice system in Iowa in terms of public safety, improved outcomes, and appropriate use of public resources. An additional responsibility of the Board includes reviewing and making recommendations relating to current sentencing provisions. This report fulfills the requirements set forth in Iowa Code §216.133A, specifically addressing the effects of the "truth in sentencing" policies enacted in 1996.

The focus of this report is on the impact of the mandatory minimum sentences established in Iowa in 1996 with the goal of punishing and incapacitating criminals convicted of selected forcible felonies in the State. At the time this was considered a step toward increasing public safety, as the felons convicted of the applicable crimes were regarded as being uniformly high-risk and dangerous. Since that time, however, it has become evident that not all offenders convicted of these offenses are dangerous, and research on mandatory terms has suggested that they may be counterproductive.

For the purpose of this report, the PSAB has attempted to examine the impact of the mandatory minimum terms imposed by Iowa Code §902.12 to enable recommendations as to their continuation or modification as applied to Robbery offenses. We find generally that the "one size fits all" approach of these mandatory minimums is not an effective or efficient approach; while it may assist in incapacitating some dangerous criminals, it does so at a significant cost and with little distinction between low- and high-risk offenders. We believe that Iowa's criminal justice system can do better, both in terms of public protection and efficient use of state resources.

## **POLICY**

The findings from this report suggest that thoughtful consideration should be given to modifying the mandatory minimum sentences as to Robbery offenses found in §902.12 of the Code of Iowa. The current statute requires a mandatory flat period of incarceration for individuals convicted of certain forcible felonies. Mandatory minimum sentences, when given to the highest risk offenders, may postpone their opportunities to offend, but the same sentences, applied to low-risk offenders, tax correctional resources with little benefit to public safety. In requiring incarceration accompanied by a mandatory minimum term, the current policy does not consider variations in offense, the offender's role in the offense, or the criminal history of the offender. It relies on the plea negotiation process to weed out offenders "undeserving" of a mandatory minimum term. The PSAB agrees that this is not an effective or efficient way to dispense justice.

### **Recommendations**

The Public Safety Advisory Board has studied the mandatory minimum sentence imposed by §902.12 of the Iowa Code (the "70% rule") and has concluded that the current law does not meet the public safety needs of Iowans. At its September, 2013 meeting, no voting member of the Board indicated support for continuation of the 70% rule as applied to robbery offenses as it currently exists in statute. To that end, the Public Safety Advisory Board offers the following recommendations:

1. As in current law, robbery should remain a forcible felony that requires incarceration.
2. Continue the current 15% cap on earned time for robbery offenses covered by §902.12. While this option contributes to larger prison populations, it permits the incapacitation of some of the prison system's most dangerous and violent offenders, increasing public safety.
3. Establish a mandatory minimum term of seven years for Robbery in the First Degree and three years for Robbery in the Second Degree. These recommended minimum sentences are consistent with the average length-of-stay for robbers prior to establishment of the 70% sentence. They would require imprisonment of robbers for a period consistent with the seriousness of robbery offenses while allowing the Board of Parole discretion to consider possible release between expiration of the mandatory minimum and the maximum 85% term. While allowing for earlier release of lower-risk inmates, this proposal also would permit lengthy incarceration of those individuals at high risk to reoffend or those individuals who pose a significant threat to public safety.

The mandatory minimum term should either not be reduced by earned time or be subject to a maximum of 15% earned time, consistent with truth-in-sentencing.

This proposal modifies the "one size fits all" mandatory minimum of current law, providing more discretion to the Department of Corrections (in recommending early release) and the Board of Parole (in considering work release or parole) over a time period longer than currently permitted. It will reduce unnecessary incarceration of lower risk offenders by allowing the Board of Parole to consider earlier release based upon institution programming and behavior, offender maturation, recommendations by the Department of Corrections, and other factors.

While the Public Safety Advisory Board anticipates savings in the correctional system resulting from these changes, it is not possible at this juncture to quantify those savings, as they will be dependent on the exercise of discretion by judges and the Board of Parole. There will undoubtedly be an increase in offender recidivism under this proposal, -- robbers released from prison have historically had high rates of re-arrest and return to prison -- but we expect that impact to be mitigated by improved correctional treatment outcomes, the use of evidence-based programming, and release practices informed by validated risk assessments.

One factor that should be addressed in modifying these sentencing options is that they increase the possibility of disparity in length-of-stay, as with increased discretion comes the opportunity for increased disparity. This should be mitigated, however, by permitting decisions on the time of release to reside solely in the Board of Parole. While parole practices may vary over time, disparity within a single entity (e.g., the Board of Parole) is more easily monitored and controlled than is possible in multiple venues (e.g., sentencing judges throughout the State). Nevertheless, the adoption of any of the changes recommended here should be accompanied by a requirement that the Division of Criminal and Juvenile Justice Planning monitor sentencing and release practices under the new provisions, reporting back annually to the Executive and Legislative branches as part of its legislation monitoring responsibilities.



## **I. Executive Summary**

The Violent Offender Incarceration and Truth-in-Sentencing (VOI/TIS) Incentive Grant Program encouraged states to increase correctional capacity for adults convicted of certain violent crimes. The funds allowed Iowa to implement sentences which carried mandatory minimum terms by limiting the amount of “earned time” for which offenders were eligible. Originally in Iowa these offenders were allowed only to reduce their maximum terms by 15 percent (hence, “85 percent” sentences). This eligibility requirement was later modified to permit up to a 30 percent reduction of sentence. These sentences, defined in §902.12 of the Iowa Code, will be referred to here as 70% sentences.

The purpose of this study is to examine the impact of 70% sentences in Iowa. Data used in this analysis were derived from the Iowa Court Information System (ICIS) and the Iowa Corrections Offender Network (ICON), using the Iowa Justice Data Warehouse (JDW). The report incorporates three analyses:

- The first analysis focuses on the impact of 70% mandatory sentences on Iowa’s prison population;
- The second examines demographic differences between offenders admitted to prison under 70% sentences and those who are not;
- The final analysis focuses on mandatory sentences resulting from robbery convictions, as robbery accounts for almost half of Iowa’s 70% sentences.

**Analysis #1 – The Effects of Mandatory Sentences on the Prison Population:** The initial analysis provides an historical examination of the number of new offenders entering prison on mandatory sentences from 7/1/1997-6/30/2013. This analysis also examines the growth of inmates incarcerated at the end of each fiscal year on 70% sentences. Findings from this analysis suggest that while the admission of new prisoners on mandatory sentences has remained relatively stable since FY1998, the number of prisoners in the population serving mandatory 70% sentences has steadily risen (to 1,088 on 6/30/2013, including sexual predators) and is expected to increase by nearly 56% in the next decade, absent policy reform.

### **Analysis #2 - Demographic Differences between Mandatory Sentence Servers and Other Inmates:**

The second analysis examines new prison admissions during FY2013 (7/1/2012-6/30/2013), focusing on demographic variables, total scores on the Level of Service Inventory-Revised (LSI-R), LSI-R criminal history sub-scores, and prior convictions. This analysis compares inmates serving non-70% terms with those serving mandatory 70% sentences. This analysis revealed the following:

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

To further the analysis, comparisons were made between inmates serving 70% sentences with other ***violent felony*** offenders not serving such terms. This analysis revealed trends similar to the previous analysis, identifying significantly lower criminal history sub-scores for the 70% sentence group, and a significantly higher number of prior convictions for the non-70% group.

**Analysis #3- Robbery Analysis:** The final analysis focuses on new offenders admitted to prison after being charged with robbery, with the first offender entering prison on 2/13/1970 and the last on 6/29/2012. Offenders were grouped into cohort periods by increments of five years prior to the availability of FY13 data. This more extensive analysis is presented because robbery offenders constitute such a high percentage of those entering prison under 70% sentences. Robbery is also one of the crimes exhibiting the most racial disproportionality in Iowa's prison admissions.

The cohort for this analysis included all new incoming inmates whose *original charges* included either Robbery-1 or Robbery-2, regardless of whether the robbery was the most serious offense charged. These offenders need not have been *convicted* of robbery, but they were originally charged with a robbery offense. The findings of the robbery analysis revealed the following:

- Length-of stay for robbery offenders has dramatically increased since establishment of the 70% mandatory minimum.
- The number of offenders serving sentences for Robbery-2 has stabilized, while Robbery-1 offenders will continue to increase until such time that releases balance admissions; at this juncture, the first Robbery-1 offenders admitted to prison with 70% mandatory terms (in 1996) are not yet eligible for release consideration.
- Once a sufficient number of Robbery-2 offenders passed their minimum release date, their length-of-stay has remained stable, with release typically occurring midway between their 70% mandatory minimum and their 85% expiration. When released, these offenders were released in much the same manner as Robbery-2 offenders prior to establishment of the 70% sentence.
- African-Americans are overrepresented in the Robbery-1 and Robbery-2 cohorts; on 6/30/13, more than half the offenders serving sentences for Robbery-1 as the most serious conviction offense were African-Americans. Inmates convicted of Robbery-2 were equally divided between African-Americans and Caucasians (including 14 of Hispanic ethnicity).
- Starting in FY2008, more African-Americans than Caucasians have been admitted to Iowa's prisons on robbery convictions.
- Since implementation of mandatory sentencing, the percentage of reduced charges from Robbery-1 to Robbery-2 has increased by about 40%. In recent years, charged robbers have entered prison on theft convictions in similar numbers to Robbery-2.
- Of new prison admissions originally charged with robbery, similar percentages of Caucasians and African-Americans entered prison on reduced charges, tentatively suggesting that the plea negotiation process is not racially biased. A more complete racial analysis of charge reduction would require examination of probationers originally charged with robbery.

The findings show that, 17 years after codification of the 70% sentences, the number of convicted robbers in Iowa's prison population is about the same as when the mandatory term was

implemented in 1996. While first- and second-degree robbers were about equally represented in the prison population in 1996, since that time the number convicted of robbery-2 has increased and then has decreased. First-degree robbers will outnumber second-degree robbers sometime in the next five years. This is problematic not just due to the anticipated increase, but also because a high percentage of those imprisoned for Robbery-1 are African-American, exacerbating disproportionality in Iowa's prison population

The over-representation of African-Americans in the prison population has been an ongoing issue for Iowa<sup>1</sup>. The results from this analysis suggest that mandatory sentences have a disproportionate impact on the African-Americans and that reducing disproportionality in Iowa's prison system will be extremely difficult absent some modification of the 70% sentences. That said, there is little indication here that justice system processing has contributed to this over-representation, as African-Americans sentenced to prison after robbery arrests are as likely as Caucasians to enter prison on reduced charges.

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

## II. Introduction

Declining crime rates in the 1990's were said to be attributable to the enactment of harsher sentences in the 1970's and 1980's, when the 'get tough on crime' approach became widely popular. The answer seemed to be clear: harsher sentences would deter more crime and improve public safety both through deterrence and incapacitation of predatory criminals. In an attempt to further reduce crime rates, lawmakers increased sentence length for various crimes, including expansion of mandatory minimum sentencing.<sup>2</sup> Since the enactment of mandatory sentences, research largely finds that mandatory sentencing is not associated with a general or specific deterrent effect, has not significantly improved public safety, and has become increasingly costly for corrections at the state and federal level.

Proponents of mandatory sentencing cite the importance of certainty in punishing proscribed behaviors and the benefits of incapacitating serious offenders for long periods. This logic was derived from a widely accepted notion that a large portion of serious crime is committed by a small group of offenders. Through the direct incapacitation of this population, public safety would increase as crime rates reduced.

The movement to harsher penalties, however, was not without its critics. As time has passed and more data have become available on the impacts of long prison sentences, these critics have become even more vocal. While "...mass imprisonment has helped reduce crime rates...most specialists agree that the effects have been considerably smaller than proponents claim and...we are now well past the point of diminishing returns. Confinement behind bars accounted for at most about a quarter of the substantial decline in crime that occurred during the 1990s (mainly, most researchers believe, by preventing imprisoned offenders from committing fresh crimes against the general public rather than by promoting a deterrent effect)."<sup>3</sup>

The deterrent effect of more severe sentencing depends on the extent to which offenders engage in a thoughtful analysis of the risks and benefits of their criminal behavior. Some behaviors are obviously more "detractable" than others. While some states and the federal government have established mandatory terms for those involved in drug trafficking, it is apparent that when one drug dealer is imprisoned there is likely another ready to take his or her place, as the potential financial benefits of the drug trade are substantial. Applying mandatory terms to crimes not having such potential financial gain could conceivably have a deterrent effect, however, as long as the behavior involved is planned and thoughtful, not the result of emotion or one-time opportunities.

Specific deterrence – that is, deterrence of offenders who have already been convicted of the proscribed behavior – is a separate issue. The evidence suggests, however, that longer prison terms do not reduce criminal behavior post-incarceration. A 1993 review of the literature by the Department of Justice confirmed that "[t]he great majority of recidivism studies of State and all studies of Federal prison releasees report that the amount of time inmates serve in prison does not increase or decrease the likelihood of recidivism, whether recidivism is measured as a parole revocation, rearrest, reconviction, or return to prison."<sup>4</sup> Additionally, there is no evidence to suggest that increases in the length of prison sentencing would eventually contribute to a reduction in recidivism.<sup>5</sup>

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<sup>2</sup> Pew Research Center, Washington, D.C. (2012). Time Served. The High Cost, Low Return of Longer Prison Terms. Public Safety Performance Project. [http://www.pewstates.org/uploadedFiles/PCS\\_Assets/2012/Pew\\_Time\\_Served\\_report.pdf](http://www.pewstates.org/uploadedFiles/PCS_Assets/2012/Pew_Time_Served_report.pdf)

<sup>3</sup> Petersilia, J., (2011). Beyond the Prison Bubble. *NIJ Journal* #268. <http://www.nij.gov/nij/journals/268/prison-bubble.htm>.

<sup>4</sup> U.S. Department of Justice, (1994) "An Analysis of Non-Violent Drug Offenders with Minimal Criminal Histories." <http://www.fd.org/docs/select-topics---sentencing/1994-DoJ-study-part-1.pdf>.

<sup>5</sup> Darley, John M. (2005). On the Unlikely Prospects of Reducing Crime Rates by Increasing the Severity of Prison Sentences. *13 J.L. & Pol'y*, 189.

More recently, many states are repositioning their approaches toward mandatory sentencing and are choosing to invest taxpayer dollars in different types of more cost-effective policies. “In the past five years more than a dozen states, starting with Texas and Kansas in 2007, have enacted comprehensive sentencing and corrections reforms, typically shifting non-violent offenders from prison and using the savings to fund more effective, less expensive alternatives. Partly due to these and other policy changes, 2009 was the first year in nearly four decades during which the state prison population declined<sup>6</sup>.

The primary purpose of this report is to examine the impact that mandatory 70% sentences have had on the Iowa prison population. A state’s prison population is determined by two factors: the number of offenders entering prison in a given time period and how long they stay. This report is organized in a way that allows us to examine how these factors are influenced by 70% sentences and the effects that these sentences have had and are expected to have on Iowa’s prison population.

A secondary purpose of this report is to examine the racial impact that mandatory sentences on the African-American prison population. As of 6/30/13, 18.6 percent of the African-American inmates in prison in Iowa were serving 70% sentences, compared to 11.7 percent of other inmates. The 2013-2023 Iowa Prison Population Forecast (in preparation) suggests that, absent changes, the 70% offender population will rise from 1,088 to 1,693 over the next ten years, with no abatement in the percentage of this population comprised by African-Americans. The long sentences accompanying the current structure of 70 percent sentences in Iowa will result in a continued rise in the percentage of African-American inmates in institutional populations.

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<sup>6</sup> Pew Research Center, Washington, D.C. (2012). Time Served. The High Cost, Low Return of Longer Prison Terms. Public Safety Performance Project. [http://www.pewstates.org/uploadedFiles/PCS\\_Assets/2012/Pew\\_Time\\_Served\\_report.pdf](http://www.pewstates.org/uploadedFiles/PCS_Assets/2012/Pew_Time_Served_report.pdf)

### III. Literature Review

Discussions regarding the impact of mandatory sentences have occurred for decades. Originally thought to deter crime and improve public safety, mandatory sentences became a popular solution. However, after years of research the vast sums of evidence find that "...increases in sentences have rarely, if ever, produced the desired reduction in crime rates".<sup>7</sup> The literature largely finds that mandatory sentencing promotes circumvention by judges and prosecutors, is not cost effective, and creates injustices in many forms. Additional research indicates that public support of these statutes is largely divided.

In 1990, Michael Tonry argued that "the weight of the evidence clearly shows that enactment of mandatory penalties has either no demonstrable marginal deterrent effects or short-term effects that rapidly waste away."<sup>8</sup> Part of the apparent reason for this lack of deterrent effect is that longer mandatory terms may be frequently circumvented either by charging offenders with crimes not requiring a mandatory term or agreeing to reduced charges in the plea negotiation process. "...There is massive evidence, which has accumulated for two centuries, that mandatory minimums foster circumvention by judges, juries, and prosecutors..."<sup>9</sup>

Schulhofer, in his study of the New York "Rockefeller" drug laws, noted that while the statutes increased both the probability of incarceration upon conviction and the severity of the sentences imposed, there were declines in the volume of arrests, the rate of indictment upon arrest, and the rate of conviction upon indictment. Thus, the overall probability of imprisonment dropped after enactment of the mandatory terms.<sup>10</sup>

Additional studies find that mandatory sentences are not cost effective and that the desired results could be achieved through different forms of incapacitation for low-level offenders. In 1994, a Federal Judicial Center report by Barbara S. Vincent and Paul J. Hofer examined the history of mandatory minimum sentences in the federal system.<sup>11</sup> Vincent and Hofer argued that mandatory sentences have produced unintended consequences for the criminal justice system. "There is substantial evidence that the mandatory minimums result every year in the lengthy incarceration of thousands of low-level offenders who could be effectively sentenced to short periods of time at an annual savings of several hundred million dollars, and that the mandatory minimums do not narrowly target violent criminals or major drug traffickers". Alternative sentencing guidelines, as opposed to mandatory sentencing, have historically produced fewer negative consequences for offenders and are more cost effective to the correctional system.

A 2012 report by the Pew Research Center examined the impact of longer prison sentences using data on 1990 and 2009 prison releasees from thirty-three reporting states. In Iowa, the average length-of-stay (LOS) for inmates has increased by 11% from 1990-2009 with variable LOS increases in violent crime (12%), property crime (12%), and drug crime (33%). Additional analysis indicates that from the reporting states, the average LOS has increased substantially from 1990-2009 and has had a costly impact. Inmates released in 2009 had spent an average of nine extra months incarcerated compared to 1990 releasees. It is estimated that the cost of additional incarceration has amounted to about \$23,300 per offender. "For offenders released from their original commitment in 2009 alone, the additional time behind bars cost states over \$10 billion, with more than half of this cost attributable to non-violent offenders". Pew argues

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<sup>7</sup> Darley, J. M. (2005). On the Unlikely Prospects of Reducing Crime Rates by Increasing the Severity of Prison Sentences. *13 J.L. & Pol'y*, 189.

<sup>8</sup> Tonry, M. (1990) Mandatory Penalties, in *16 Crime & Justice: A Review of Research*, at 243-44 (Michael Tonry ed., 1990).

<sup>9</sup> Tonry, M. (2009) The Most Unintended Effects of Mandatory Penalties: Two Centuries of Consistent Findings. *Crime and Justice*. Vol. 38, No. 1.

<sup>10</sup> Schulhofer, S.J. (1993). Rethinking Mandatory Minimums. *28 Wake Forest L. Rev.* 207.

<sup>11</sup> Vincent, B.S. & Hofer, P.J. (1994) "The Consequences of Mandatory Minimum Prison Terms: A Summary of Findings." *Federal Justice Center*. <http://www.fjc.gov/public/pdf.nsf/lookup/conmanmin.pdf/%24file/conmanmin.pdf>.

that a large portion of 2004 prison releasees from Florida, Maryland, and Michigan could have served shorter sentences without influencing public safety.<sup>12</sup>

Recent studies find that mandatory sentences have been disproportionately applied to various racial groups, resulting in sentencing disparities. Mandatory sentences are more likely to be applied to Hispanic males. Also, greater proportions of African-Americans are affected by mandatory sentences because they are more likely than others to commit the covered offenses. Additionally, disproportionality in mandatory sentencing increases by location such that increases in an African-American population by county increases mandatory sentencing disparities by race.<sup>13</sup> Also mandatory sentences reserved for drug crimes have had a significant impact on female minority members, further affecting those with children.<sup>14</sup> While women commit the types of crimes associated with mandatory sentences less often, they are more affected by the sentencing due to their generally lower-risk and re-offense rates (i.e., they would be less likely to be sentenced to prison and serve long terms because of their less significant criminal history and lower risk).

The evidence suggests that certain groups are more likely than others to receive mandatory minimum sentences. Prosecutor discretion to seek mandatory minimum sentencing is influenced by several factors, including the nature of the offense, criminal history, and gender. Some studies argue that prosecutorial discretion could actually positively influence the varying disparities in mandatory minimum sentencing, suggesting that prosecutors can use their discretion to seek lesser charges to circumvent mandatory minimum sentencing for some offenders.<sup>15</sup> This ability can be viewed either positively or negatively, however, as it empowers prosecutors to select which offenders warrant a “break” and which do not.

While the wealth of research indicates that mandatory minimum sentencing is ineffective, “politicians appear to assume that the public is in strong support of these laws.”<sup>16</sup> Julian Roberts argues that this is an incorrect assumption and that, according to survey data, the public is actually largely divided in on the topic. Roberts argues that “there is more support for proportional sentencing than for utilitarian goals, such as deterrence or incapacitation.” Additional evidence indicates that the political advantages to promoting such statutes are significantly inflated.<sup>17</sup> Findings of a public opinion survey conducted in January of 2012 by the Mellman Group indicated that American voters “support...sentencing and corrections reforms (including reduced prison terms)” as well as “policy changes that shift non-violent offenders from prison to more effective, less expensive alternatives”.<sup>18</sup>

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<sup>12</sup>Pew Research Center, Washington, D.C. (2012). Time Served. The High Cost, Low Return of Longer Prison Terms. Public Safety Performance Project. [http://www.pewstates.org/uploadedFiles/PCS\\_Assets/2012/Pew\\_Time\\_Served\\_report.pdf](http://www.pewstates.org/uploadedFiles/PCS_Assets/2012/Pew_Time_Served_report.pdf)

<sup>13</sup> Ulmer, J.T., Kurlychek, M.C. & Kramer, J.H. (2007) Prosecutorial Discretion and the Imposition of Mandatory Minimum Sentences. *Journal of Research in Crime and Delinquency*. Volume:33, 4, 427-458.

<sup>14</sup> Levy-Pounds, Nekima. (2006). From the Frying Pan into the Fire: How Poor Women of Color and Children are Affected by the Sentencing Guidelines & Mandatory Minimums. *Santa Clara Law Review*.

<sup>15</sup> Bjerk, David. (2004). Making the Crime Fit the Penalty: The Roles of Prosecutorial Discretion Under Mandatory Minimum Sentencing. *Journal of Law and Economics*, Vol. 48, No. 2.

<sup>16</sup> Roberts, J.V. (2003) Public Opinion and Mandatory Sentencing. A Review of International Findings. *Criminal Justice and Behavior*. Vol. 30 No. 4. <http://cjb.sagepub.com/content/30/4/483.short>

<sup>17</sup> Ibid

<sup>18</sup> Pew Research Center, Washington D.C. (2012). Public Opinion on Sentencing and Corrections Policy in America. [http://www.pewstates.org/uploadedFiles/PCS\\_Assets/2012/PEW\\_NationalSurveyResearchPaper\\_FINAL.pdf](http://www.pewstates.org/uploadedFiles/PCS_Assets/2012/PEW_NationalSurveyResearchPaper_FINAL.pdf)

## IV. Historical Background of Mandatory Sentences in Iowa

Title II, subtitle A of the Violent Crime Control and Law Enforcement Act of 1994 (“Crime Act”) (Pub. L. 103-322) (42 U.S.C. §13711) established the Violent Offender Incarceration and Truth-in-Sentencing (VOI/TIS) Incentive Grant Program. VOI/TIS grant funds allowed states to build or expand correctional facilities to increase the bed capacity for confinement of persons convicted of Part 1 violent crimes or adjudicated delinquent for an act that, if committed by an adult, would be a Part 1 violent crime. Funds could also be used to build or expand temporary or permanent correctional facilities, including facilities on military bases, prison barges, and boot camps; to confine convicted nonviolent offenders and criminal aliens; or to free suitable existing prison space for the confinement of persons convicted of Part 1 violent crimes. From fiscal years 1996 through 2001, half of the VOI/TIS funds were made available for Violent Offender Incarceration Grants, and half were available as incentive awards to states that implemented truth-in-sentencing laws.

States receiving VOI/TIS funds were also able to award sub-grants of up to 15 percent of their award to local units of government to build or expand jails, and up to 10 percent of a state's VOI/TIS award (1) to the costs of offender drug testing or intervention programs during periods of incarceration and post-incarceration criminal justice supervision and/or (2) to pay the costs of providing the required reports on prison drug use.<sup>19</sup>

The Crime Act was passed during a time when it was becoming more accepted that a substantial percentage of serious crime is committed by a relatively small number of individual offenders<sup>20</sup>. It was thought that serious crime could be significantly reduced by incapacitating these offenders for longer periods of time. The grant funds made available through the Act provided an incentive to states to adopt this philosophy, with the federal government paying for a substantial part of the initial expenses.

The federal legislation required that certain offenders serve at least 85 percent of their maximum sentences prior to being eligible for release. Like other states, Iowa adopted the 85 percent requirement when SF1151 was passed in 1996. As a result of complying with the federal requirement, Iowa received a total of \$22,924,830 in VOI/TIS Act funds to build prisons and correctional facilities over a six-year period. Table 1 shows a breakdown of funding received between 1996 and 2001.

**Table 1: 1996-2001 VIO/TIS Funding<sup>21</sup>**

Period	Funding by Year
1996	\$1,248,453
1997	\$5,622,682
1998	\$4,216,254
1999	\$3,797,288
2000	\$3,518,579
2001	\$4,521,574

Funding for the VOI/TIS Act grants ceased after 2001 when the goals of the program had been achieved through correctional capacity expansion for offenders convicted of Part 1 violent crimes, and no other state had applied for the grants. A total of 29 states and the District of Columbia received VOI/TIS Act grants.

<sup>19</sup> Bureau of Justice Assistance U.S. Department of Justice. <http://www.ojp.usdoj.gov/BJA/grant/voitis.html>

<sup>20</sup> Hearn, N. (2010) Theory of Desistance. *Internet Journal of Criminology*.  
[http://www.internetjournalofcriminology.com/Hearn\\_Theory\\_of\\_Desistance\\_IJC\\_Nov\\_2010.pdf](http://www.internetjournalofcriminology.com/Hearn_Theory_of_Desistance_IJC_Nov_2010.pdf)

<sup>21</sup> U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, Report to Congress (2005) Violent Offender Incarceration and Truth-In-Sentencing Incentive Formula Grant Program.



The 85 percent requirement enacted into Iowa law in 1996 was subsequently modified in 2003, when covered inmates whose crimes were committed after July 1, 2003 were made eligible for parole release after having served 70 percent of their sentences. The following year this provision was made retroactive, so all those originally covered by the 85 percent requirement became eligible for parole at the 70 percent mark. Iowa, along with seven other states, including Arkansas, Mississippi, Montana, North Carolina, Texas and Virginia, passed similar types of legislation to combat growing prison populations and ease overcrowding.<sup>22</sup>

This change provided the Board of Parole a window between 70 percent and 85 percent during which covered inmates could be paroled or sent to work release. Thus there are two components to these “mandatory sentences” in Iowa:

- the first is the mandatory minimum sentence itself, which is currently set at 70% of the statutory maximum penalty for the applicable felonies (i.e., 7.0 years for a Class C felony and 17.5 years for a Class B felony);
- The second component is a “cap” on the amount of earned time that can be accumulated during the course of the sentence, a figure currently set at 15%. Thus, a Class B felony covered by this provision, with the accumulation of earned time, will expire at 22.5 years. A class C felony will expire in 8.5 years.

The Class C 70% inmates who have become eligible for parole since the 2003 modification have tended to be released about midway between the parole eligibility date (70 percent) and the expiration date (85 percent, assuming accrual of earned time).

The first offenders covered under the new statute began entering prison in November of 1996. The first of the Class C 70% inmates received provisional release to work release in September, 2004.<sup>23</sup> The first of the Class B 70 percent inmates will become eligible for release consideration in April, 2014.

As shown below, the least serious of the 70 percent crimes in Iowa is a Class C (10-year) felony, so the minimum term served by these offenders (barring unusual circumstances)<sup>24</sup> is 7.0 years. For further discussion of 70% sentences in Iowa, see

<http://www.legis.iowa.gov/DOCS/Central/Guides/LBB/70percent.pdf>

**Table 2: Offenses Covered by the 70% Initiative**

Code Citation	Year	Offense Description	Class	Maximum	Minimum
707.11	(1998)	Attempted Murder	B Felony	25 years	17.5 years
707.3	(1996)	Murder 2 <sup>nd</sup> Degree	B+ Felony	50 years	35 years
707.6A(1)	(2003)	Homicide by Vehicle	B Felony	25 years	17.5 years
707.6A(2)	(2003)	Homicide by Vehicle	C Felony	10 years	7.0 years
709.3	(1996)	Sex Abuse 2 <sup>nd</sup> Degree	B Felony	25 years	17.5 years
710.3	(1996)	Kidnapping 2 <sup>nd</sup> Degree	B Felony	25 years	17.5 years
711.2	(1996)	Robbery 1 <sup>st</sup> Degree	B Felony	25 years	17.5 years
711.3	(1996)	Robbery 2 <sup>nd</sup> Degree	C Felony	10 years	7.0 years
902.8,A	(1996) <sup>25</sup>	Habitual Criminal	Other Felony	15 years	10.5 years

<sup>22</sup> King, R.S. & Mauer, M. (2002). State Sentencing and Corrections Policy in an Era of Fiscal Restraint. The Sentencing Project.

<sup>23</sup> There were a handful of releases via court order (or to appeal bond), shock probation, releases to interstate compact housing, and several inmate deaths prior to this first provisional release.

<sup>24</sup> A number of inmates have died or have been released on appeal prior to expiration of the mandatory minimum. There is also one youthful offender convicted of one of these offenses who is not covered by the 70 percent provision.

<sup>25</sup> For the purpose of this report habitual criminal convictions are counted only when the underlying conviction is for an offense covered by the 70% mandatory minimum.

## V. Methodology

The purpose of this study is to examine the impact of mandatory sentences in Iowa. Data used in this analysis were derived from the Iowa Corrections Offender Network (ICON), and the Iowa Court Information System (ICIS), using the Iowa Justice Data Warehouse (JDW). This report presents three analyses. The first analysis focuses specifically on past and future impacts of mandatory sentences on the prison population. The second examines demographic differences between offenders who receive mandatory sentences and those who do not. The final analysis focuses on mandatory sentences resulting from robbery convictions, as robbery accounts for nearly half of Iowa's 70% sentences.

**Analysis #1 – The Effects of Mandatory Sentences on the Prison Population:** The initial analysis provides an historical examination of the number of new<sup>26</sup> offenders (n=1,554) entering prison on mandatory sentences from 7/1/1997-6/30/2013. This analysis also examines the growth of inmates incarcerated at the end of each fiscal year on 70% sentences. This initial analysis provides insight into the historical and expected effects of these sentences on Iowa's prison population, barring policy reform.

**Analysis #2 - Demographic Differences between Mandatory Sentence Servers and Other Inmates:**

The second analysis examines new prison admissions during FY2013 (7/1/2012-6/30/2013), focusing on demographic variables, total LSI-R risk scores, LSI-R criminal history sub-scores and prior convictions, with comparisons made between individuals serving mandatory sentences and those serving other sentences not requiring mandatory minima. This analysis compares inmates admitted to prison for non-70% terms (n=3,389) with those covered by mandatory 70% sentences (n=92).

An additional analysis is included in this section which examines similar variables between 70% servers and those not serving 70% sentences who are incarcerated on violent felony offenses. This analysis consisted of a total of 632 inmates, 540 violent felony offenders who did not receive a 70% sentence and 92 offenders who did.

**Analysis #3- Robbery Analysis:** The final analysis focuses specifically on new offenders admitted to prison after being originally charged with robbery, with the first offender in the population entering prison on 2/13/1970 and the last on 6/29/2012. Offenders were grouped into periods based on their prison admission date by increments of five years, prior to the availability of FY13 admission data. All such offenders entering prison prior to 7/1/1990 were included in a single group. There were 3,224 offenders studied in this cohort. This more extensive analysis is presented because robbery offenders constitute such a high percentage of those entering prison under 70% sentences. Examining robbery also provides an opportunity to look at the extent to which plea negotiation occurs when offenders are faced with the possibility of a long mandatory prison sentence. Robbery is also one of the most racially disproportionate crimes in Iowa, a

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<sup>26</sup> Analysis of prison admissions and releases in Iowa typically concentrates on inmates who enter prison on charges that occurred when offenders were not under supervision for an offense for which they had previously been imprisoned. Thus, an individual returned to prison due to parole or work release revocation would not be included, while one committed directly to prison as the result of a new offense or as the result of a probation revocation would be included

crime that must certainly be addressed if racial disparity in Iowa's prison system is to be reduced.

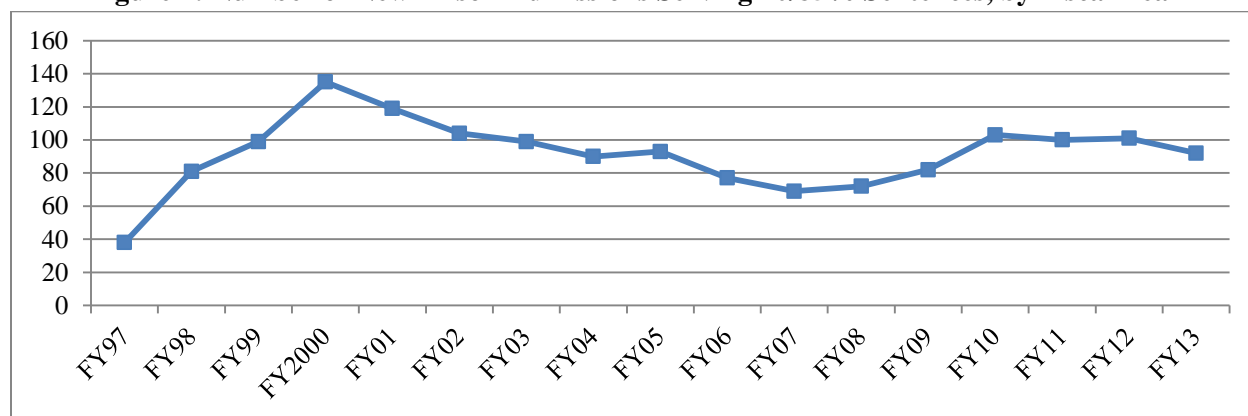
The cohort for this analysis includes all new incoming inmates whose original charges included either Robbery-1 or Robbery-2, regardless of whether the robbery was the most serious offense charged. Since 1978 Robbery-1 has carried a maximum sentence of twenty-five years, while Robbery-2 carries a ten-year maximum sentence.

The data used to generate information on court activity pertaining to robbery were derived from courts data using the Justice Data Warehouse (JDW). Because the JDW reliably goes back to 1999, data for the court processing portion of the analysis were only available for FY1999-FY2013, resulting in the inclusion of 9,047 offenders charged with robbery.

## VI. The Effects of Mandatory Sentences on the Prison Population

This section provides an historical examination of the number of new offenders (n=1,554) entering prison on 70% sentences from 7/1/1997-6/30/2013. The analysis also examines the fluctuation of inmates incarcerated at the end of each fiscal year on 70% sentences, thus providing insight into the historical and expected effects of these sentences on Iowa's prison population, barring policy reform.

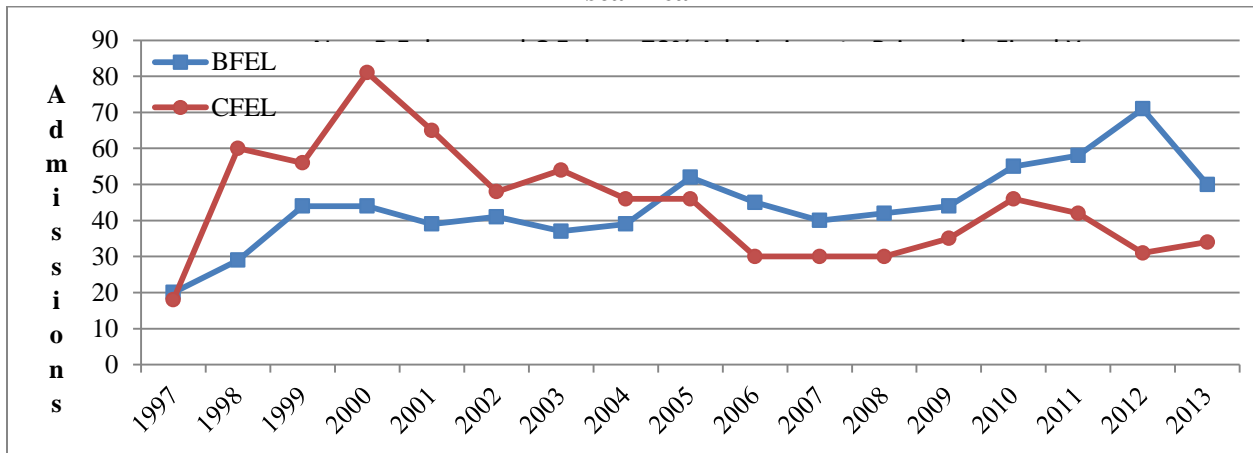
**Figure 1: Number of New Prison Admissions Serving 70/85% Sentences, by Fiscal Year**



The number of new prison admissions entering prison on 70/85% sentences increased rapidly following their implementation in FY1997, peaking in FY2000. From FY2000-FY2007 admissions steadily declined from about 140 new inmates to about 60. For the last four fiscal years, the number of new prison admissions entering prison with 70% mandatory sentences has remained relatively stable at around 100 new prison admissions annually.

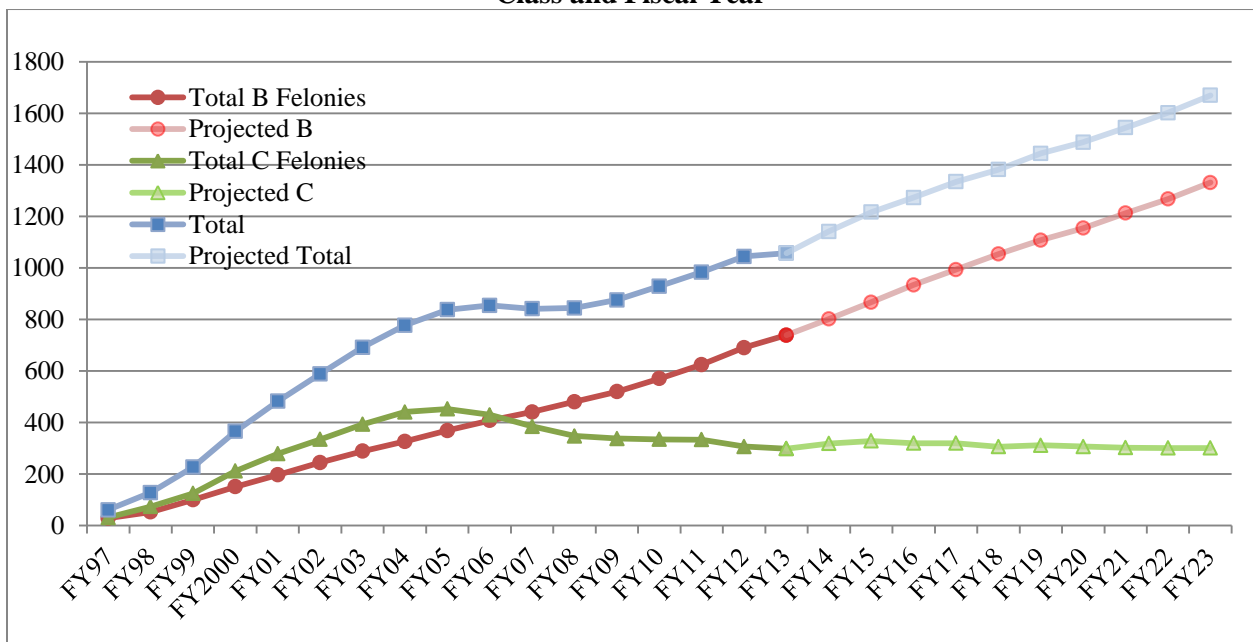
Figure 2 breaks this figure down by offense class, showing the number of new B and C Felony 70% admissions to prison FY1997-2013. The chart shows a rapid escalation of admissions for Class C 70% inmates in the early years of the VOITIS initiative, as might be expected. The slower rise in admissions of Class B felons is also not surprising, in that the lengthier mandatory minimum for Class B felons probably resulted in a lengthier adjudication process due to a reduced likelihood of guilty pleas. What is surprising in the chart is the increase in admissions of Class B 70% felons during 2009-2012, and the drop in Class C 70% admissions since FY2000-2001. Further analysis showed that the increase in Class B admissions is coming from Iowa's metropolitan counties, which typically account for more than 50% of the State's admissions for 70% crimes. FY13 Robbery-1 admissions dropped after the FY12 peak, so it is unclear if the 2012 is evidence of a new trend or an anomaly.

**Figure 2: Number of New Prison Admissions Serving 70/85% Sentences, by Offense Class and Fiscal Year**



The figure below shows the result of these admissions of 70% inmates to Iowa's prisons, as it provides historical data on the number of these inmates in the population each June 30, along with a projection through FY2023. When observing the total number of only Class B and C 70% felonies we can see a gradual increase from FY1997 through FY2013 with a projected increase in the number of prisoners from FY2013 through FY2023 from about 1,000 to 1,600 inmates.

**Figure 3: Actual and Projected Inmates in Prison Population Serving 70/85% Sentences, by Offense Class and Fiscal Year**



The number of 70% C felons in the prison population increased from FY1997 through FY2005 but has declined in recent years due to a drop in admissions and a rise in releases. The number of inmates serving 70% Class C felonies is expected to remain stable from FY2013 through FY2023 at 300-400 inmates.

The number of 70% B felons has increased steadily since the first such inmate was admitted in FY1997. Because this first inmate will reach his mandatory minimum date in FY14, the number of these Class B inmates is expected to continue rising at least through 2023. The point at which this population is expected to level off will depend on the extent to which the group either receives discretionary release

(via parole or work release) or remains in prison until expiration. Any changes in the number of new offenders entering prison on 70% B felonies will undoubtedly have a substantial correctional and fiscal impact in due to the 17.5-year mandatory minimum sentence. Note that all the expected increase in 70% inmates results from a continued rise in Class B 70% inmates in the population. It should also be said that the number of Class B inmates projected to be in the population is higher than estimated two years ago due to an increase in admissions.

Another way to assess the effect of these mandatory-minimum inmates on the prison population is to examine the extent to which the total inmate population includes individuals not eligible for discretionary release. In recent years in Iowa, as elsewhere, there has been an increasing willingness to use pre- or post-prison alternatives to keep rises in population in check. Given Iowa's largely indeterminate sentencing structure, there are limited ways to control the size of the prison population:

- Judges can exercise discretion in sending fewer offenders to prison; or
- Discretionary release of inmates can occur after shorter lengths-of-stay.

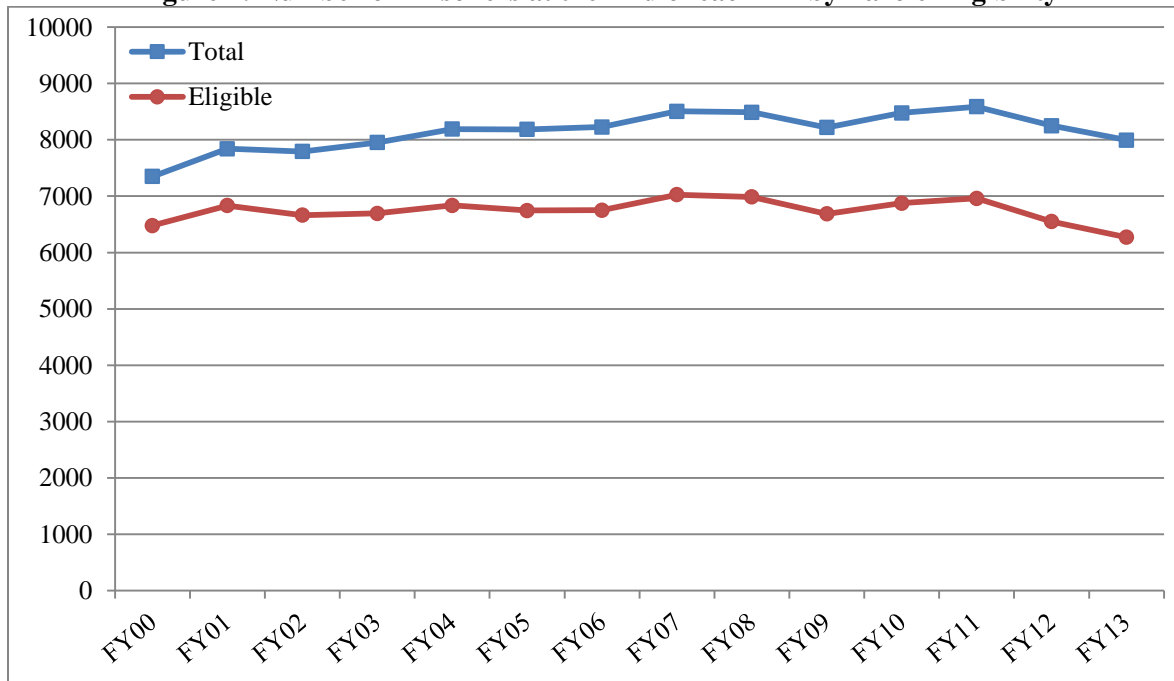
Shortening length-of-stay in Iowa is largely a policy issue dependent on actions of the Board of Parole, but also depends on the size of the population from which the Board may select in granting early release. In that vein, Figure 4 was prepared, which shows Iowa's end-of-year inmate population since FY2000, breaking out inmates theoretically eligible for release and those not so eligible.

The figure includes only inmates serving sentences in Iowa's prison, excluding those in the (former) Violator Program, safekeepers, those on county jail holds, and those serving sentences under the Interstate Compact. Note that while there were rises and falls in the "eligible" inmates (the red line), their number at the end of FY13 were almost identical to the number in FY2000. The space between the blue and red lines represents the "non-eligible" group, which includes those serving mandatory 70% sentences and "lifers".<sup>27</sup> This group has grown as the prison population rose from FY2000 to FY2013.

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<sup>27</sup> Of the 742-inmate increase in the "non-eligible" group, 157 were lifers. CJJP has forecasted a decrease in that population in the next decade.

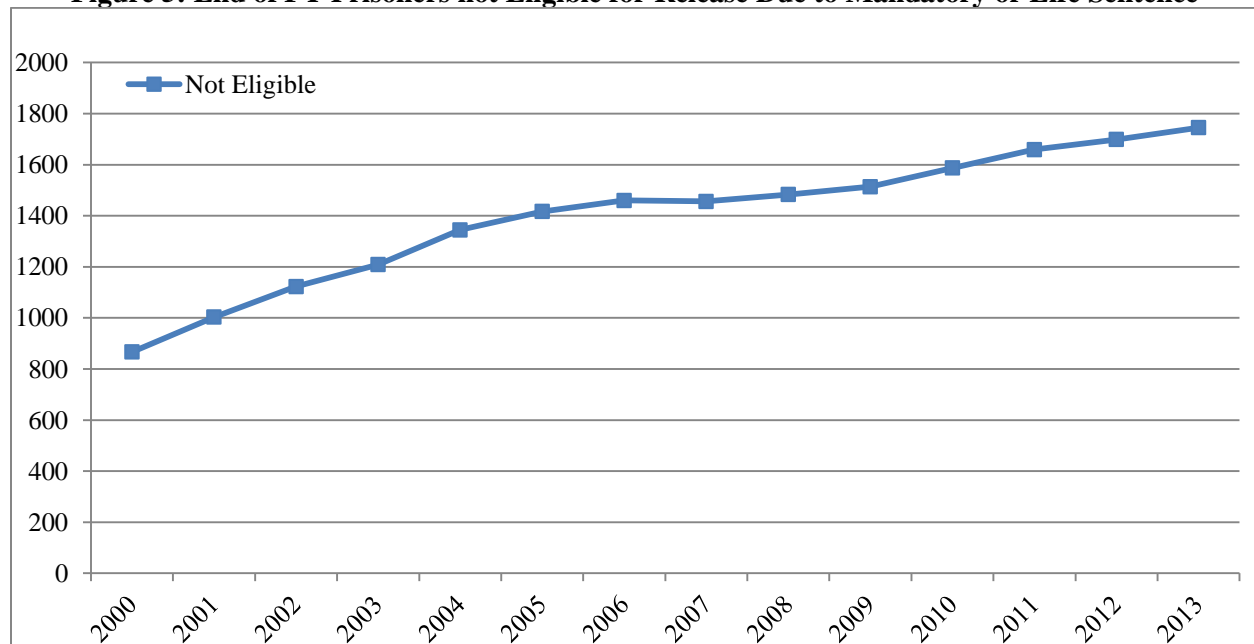
**Figure 4: Number of Prisoners at the End of each FY by Parole Eligibility**



Note, too, that the “not eligible” group in the chart (and the table below) is an under-representation of those not eligible for release consideration, as it does not include non-70% mandatory minimum terms (principally those served by drug offenders). These minima are typically considerably shorter than those served by 70% inmates.

The next chart simply shows the growth in the “not eligible” group over the 12-year period. As noted above, this group is expected to continue increasing at least through 2021, barring changes in statutory requirements pertaining to the 70% mandatory minimum.

**Figure 5: End of FY Prisoners not Eligible for Release Due to Mandatory or Life Sentence**



**Table 3: Number of Prisoners at the End of each Fiscal Year by Release Eligibility**

FY	Eligible	Not-Eligible	NA <sup>28</sup>	Total (Not including NA)	Total
FY00	6,480	872	294	7,352	7,646
FY01	6,835	1,008	260	7,843	8,103
FY02	6,663	1,132	347	7,795	8,142
FY03	6,694	1,259	408	7,953	8,361
FY04	6,836	1,355	411	8,191	8,602
FY05	6,745	1,441	391	8,186	8,577
FY06	6,751	1,478	429	8,229	8,658
FY07	7,028	1,477	302	8,505	8,807
FY08	6,988	1,500	252	8,488	8,740
FY09	6,686	1,534	233	8,220	8,453
FY10	6,876	1,603	123	8,479	8,602
FY11	6,963	1,627	197	8,590	8,787
FY12	6,551	1,699	83	8,250	8,333
FY13	6,273	1,745	83	7,995	8,078

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<sup>28</sup> “NA” includes Violator Program participants, county jail holds, safekeepers, and Interstate Compact prisoners.



## VII. Demographic Differences between Mandatory Sentence Servers and Other Inmates

This section provides an overview of demographic differences and similarities between offenders serving 70% mandatory sentences and those who do not. In order to provide the most up-to-date comparison, this analysis includes only FY2013 new prison admissions. There were 3,481 new admissions in FY2013, with 3,389 entering prison on non-70% mandatory sentences and 92 on 70% sentences. The greatest proportion (42.4%) of this population was incarcerated on Class D felonies as the most serious commitment offense, but 22-23% were also incarcerated on either Class C felonies or aggravated misdemeanors.

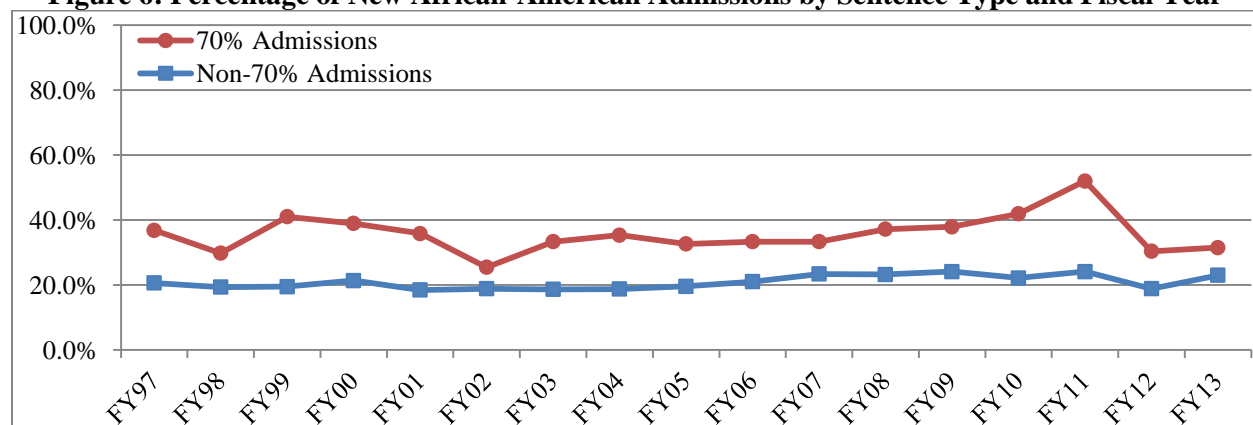
**Table 4: FY13 New Prison Admissions, by Conviction Offense Class**

	Non-70%		70%		Total	
	N	%	N	%	N	%
A Felony	11	0.3%	0	0.0%	11	0.3%
B Felony	113	3.3%	50	54.3%	163	4.7%
C Felony	765	22.6%	34	37.0%	799	22.9%
D Felony	1,477	43.6%	0	0.0%	1,477	42.4%
Other Felony	180	5.3%	8	8.7%	188	5.4%
Aggravated Misdemeanor	777	22.9%	0	0.0%	777	22.3%
Serious Misdemeanor	28	0.8%	0	0.0%	28	0.8%
Other Misdemeanor	1	0.0%	0	0.0%	1	0.0%
Special Sentence <sup>29</sup>	37	1.1%	0	0.0%	37	1.1%
Total	3,389	100%	92	100%	3,481	100%

### Race

African-Americans are generally over-represented in Iowa's prison population (African-Americans constitute about 2.9 percent of Iowa's population), but they are even more disproportionately represented in the 70% mandatory sentence group. In FY13, 23.0% of the new prison admissions were African-American, while 31.5% of the 70% felons were of this racial group. Statistical analysis found that these differences failed to reach statistical significance.

**Figure 6: Percentage of New African-American Admissions by Sentence Type and Fiscal Year**



<sup>29</sup> Special sentence admissions are counted as "new" only when their original sex offense sentence did not involve imprisonment.

***Gender***

The majority (86.4%) of offenders admitted to Iowa's prisons in FY2013 were male. Males were even more likely to be admitted on 70% sentences (95.7% were male while 4.3% were female). The difference in male percentages of 70% sentences and non-70% sentences was significant at the 95% confidence level.

***Age at Prison Entrance***

The highest percentage of prison admissions was found for offenders aged 19-25 (30.3%). The median age, regardless of sentence type, was 30 years. Imprisoned offenders 18-and-under were significantly more likely to have been committed on of 70% crimes than other groups (18.5% vs. 3.4). Offenders 41-50 had lower rates of 70% sentences without reaching statistical significance.

***Education***

There were no significant differences in education between the mandatory and non-mandatory sentence groups. A large percentage of offenders had obtained their GED (26.2%) or High School diploma (25.9%). However, the largest group of offenders had not completed High School or obtained their GED (34.1%).

***Birthplace***

Iowa's largely-Caucasian demography is illustrated in prison admissions, as most white Iowa prison admissions were born in Iowa, while most black admissions were born elsewhere. Inmates born in Iowa were more likely to be serving a non-70% sentence (60.9% vs. 54.3%) while inmates born elsewhere were more likely to be serving a 70% sentence (42.4% vs. 35.4%). Further evidence finds that, of inmates not born in Iowa, greater percentages of African-Americans are serving 70% sentences compared to Caucasians (58.6% vs. 36.1%). Also, white, Iowa-born inmates are more likely to be serving non-70% than 70% sentences (68.6% vs. 60.6%).

**Table 5: FY13 New Prison Admission Population, by Sentence Type, Race, Sex, Age, Birthplace**

	Non-70% Sentence		70% Sentence		Total	
	N	%	N	%	N	%
<b>Race</b>						
Caucasian	2,526	74.5%	61	66.3%	2,587	74.3%
African-American	779	23.0%	29	31.5%	808	23.2%
Other	84	2.5%	2	2.2%	86	2.5%
<b>Sex</b>						
Male*	2,919	86.1%	88	95.7%	3,007	86.4%
Female*	470	13.9%	4	4.3%	474	13.6%
<b>Age</b>						
18 and Under*	115	3.4%	17	18.5%	132	3.8%
19-25	1,029	30.4%	27	29.3%	1,056	30.3%
26-30	583	17.2%	12	13.0%	595	17.1%
31-40	865	25.5%	20	21.7%	885	25.4%
41-50	532	15.7%	9	9.8%	541	15.5%
51 and Older	265	7.8%	7	7.6%	272	7.8%
<b>Education</b>						
College Degree	55	1.6%	0	0.0%	55	1.6%
Technical/Trade	57	1.7%	1	1.1%	58	1.7%
Some College	35	1.0%	0	0.0%	35	1.0%
GED	891	26.3%	22	23.9%	913	26.2%
HS Diploma	881	26.0%	20	21.7%	901	25.9%
Did not Complete HS	1,153	34.0%	33	35.9%	1,186	34.1%
Unknown	317	9.3%	16	17.4%	333	09.6%
<b>Birthplace</b>						
Iowa	2,064	60.9%	50	54.3%	2,114	60.7%
Other	1,200	35.4%	39	42.4%	1,239	35.6%
Unknown	125	3.7%	3	3.3%	128	3.7%
<b>Total</b>	<b>3,389</b>	<b>100%</b>	<b>92</b>	<b>100%</b>	<b>3,481</b>	<b>100%</b>

\*Significant at a 95% confidence interval.

**Table 6: FY13 Caucasian and African-American New Prison Admissions by Birthplace**

	Non-70% Sentence		70% Sentence		Total	
	N	%	N	%	N	%
<b>Caucasian</b>						
Iowa	1,732	68.6%	37	60.6%	1,769	68.4%
Other	710	28.1%	22	36.1%	732	28.3%
Blank	84	3.3%	2	3.3%	86	3.3%
<b>Total</b>	<b>2,526</b>	<b>100%</b>	<b>61</b>	<b>100%</b>	<b>2,587</b>	<b>100%</b>
<b>African-American</b>						
Iowa	293	37.6%	11	37.9%	304	37.6%
Other	467	59.9%	17	58.6%	484	59.9%
Blank	19	2.4%	1	3.4%	20	2.5%
<b>Total</b>	<b>779</b>	<b>100%</b>	<b>29</b>	<b>100%</b>	<b>808</b>	<b>100%</b>

### ***Offender Risk (LSI-R)***

Substantial discussion has taken place regarding the risk of offenders serving mandatory sentences. Advocates for mandatory sentences argue that offenders serving mandatory terms pose more of a criminal risk compared to other prisoners. To examine this contention, LSI-R scores were compared between the 70% sentence group and non-70% sentence admissions.

The LSI-R total score assesses a wide range of criminogenic and social factors (such as criminal history, education, employment, finances, family living situation, recreation, social situation, drug problems, and attitudes) and has been shown to be a good predictor of criminal risk leading to a new conviction or prison return.<sup>30</sup> While not all prison admissions have current<sup>31</sup> LSI-R scores at entry to prison, there are sufficient numbers to allow a comparison of LSI-R scores of those committed for 70% crimes and those committed for other crimes. About 92% of the cohort possessed a current LSI score at admission.

**Table 7: FY13 New Prison Admission Population, by Sentence Type and LSI-R Total Score**

LSI-R Total Score	Non-70% Sentence		70% Sentence		Total	
	N	%	N	%	N	%
Low Risk (01-13)	37	1.2%	1	1.1%	38	1.2%
Low-Moderate (14-23)*	210	6.7%	18	20.2%	228	7.1%
Moderate (24-33)	937	29.9%	35	39.3%	972	30.2%
Moderate-High (34-40)*	1,226	39.2%	25	28.1%	1,251	38.9%
High (41-47)*	720	23.0%	10	11.2%	730	22.7%
Total	3,130	100%	89	100%	3,219	100%

\* Significant at a 95% confidence interval.

A greater proportion of offenders serving non-70% sentences had significantly higher LSI-R moderate-high risk (39.2 % vs. 28.1%) and high risk scores (23.0% vs. 11.2%) than the 70% group. Similarly, offenders serving 70% sentences scored low-moderate at significantly higher rate (20.2% vs. 6.7%). The 70% sentence group also showed a lower median LSI-R score (32) than other admissions (36). Findings from this analysis suggest that offenders serving mandatory sentences tend to have lower risk scores at prison entry than those not serving such mandatory sentences.

### ***Criminal History***

Mandatory sentence advocates argue that mandatory sentences are justified because they provide appropriate sanctions for offenders who have passed through the “revolving door” of the justice system numerous times. This section examines this contention by comparing the LSI-R criminal history sub-score and the number of prior convictions between the 70% and non-70% group.

The LSI-R criminal history sub-score is a component of the LSI-R assessment which specifically assesses criminal history. One component of this domain is an offender’s number of prior convictions. As previously stated, LSI-R’s were not available on some offenders, which also limited the number of offenders available for this analysis. Nevertheless, criminal history sub-scores were available for 3,032 offenders and prior convictions were available for 2,772.

An analysis of the LSI-R criminal history sub-score indicated that offenders serving 70% sentences had significantly higher percentages of low sub-scores, scoring between 0-3 (32.5% vs. 9.3%). Offenders serving non-70% sentences had significantly higher percentages of high sub-scores, scoring from 7-10 (57.6% vs. 33.8%). That the 70% group possesses a less extensive criminal history is not surprising, as these offenders have been incarcerated primarily based upon the severity of their current offense. Non-

<sup>30</sup> Division of Criminal and Juvenile Justice Planning. (2011) Outcome of Mandatory Minimum Sentences for Drug Traffickers.

<sup>31</sup> LSI Scores are regarded as current for the purposes of this analysis if they were completed within 180 of prison entry or within 60 days after admission.

violent offenders, on the other hand, are frequently imprisoned due to the weight of an extensive criminal history.

**Table 8: Criminal History LSI-R Sub-Score, FY13 New Prison Admissions, by Sentence Type**

	Non-70% Sentence		70% Sentence		Total	
LSI-R Criminal History Sub-Score	N	%	N	%	N	%
0-3*	275	9.3%	25	32.5%	300	9.9%
4-6	979	33.1%	26	33.8%	1,005	33.1%
7-10*	1,701	57.6%	26	33.8%	1,727	57.0%
Total	2,955	100%	77	100%	3,032	100%

\* Significant at a 95% confidence interval.

**Table 9: Prior Convictions, FY13 New Prison Admissions, by Sentence Type**

	Non-70% Sentence		70% Sentence		Total	
Prior Convictions	N	%	N	%	N	%
0	122	4.5%	7	11.1%	129	4.6%
1*	233	8.6%	13	20.6%	246	8.9%
2-3	492	18.2%	16	25.4%	508	18.3%
4-6	607	22.4%	12	19.0%	619	22.3%
7 or more *	1,255	46.3%	15	23.8%	1,270	45.8%
Total	2,709	100%	63	100%	2,772	100%

\*Significant at a 95% confidence interval.

Offenders serving 70% sentences had higher rates of prior convictions in categories 0, 1, 2-3, and significantly higher rates of one prior conviction (20.6% vs. 8.6%) compared to the non-70% group. Offenders serving non-mandatory sentences exhibited significantly higher amounts of 7 or more prior convictions (46.3% vs. 23.8%). This is further illustrated by the higher median number of convictions for the non-70% group (6.0 vs. 3.0).

These findings do not support the assumption that offenders serving 70% sentences have more extensive criminal histories and are passing through the ‘revolving justice system door’ at higher rates than those not serving mandatory sentences.

## VIII. Demographic Differences between Mandatory Sentence Servers and Violent Felony Inmates

The previous analysis raised questions concerning demographic, LSI-R, and criminal history differences between 70% admissions and all other new admissions to Iowa's prison in FY2013. This next section examines differences between 70% admissions and the cohort of offenders incarcerated on *violent felony offenses* (including sex offenders) who were not admitted on 70% sentences. Included in this comparison are 632 offenders admitted to prison in FY2013.

**Table 10: FY13 New Crimes Against Persons Felony Prison Admissions, by Conviction Offense Class**

	Violent Non-70% Sentence		Violent 70% Sentence		Total	
	N	%	N	%	N	%
A Felony	11	2.0%	0	0.0%	11	1.7%
B Felony	37	6.8%	50	54.3%	87	13.8%
C Felony	226	41.8%	34	37.0%	260	41.1%
D Felony	260	48.1%	0	0.0%	260	41.1%
Other Felony	6	1.1%	8	8.7%	14	2.2%
Total	540	100%	92	100%	632	100%

### *Race*

About seventy-two percent of offenders admitted to prison in FY2013 for violent felony offenses were Caucasian, 25.3% were African-American, and 2.5% were of other races. A higher percentage of African-Americans admitted for violent offenses were serving 70% sentences versus non-70% sentences (31.5% vs. 24.3%), but this finding failed to reach statistical significance. A slightly higher percentage of Caucasians admitted to prison on violent offenses were incarcerated for non-70% sentences (73.1% vs. 66.3%).

### *Gender*

The majority of offenders admitted to prison in FY2013 for violent felony offenses were male (93.2%) and 6.8% were female. Of those serving 70% sentences, 95.6% were male while 4.3% were female. Men were over-represented among those serving 70% sentences (95.6% vs. 92.8%), while a significantly higher percentage of women were serving non-70% sentences (7.2% vs. 4.3%).

### *Age at Prison Entrance*

The highest percentage of violent prison admissions were offenders aged 19-25 (37.5%). Offenders age 18 and under were significantly more likely to be admitted for 70% crimes (18.5% vs. 6.7%) and offenders age 26 through 30 had lower rates of prison admissions on 70% sentences (13.0% vs. 16.7%), although the latter finding failed to reach statistical significance.

### *Education*

There were no significant differences between the 70% sentence and comparison group in regards to education. The greatest percentage of offenders had obtained their GED (19.1%) or High School Diploma (28.3%). About 34.8% percent of offenders had not completed high school or obtained their GED.

### *Birthplace*

As was true above, Caucasian inmates were likely to have been born in Iowa, regardless of their 70% status, and African-Americans were more likely to have been born elsewhere. Violent felony offenders born in Iowa were more likely to be serving a non-70% sentence (57.4% vs. 54.3%) while inmates not born in Iowa were more likely to be serving a 70% sentence (42.4% vs. 37.4%). Further exploration of this relationship provides an interesting finding; Whites who were not born in Iowa are more likely to be

serving a 70% sentence (36.1% vs. 30.6%) while African-Americans who were not born in Iowa are equally likely to be serving a 70% or non-70% sentence (58.6% vs. 58.8%). However, white Iowans are more likely to be serving a non-70% sentence (64.5% vs. 60.6%) while black Iowans are slightly more likely to serve a 70% sentence (37.9% vs. 36.6%). These findings failed to reach significance.

**Table 11: FY13 New Violent Felony Prison Admissions, by Sentence Type, Race, Sex, Age and Birthplace**

	Violent Non-70% Sentence		Violent 70% Sentence		Total	
	N	%	N	%	N	%
<b>Race</b>						
Caucasian	395	73.1%	61	66.3%	456	72.1%
African-American	131	24.3%	29	31.5%	160	25.3%
Other	14	2.6%	2	2.2%	16	2.5%
<b>Sex</b>						
Male	501	92.8%	88	95.6%	589	93.2%
Female	39	7.2%	4	4.3%	43	6.8%
<b>Age</b>						
18 and Under*	36	6.7%	17	18.5%	53	8.4%
19-25	210	38.9%	27	29.3%	237	37.5%
26-30	90	16.7%	12	13.0%	102	16.1%
31-40	114	21.1%	20	21.7%	134	21.2%
41-50	57	10.5%	9	9.8%	66	10.4%
51 and Older	33	6.1%	7	7.6%	40	6.3%
<b>Education</b>						
College Degree	13	2.4%	0	0.0%	13	2.1%
Technical/Trade	8	1.5%	1	1.1%	9	1.4%
Some College (No Degree)	4	0.7%	0	0.0%	4	0.6%
GED	99	18.3%	22	23.9%	121	19.1%
HS Diploma	159	29.4%	20	21.7%	179	28.3%
Did not Complete HS	187	34.6%	33	35.9%	220	34.8%
Unknown	70	13.0%	16	17.4%	86	13.6%
<b>Birth Place</b>						
Iowa	310	57.4%	50	54.3%	360	57.0%
Other	202	37.4%	39	42.4%	241	38.1%
Blank	28	5.2%	3	3.3%	31	4.9%
<b>Total</b>	<b>540</b>	<b>100%</b>	<b>92</b>	<b>100%</b>	<b>632</b>	<b>100%</b>

\*Significant at a 95% confidence interval

**Table 12: FY13 New Prison Admissions, by Race and Birthplace**

	Violent Non-70% Sentence		Violent 70% Sentence		Total	
	N	%	N	%	N	%
<b>Caucasian</b>						
Iowa	255	64.5%	37	60.6%	292	64.0%
Other	121	30.6%	22	36.1%	143	31.4%
Blank*	19	4.8%	2	3.3%	21	4.6%
<b>Total</b>	<b>395</b>	<b>100%</b>	<b>61</b>	<b>100%</b>	<b>456</b>	<b>100%</b>
<b>African-American</b>						
Iowa	48	36.6%	11	37.9%	59	36.9%
Other	77	58.8%	17	58.6%	94	58.7%
Blank*	6	4.6%	1	3.4%	7	4.4%
<b>Total</b>	<b>131</b>	<b>100%</b>	<b>29</b>	<b>100%</b>	<b>160</b>	<b>100%</b>

\*Significant at a 95% confidence interval.

**Offender Risk (LSI-R)**

Violent felony offenders not serving 70% sentences had higher percentages of moderate-high (31.5% vs. 28.1%) and high risk scores (17.8% vs. 11.2%) than the 70% group, although these findings failed to reach significance. The most substantial difference between the two groups was seen in the moderate category, with 39.3% of the 70% sentence offenders found in this group, compared to 31.7% of the non-70% group.

**Table 13: FY13 New Violent Prison Admissions' LSI-R Total Score, by Sentence Type**

	Violent Non-70% Sentence		Violent 70% Sentence		Total	
LSI –R Total Score	N	%	N	%	N	%
Low Risk (01-13)	23	4.6%	1	1.1%	24	4.1%
Low-Moderate (14-23)	72	14.4%	18	20.2%	90	15.2%
Moderate (24-33)	159	31.7%	35	39.3%	194	32.9%
Moderate-High (34-40)	158	31.5%	25	28.1%	183	31.0%
High (41-47)	89	17.8%	10	11.2%	99	16.8%
Total	501	100%	89	100%	590	100%

\* Significant at a 95% confidence interval.

While the previous analysis indicated that LSI-R total scores significantly differed between the 70% group and the general prison population, restricting the population to violent felony offenders produced relatively little difference in LSI-R total score when comparing the mandatory sentence and non-mandatory sentence groups. Median LSI scores were 32 for the 70% group and 33 for the non-70% group.

Offenders serving 70% sentences have significantly higher percentages of low sub-scores compared to the non-70% sentence group, scoring between 0-3 (32.5% vs. 19.9%). Offenders not serving mandatory sentences had higher percentages of high sub-scores compared to the 70% group, scoring from 7-10 (44.8% vs. 33.8%). These differences did not reach statistical significance.

**Table 14: FY13 Violent Prison Admissions, by Sentence Type and LSI-R Criminal History Sub-Score**

	Violent Non-70% Sentence		70% Sentence		Total	
LSI-R Criminal History Sub-Score	N	%	N	%	N	%
0-3*	92	19.9%	25	32.5%	117	21.7%
4-6	163	35.3%	26	33.8%	189	35.1%
7-10	207	44.8%	26	33.8%	233	43.2%
Total	462	100%	77	100%	539	100%

\* Significant at a 95% confidence interval.



### ***Prior Convictions***

While findings from the previous analysis indicate that mandatory sentence servers have significantly lower criminal history sub-scores and prior convictions, this analysis finds that when one restricts the comparison population to inmates only serving non-70% sentence violent offenses, significance for most categories is lost, although minor differences remain. Offenders serving mandatory sentences had slightly higher percentages of prior convictions in categories 0, 1, and 2-3. Offenders having 7 or more prior convictions were significantly more likely to be in the non-70% group (37.3% vs. 24.1%). Median prior convictions for the 70% group was three and for the non-70% group was four.

**Table 15: FY13 New Violent Prison Admissions, by Sentence Type and Prior Convictions**

Prior Convictions	Violent Non-70% Sentence		Violent 70% Sentence		Total	
	N	%	N	%	N	%
0	33	8.8%	7	13.0%	40	9.4%
1	46	12.3%	9	16.7%	55	12.9%
2-3	84	22.5%	15	27.8%	99	23.2%
4-6	71	19.0%	10	18.5%	81	19.0%
7 or more*	139	37.3%	13	24.1%	152	35.6%
Total	373	100%	54	100%	427	100%

*\*Significant at a 95% confidence interval.*

## IX. Robbery Analysis

### *Reported Crime*

In theory, the Violent Offender Initiative (VOI) should have an impact on crime both from the standpoint of increased incapacitation of violent criminals and deterrence due to the potential for lengthy incarceration stemming from the covered violent acts. It should be possible to measure the impact of the provisions by monitoring the extent to which acts covered by the increased penalties change over a period of time. The good news is that, due to their seriousness, the acts covered by these enhanced penalties are sufficiently serious to be reported to law enforcement most of the time. The bad news is that there remain some acts that are not reported to the police and that not all police agencies have reported Uniform Crime Report (UCR) data to the Iowa Department of Public Safety throughout the period in question. On the other hand, if UCR data are used to estimate the incidence of these offenses, there is no reason to think that changes in reporting for the covered offenses would be different from changes in similar offenses not so covered.

In the absence of regular victimization surveys, the one vehicle available to test the possible deterrent effect of criminal sanctions is Uniform Crime Reports. The FBI established its national UCR program in 1929.<sup>32</sup> In the early years of the program all departments submitted reports directly to the FBI, a practice that was changed many years later as states themselves established programs in their state law enforcement agencies. Iowa established its state UCR program in the Department of Public Safety (DPS) in 1975. As currently established, all UCR data from Iowa are submitted to the FBI through the DPS, which has a network of approximately 240 agencies from which it accepts data directly. Agencies too small to report their own UCR data submit information through county sheriffs.

A significant change in UCR reporting in Iowa took place in 1991, when the DPS moved from the historical “summary-based” reporting system to an “incident-based” system (or IBR). Some local agencies did not have the resources to make the transition, the result being a reduction in reporting in the early 90’s that yielded incomplete statewide figures. In the analysis of the impact of mandatory minimum sentences, data are only presented here going back to 1995, by which time UCR statewide reporting had nearly reached the level of the pre-IBR summary-based system.

That said, relying on UCR data to assess the impact of criminal sanctions remains problematic, as the UCR contains only crimes reported to law enforcement. Fortunately, most of the crimes examined here tend to be among those reported to police most frequently, as they are sufficiently serious to cause victims to seek justice system intervention.

As a vehicle to assess the impact of Iowa’s 70% sentences, the UCR data are also less than perfect because, although robbery in Iowa is always a 70% charge, some aggravated assaults and some rape charges (as defined by UCR) also carry the 70% mandatory minimum, so a “pure” comparison of 70% vs. non-70% crimes is not possible. Thus, while there may be some utility in examining UCR data to assess the impact of mandatory sentences, doing so is not without its problems.

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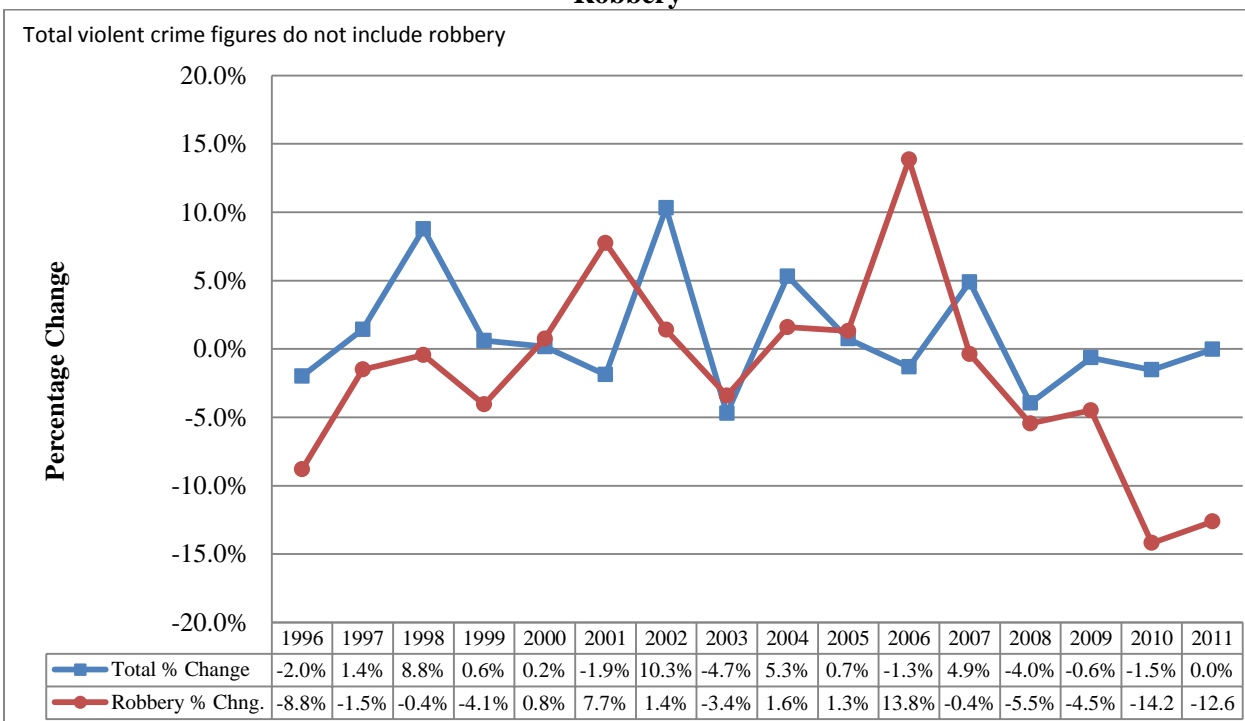
<sup>32</sup> <http://www.fbi.gov/about-us/cjis/ucr/ucr>

**Table 16: Part A Violent Crimes Reported to Iowa Uniform Crime Reports 1995-2011**

Year	Homicide	Kid-napping	Aggravated Assault	Forcible Rape	Total	Total % Change	Robbery	Robbery % Change
1995	55	142	5,594	505	6,296		1,239	
1996	60	150	5,431	530	6,171	-2.0%	1,130	-8.8%
1997	46	112	5,573	528	6,259	1.4%	1,113	-1.5%
1998	66	128	5,910	704	6,808	8.8%	1,108	-0.4%
1999	48	132	5,851	818	6,849	0.6%	1,063	-4.1%
2000	58	169	5,958	675	6,860	0.2%	1,071	0.8%
2001	50	136	5,882	663	6,731	-1.9%	1,154	7.7%
2002	50	166	6,399	810	7,425	10.3%	1,170	1.4%
2003	51	155	6,108	761	7,075	-4.7%	1,130	-3.4%
2004	45	193	6,435	778	7,451	5.3%	1,148	1.6%
2005	42	178	6,720	566	7,506	0.7%	1,163	1.3%
2006	59	208	6,232	908	7,407	-1.3%	1,324	13.8%
2007	38	227	6,544	960	7,769	4.9%	1,319	-0.4%
2008	76	195	6,259	931	7,461	-4.0%	1,247	-5.5%
2009	39	216	6,281	877	7,413	-0.6%	1,191	-4.5%
2010	43	224	6,119	913	7,299	-1.5%	1,022	-14.2%
2011	50	182	6,125	834	7,296	-0.0%	893	-12.6%
Change	-9.1%	28.2%	9.5%	85.9%	15.9%		-27.9%	

Source: Iowa Department of Public Safety

The table shows that, over time, reports of non-robbery violent crimes increased by 15.9 percent, while robbery reports dropped 27.9 percent. Nearly all the decrease in reported robberies occurred between FY2006 and FY2011. Note that for the most numerous crimes – aggravated assault, rape, and robbery – the peak numbers occurred between 2005 and 2007, with decreases noted since that time. These peaks occurred long after establishment of the 70% sentences in Iowa, so any causal link between the decreases in reported crime and the mandatory terms is tenuous at best. It is evident, however, that the decrease in reported robberies since 2006 is much more substantial than the other violent crimes. Year-to-year changes are shown below:

**Figure 7: Total Reported Violent Crime, % Change from Previous Year, Violent Crime versus Robbery**

The graph suggests that there has certainly been a more substantial change in robberies than other offenses, but that this change has occurred since FY2006, long after establishment of 70% sentences in the state. From FY1995 through FY2006 there was no clear pattern in rate changes either for robbery or the other Part I violent offenses. This suggests that the 70% sentences in Iowa have had little, if any, effect on the incidence of the covered crimes in the state.

### ***Robbery Adjudication***

To provide a more detailed description about the ways in which robbery charges are adjudicated, variations in adjudication practices were examined over time for Robbery-1 and Robbery-2. The data available for this analysis were derived from the Iowa Court Information System (ICIS) through the Justice Data Warehouse (JDW). Since the JDW contains data which reliably go back to 1999, only the 9,047 robbery charges during the period FY1999-2013 are examined here. Charge reduction will also be examined later under the section analyzing robbers sent to prison.

**Figure 8: Total Robbery Charges and Dispositions, by Fiscal Year**

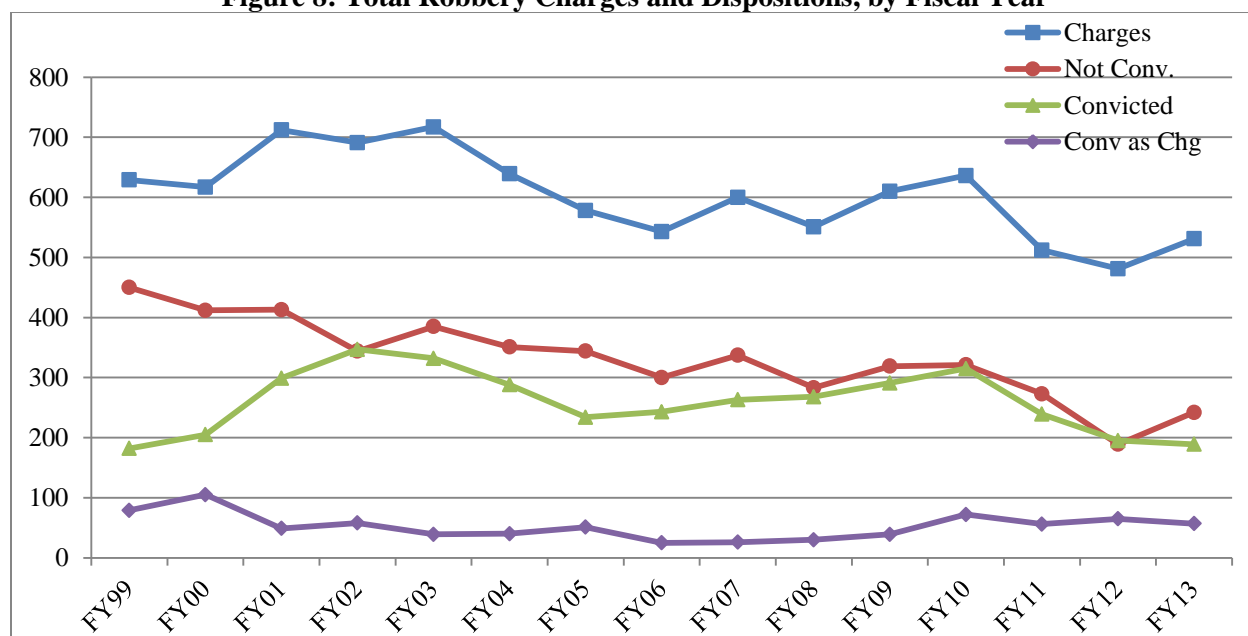
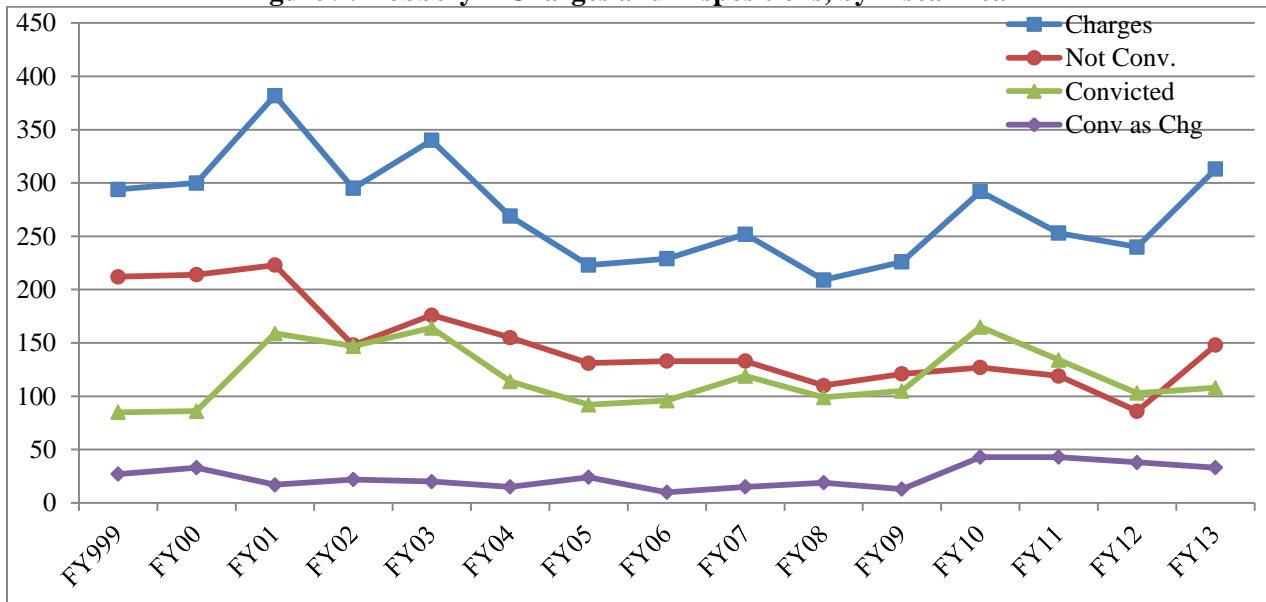


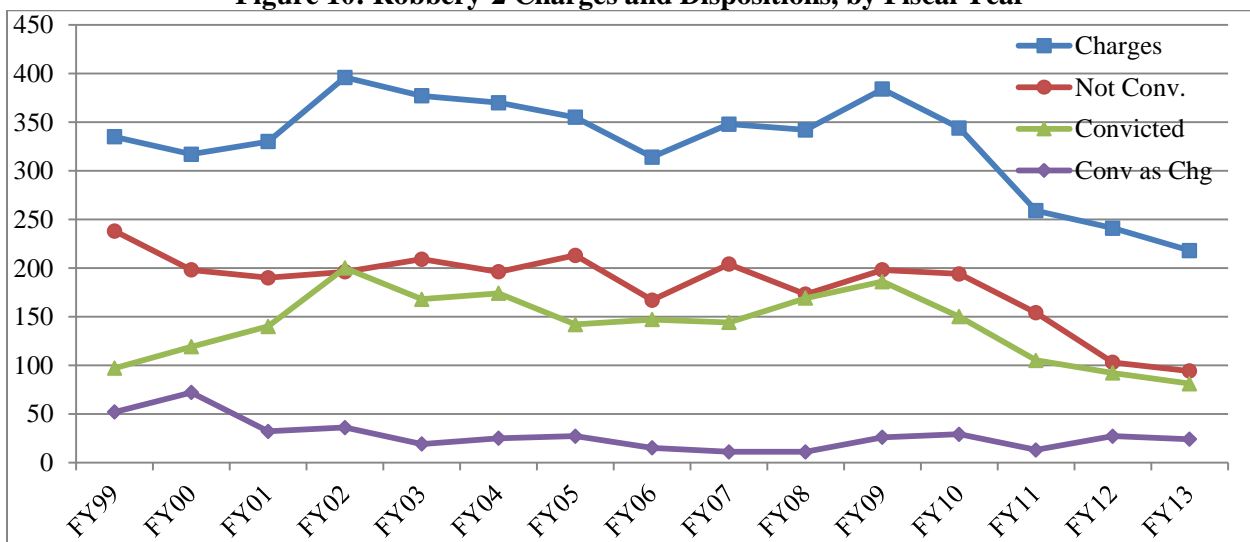
Figure 8 shows that the numbers of robbery charges and non-convictions have been steadily declining. After a rise between FY1999 and FY2002, convictions have also been declining. Since 2001 the number of charges resulting in conviction as originally charged has remained relatively stable. It is evident, however, that a small percentage of robbery charges in Iowa result in conviction as originally charged.

When observing charges and dispositions separately for Robbery-1 (fig.9) and Robbery-2 (fig. 10), a similar trend is found. Relatively few charges of Robbery-1 and Robbery-2 result in conviction as charged, but the raw number of these has remained stable over the period. On the other hand, until 2013 there was a steady drop in the number of defendants not convicted for Robbery-1, with the increase in FY2013 reflecting similar figures last seen in FY2004. Defendants not convicted for Robbery-2 remained relatively stable from FY2000-FY2010 with declines seen thereafter.

**Figure 9: Robbery-1 Charges and Dispositions, by Fiscal Year**



**Figure 10: Robbery-2 Charges and Dispositions, by Fiscal Year**



Shown in Figure 11, the total number of robbery convictions declined from 1999-2006 and has since increased to levels similar to those seen in 1999-2000. Convictions for Robbery-2 exceed those for Robbery-1 and declined from FY1999-2006 with a period of stability from FY2006-2009. After a jump in FY2010-2011, convictions in FY13 were similar in number to those between FY2006-2009. Robbery-1 convictions remained relatively stable from FY1999-FY2009, with an increase in convictions from FY2009-FY2010. For the last four years, the number of Robbery-1 convictions is higher than in the past but has remained relatively stable.

**Figure 11: Robbery-1 and Robbery-2 Convictions, by Fiscal Year**

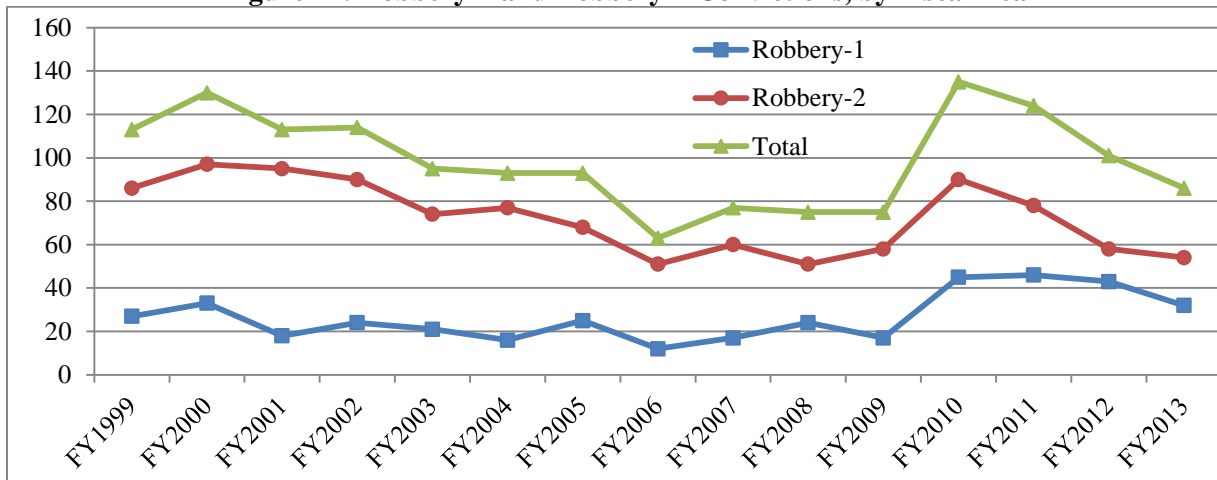
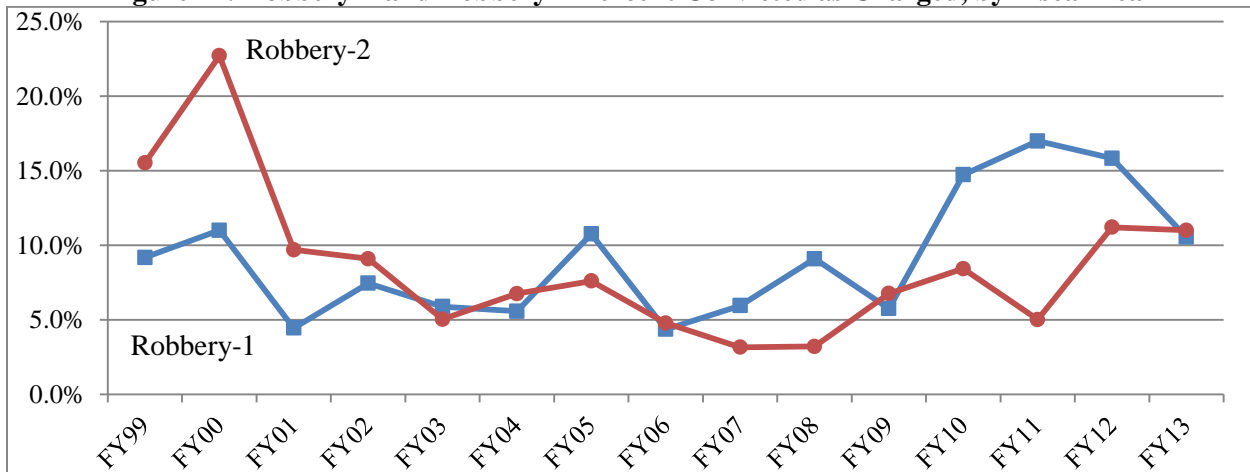


Figure 12 shows the percentage of robbery charges resulting in conviction as originally charged. From FY1999-2002 the percentage of Robbery-2 charges resulting in conviction as charged exceeded those for Robbery-1. The percentages for the two offenses were relatively similar from FY2002 through FY2009, but since that time a higher rate of conviction as charged has been seen for Robbery-1 charges. Note that, despite the year-to-year changes, it is unusual for robbery charges of any seriousness to result in conviction as originally charged, as the highest percentage shown on the graph is less than 25 percent.

**Figure 12: Robbery-1 and Robbery-2 Percent Convicted as Charged, by Fiscal Year**



### ***Robbery Prison Admission Cohort***

This section specifically focuses on prison admissions as the result of robbery charges. An analysis of robbery is essential in the examination of mandatory sentencing primarily because of the high volume of 70% admissions resulting from robbery convictions. As shown immediately below, in FY2013, for example, robbery accounted for 57.6% of all new 70% prison admissions.

**Table 17: FY13 New Prison Admissions Serving 70% Mandatory Sentences**

Code Citation	Description	N	%
707.11	Attempted Murder	4	4.3%
707.3	Murder 2 <sup>nd</sup> Degree	10	10.9%
707.6A(2)	Vehicular Homicide (C Felony)	3	3.3%
709.3	Sex Abuse 2 <sup>nd</sup>	13	14.1%
710.3	Kidnapping 2 <sup>nd</sup> Degree	1	1.1%
711.2	Robbery-1	22	23.9%
711.3	Robbery-2	31	33.7%
901A 2(1),A	Sexual Predator Prior Conviction	1	1.1%
901A 2(1),B	Sexual Predator Prior Conviction	1	1.1%
901A 2(2)	Sexual Predator Two or More Prior Convictions	1	1.1%
901A 2(3)	Sexual Predator Prior Conviction-Felony	2	2.2%
902.8,A	Habitual Criminal (violent)	3	3.3%
	Total	92	96.7%

The admission cohort for analysis below was drawn from the Iowa Corrections Offender Network (ICON), the information system of the Iowa Department of Corrections. The cohort includes all new incoming inmates whose **original charges** included either Robbery-1 or Robbery-2. Robbery need not have been a resulting conviction offense within this cohort, as many inmates benefitted from a reduction of the original robbery charge to other offenses. Selecting inmates based upon original charge permitted an analysis of charge reduction as well as examination of sentence length and time served prior to release.

Additionally, the cohort includes all those in ICON whose initial charged offense was either Robbery-1 or Robbery-2, regardless of whether the robbery was the most serious offense charged. For example, if an inmate were charged with an attempted murder (a Class B felony) and a Robbery-2 (a Class C felony), he or she would still be included in the cohort. Many analyses of prison population use only the most serious conviction offense, but this analysis does not do so to permit a more complete examination of robbery charging and sentencing practices. Those charged with Robbery-1 or Robbery-2 were selected for this analysis because they constitute the bulk of those currently entering prison in Iowa whose terms are governed by Iowa Code §902.12 (the “70 percent” law).

Note that this cohort does not include all robbers entering the prison system, as the cohort was limited only to those who entered prison as the result of a new direct court commitment or a probation revocation. Offenders who entered prison on violator status or as the result of an offense committed on parole or work release, for example, are not included. Limiting the cohort in this way is intended to permit a “purer” analysis of any changes stemming from the movement toward mandatory minimum sentences.

The first of these offenders entered prison on 2/13/1970, but the ICON data base reliably goes back only to January, 1986. There were a number of offenders admitted to prison for robbery offenses prior 1986

who were identified in the data base but whose reason for original entry to prison could not be determined. When researchers were unable to identify whether an offender entered prison either as a new direct court commitment or probation revocation, he or she was excluded from the cohort. The last date of admission for the cohort was 6/29/2012. Offenders were grouped into periods in five year increments based on their prison admission date. This grouping was established prior to the availability of FY13 prison admission data. The resulting cohort included 3,224 separate individuals who accounted for 3,187 admissions (i.e., there were 37 offenders who entered prison multiple times as the result of robbery charges).

### ***Characteristic of Offenders Charged with Robbery***

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

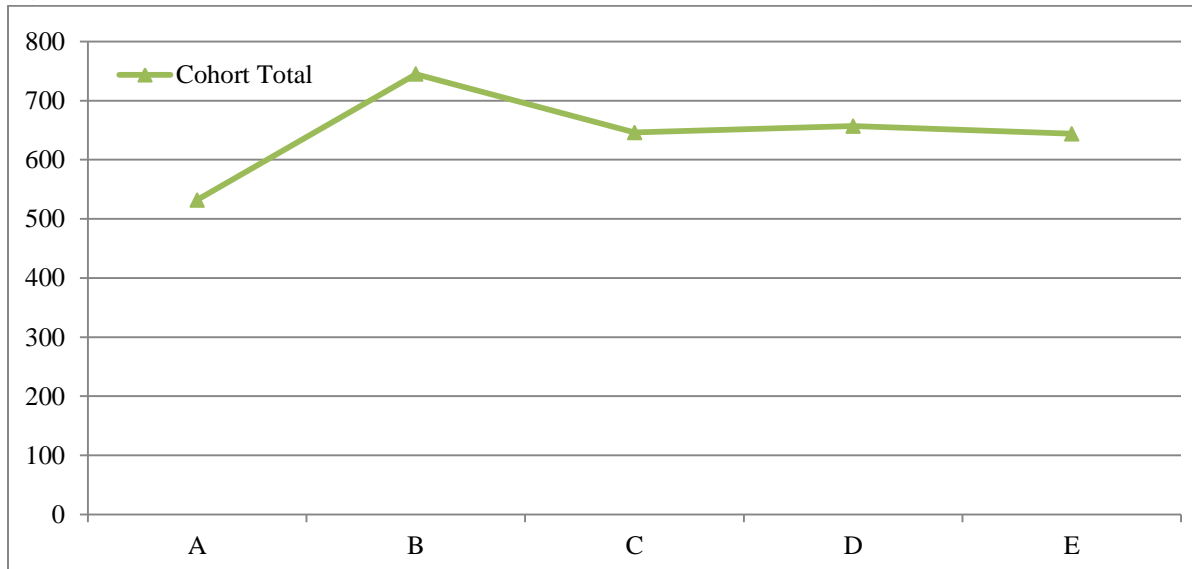
Group A: pre 01/01/90  
 Group B: 01/01/90 – 12/31/96  
 Group C: 01/01/97 – 06/30/02  
 Group D: 07/01/02 – 06/30/07  
 Group E: 07/01/07 – 06/30/12

**Table 18: Robbery-1 or Robbery-2 New Prison Admissions, by Judicial District and Period (FY1970-2012)**

	Pre-70%		Post 70%			Total
	A	B	C	D	E	
District 1	66	94	102	96	106	462
District 2	33	48	48	40	58	227
District 3	33	85	39	35	38	230
District 4	43	52	31	46	41	213
District 5	181	183	209	252	226	1,051
District 6	61	74	47	80	81	343
District 7	76	164	118	74	50	482
District 8	39	45	52	34	44	214
Total	532	745	646	657	644	3,224



**Figure 13: Robbery-1 or Robbery-2 New Prison Admissions (Total), by Period (FY1970-FY2012)**



The number of new offenders entering prison as the result of charges of Robbery-1 or Robbery-2 has increased since Period A, but has remained relatively stable for the past 15 years. The highest incidence of Robbery-1 or 2 was seen in Period B immediately following enactment of the mandatory minimum sentence.

### Sex

The robbery cohort was overwhelmingly male (92.2% vs. 7.8%). Women were more significantly more likely to have been arrested for Robbery-2 (8.7% vs. 6.8%) and men were significantly more likely to have been arrested for Robbery-1 (93.2% vs. 91.3%).

**Table 19: New Robbery Prison Admission Arresting Offense, by Sex**

	Robbery-1		Robbery-2		Total	
	N	%	N	%	N	%
Male*	1,486	93.2%	1,488	91.3%	2,974	92.2%
Female*	108	6.8%	142	8.7%	250	7.8%
Total	1,594	100%	1,630	100%	3,224	100%

\*Significant at a 95% confidence interval.

**Table 20: Number of New Robbery Prison Admissions per Period, by Sex**

	Pre-70%		Post-70%			Total	
	A	B	C	D	E	N	%
Male	505	693	600	575	601	2,974	92.2%
Female	27	52	46	82	43	250	7.8%
Total	532	745	646	657	644	3,224	100%
% Female	05.1%	07.0%	07.1%	12.5%	06.7%	--	07.8%

Men were significantly more likely than women to be admitted to prison on robbery charges throughout the period examined. During period D the percentage of female robbers almost doubled, although it is unclear why this period held a disproportionate percentage of women.

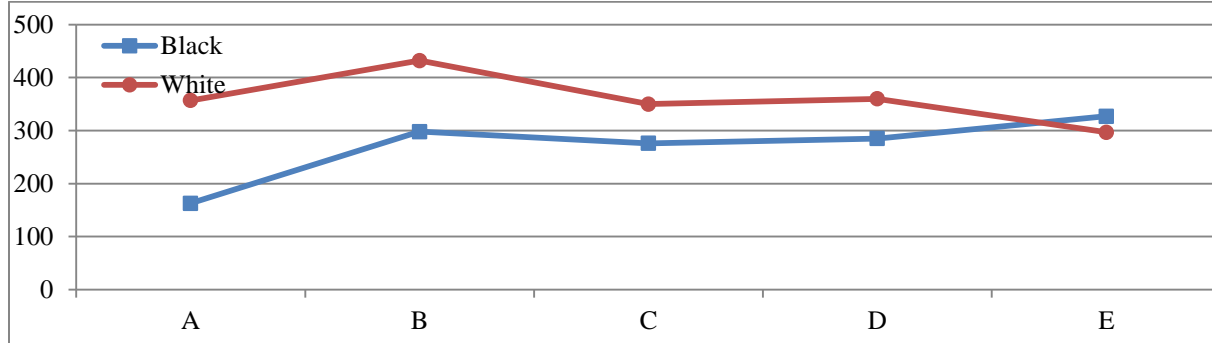
## Race

Examining changes in the racial make-up of the cohort over time, one sees an increasing African-American percentage in the robbery cohort, with a doubling of the African-American number from Period A through Period E (163 vs. 328). In the most recent period, African-American admissions stemming from robbery charges surpassed the number of Caucasian admissions.

**Table 21: Number of New Robbery Prison Admissions per Period, by Race**

	Pre-70%		Post 70%			Total	
	A	B	C	D	E	N	%
Caucasian	357	432	350	360	298	1,797	55.7%
African-American	163	298	276	285	328	1,350	41.9%
Other	12	15	20	12	17	76	02.4%
Unknown	0	0	0	0	1	1	00.0%
Total	532	745	646	657	644	3,224	100%
% African-American	30.6%	40.0%	42.7%	43.4%	50.9%	--	41.9%

**Figure 14: Number of New Prison Admissions Stemming from Robbery Charges, per Period, by Race**



Caucasians and African-Americans appear to be arrested for Robbery-1 and Robbery-2 in similar numbers, although Caucasians are slightly more likely to be convicted of Robbery-2 (57.7% vs. 55.1%) while African-Americans are more likely to be convicted of Robbery-1 (42.1% vs. 39.7%). These findings failed to reach statistical significance.

**Table 22: New Robbery Prison Admissions due to Robbery Charges, by Race**

	Robbery-1		Robbery-2		Total	
	N	%	N	%	N	%
Caucasian	888	55.7%	909	55.8%	1,797	55.7%
African-American	668	41.9%	682	41.8%	1,350	41.9%
Other	38	2.4%	38	02.3%	76	2.4%
Unknown	0	0.0%	1	0.1%	1	0.0%
Total	1,594	100%	1,630	100%	3,224	100%

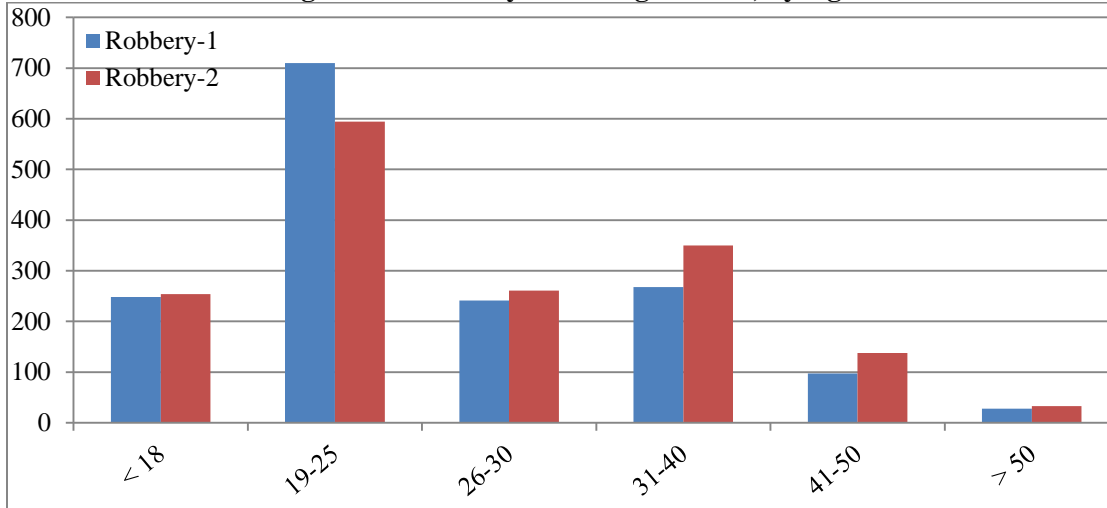
**Table 23: New Robbery Prison Admissions due to Robbery Conviction, by Race**

	Robbery-1		Robbery-2		Total	
	N	%	N	%	N	%
Caucasian	430	55.1%	815	57.7%	1,245	56.8%
African-American	329	42.1%	560	39.7%	889	40.5%
Other	22	02.8%	36	2.5%	58	2.6%
Unknown	0	0.0%	1	0.1%	1	0.0%
Total	781	100%	1,412	100%	2,193	100%

### Age

About forty-one percent of offenders in this cohort were between the ages of nineteen and twenty-five, with 15.6% eighteen and younger or twenty-six to thirty years old. Approximately 91 percent of offenders were age forty or below, suggesting that robbery is a crime of young offenders. Those between the ages of 19-25 were significantly more likely to be arrested for Robbery-1 rather than Robbery-2 (44.6% vs. 36.4%). Offenders between the ages of 31-40 (21.5% vs. 16.8%) and 41-50 (8.5% vs. 6.1%) were significantly more likely to be arrested for Robbery-2 compared to Robbery-1.

**Figure 15: Robbery Arresting Offense, by Age**

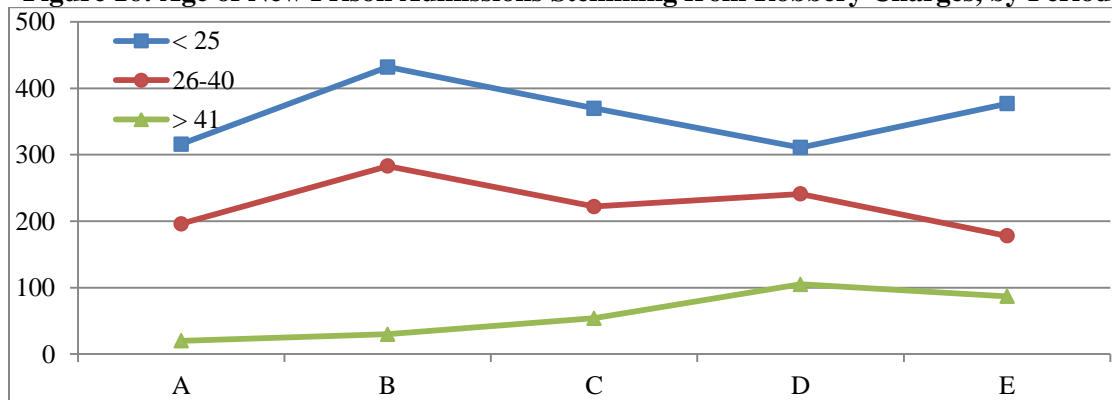


**Table 24: New Prison Admissions due to Robbery Charges, by Age**

	Robbery -1		Robbery-2		Total	
	N	%	N	%	N	%
< 18	249	15.6%	254	15.6%	503	15.6%
19-25*	710	44.6%	594	36.4%	1,304	40.5%
26-30	241	15.1%	261	16.0%	502	15.6%
31-40*	269	16.9%	350	21.5%	619	19.2%
41-50*	97	06.1%	138	8.5%	235	07.3%
> 51	28	01.8%	33	2.0%	61	01.9%
Total	1,594	100%	1,630	100%	3,224	100%

\*Significant at a 95% confidence interval.

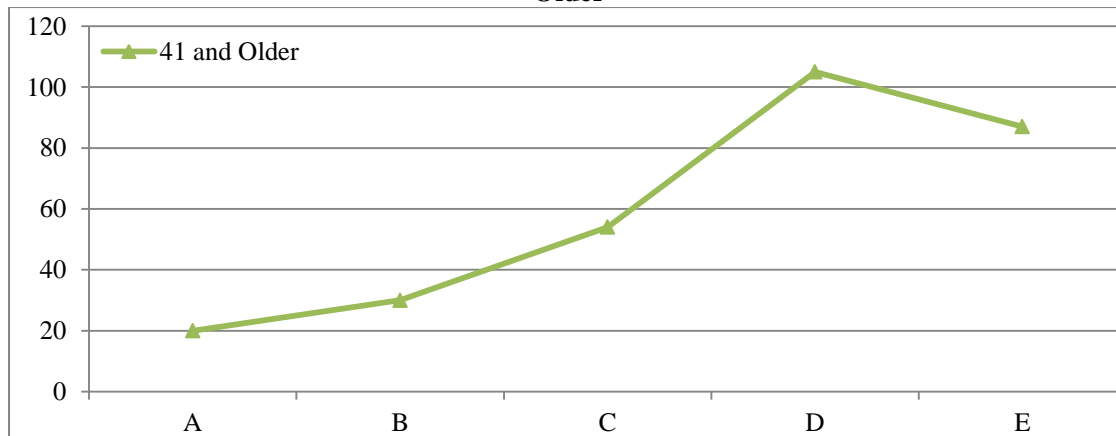
**Figure 16: Age of New Prison Admissions Stemming from Robbery Charges, by Period**



**Table 25: New Robbery Prison Admissions, by Period, by Age**

	Pre-70%		Post 70%			Total	
	A	B	C	D	E	N	%
< 18	63	133	134	70	103	503	15.6%
19-25	253	299	236	241	275	1,304	40.4%
26-30	100	144	75	92	91	502	15.6%
31-40	96	139	147	149	88	619	19.2%
41-50	13	25	48	89	60	235	7.3%
>50	7	5	6	16	27	61	1.9%
Total	532	745	646	657	644	3,224	100%
Median Age	24	24	23	26	23	--	--

Figure 17 displays trends in the age of robbery offenders represented in Table 25, displaying collapsed age categories for easy comparison. Until the most recent time period, offenders aged 18-25 and 26-40 showed a similar pattern, tending to rise and fall together. Also evident is that, while older offenders comprise a small percentage of the robbery prison admissions, their numbers have been increasing.

**Figure 17: New Prison Admissions Stemming from Robbery Charges, by Period, Offenders 41 and Older**

## Education

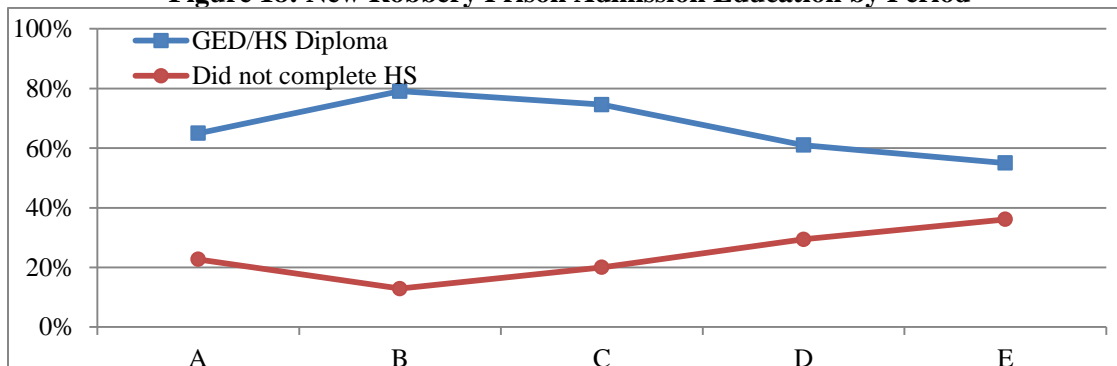
The greatest percentage of those entering prison after a robbery charge had obtained their GED/High School Diplomas (67.4%), while 23.9% had not. About four percent of offenders had some type of college education. There was little variation in the education of offenders by arresting offense, but offenders arrested for Robbery-2 were significantly less likely to have participated in college without earning a degree. A comparison of education among those receiving a 70% sentence and those not so sentenced revealed few differences, although the non-70% group was statistically more likely to have received technical or trade training.

**Table 26: New Robbery Prison Admission Education, by Arresting Offense and Fiscal Year**

	Robbery-1		Robbery-2		Total	
	N	%	N	%	N	%
College Degree	49	03.1%	46	02.8%	95	02.9%
Technical or Trade Training	39	02.4%	39	02.4%	78	02.4%
Some College (No Degree)*	32	02.0%	18	01.1%	50	01.6%
GED	737	46.2%	769	47.2%	1,506	46.7%
HS Diploma	330	20.7%	336	20.6%	666	20.6%
Did not complete HS	374	23.4%	398	24.4%	772	23.9%
Unknown	33	02.1%	24	01.5%	57	01.8%
Total	1,594	100%	1,630	100%	3,224	100%

\*Significant at a 95% confidence interval.

**Figure 18: New Robbery Prison Admission Education by Period**



**Table 27: New Robbery Prison Admissions Education per Period, by Education**

	Pre-70%		Post 70%			Total	
	A	B	C	D	E	N	%
College Degree	27	26	21	18	03	95	02.9%
Technical or Trade Training	26	19	8	14	11	78	02.4%
Some College (No Degree)	09	08	03	18	12	50	01.6%
GED	208	411	376	282	229	1,506	46.7%
HS Diploma	138	178	106	119	125	666	20.6%
Did not complete HS	121	96	129	193	233	772	23.9%
Unknown	03	07	03	13	31	57	01.8%
Total	532	745	646	657	644	3,224	100%

Within the last 15 years, there have been declines in the number of robbers entering prison possessing either a GED or a High School Diploma.. This suggests that, within the last 15 years, robbers have become more likely to have been unsuccessful in school.

### Birthplace

The greatest percentage of robbery offenders were born in Iowa (50.2%), but a considerable number were born out-of-state (44.0%). There were no statistical differences in arresting offense by birthplace.

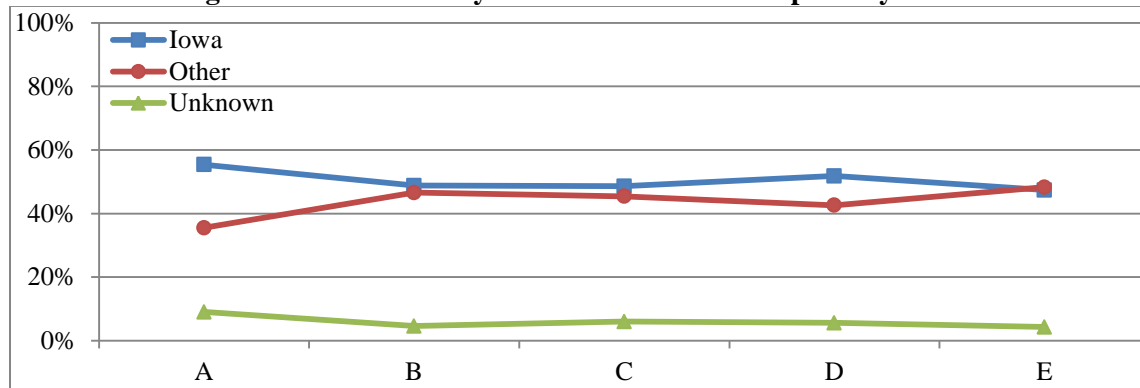
**Table 28: New Robbery Prison Admission Arresting Offense, by Birthplace**

	Robbery-1		Robbery-2		Total	
	N	%	N	%	N	%
Iowa	787	49.4%	831	51.0%	1,618	50.2%
Other	704	44.2%	716	43.9%	1,420	44.0%
Unknown	103	06.5%	83	05.1%	186	05.8%
Total	1,594	100%	1,630	100%	3,224	100%

*\*Significant at a 95% confidence interval*

In period A there were considerably more Iowans admitted to prison for robbery than individuals from other states. However, the percentage of offenders born in Iowan and other states entering prison on robbery charges has since remained relatively stable and similar for the past twenty years.

**Figure 19: New Robbery Prison Admission Birthplace by Period**



**Table 29: New Robbery Prison Admission Birthplace by Period**

	Pre-70%		Post 70%			Total	
	A	B	C	D	E	N	%
Iowa	295	364	314	340	305	1,618	50.2%
Other	189	347	293	280	311	1,420	44.0%
Unknown	48	34	39	37	28	186	05.8%
Total	532	745	646	657	644	3,224	100%

### ***FY2011-FY2012 Cohort, by Weapon***

Using data included in institutional reception summaries and pre-sentence investigations, information was compiled the weapons involved in the offenses of FY2011 and FY2012 robbery prison admissions. Robbery weapon information included the weapon that the offender was believed to have possessed. For instance, in some robberies a weapon was threatened but was not seen (e.g., a handgun in a pocket). In these instances, it is difficult to know if the offender actually carried a gun or another object, or was using his hand to suggest the presence of a weapon. In these instances the weapon was classified as the object the victim believed the offender to possess.

It is also important to note the variations in robberies involving hands or feet as weapons. Some robberies involved instances in which an offender became physical in an attempt to rob, while others involved indirect physical contact. For instance, theft cases in which an offender pushes past an officer or resists arrest may be classified as a robbery involving hands or feet. The Weapon-Other category refers to robbery situations in which an offender used an object other than a gun, knife, or hands or feet. These would include such weapons as pipes, bricks, crowbars, etc. If an offender used more than one weapon during the robbery the most lethal weapon was chosen for this analysis.

Firearms were the weapon with the highest percentage of use (39.2%), followed by hands or feet (21.6%). Robberies involving a firearm, knife, or other external weapon accounted for 59.6% of robberies within the FY2011 and FY2012 cohort. Approximately fifteen percent of robberies did not involve a weapon.

**Table 30: FY11-FY12 Robbery Prison Admissions, by Robbery Weapon**

	N	%
Firearm	96	39.2%
Knife	33	13.5%
Weapon-Other	17	06.9%
Hands/Feet	53	21.6%
No Weapon	37	15.1%
Unknown	09	03.7%
Total	245	100%

A common assumption concerning sentencing is that the more serious weapon used, the more severe sanction imposed, with firearms-related crimes receiving the most serious penalties. While there are greater percentages of Robbery-1 convictions using firearms (55.3%), there are also a large percentage of Robbery-2 convictions (40.8%) also involving a gun; a finding which failed to reach significance. Statistical significance was found for robberies involving a hands or feet assault, with Robbery-1 having significantly lower percentages than Robbery-2 (6.4% vs. 18.4%). This analysis suggests that use or threat of a firearm can result in either a Robbery-1 or Robbery-2 conviction. Please note that the table below only includes robbery arrests that resulted in convictions.

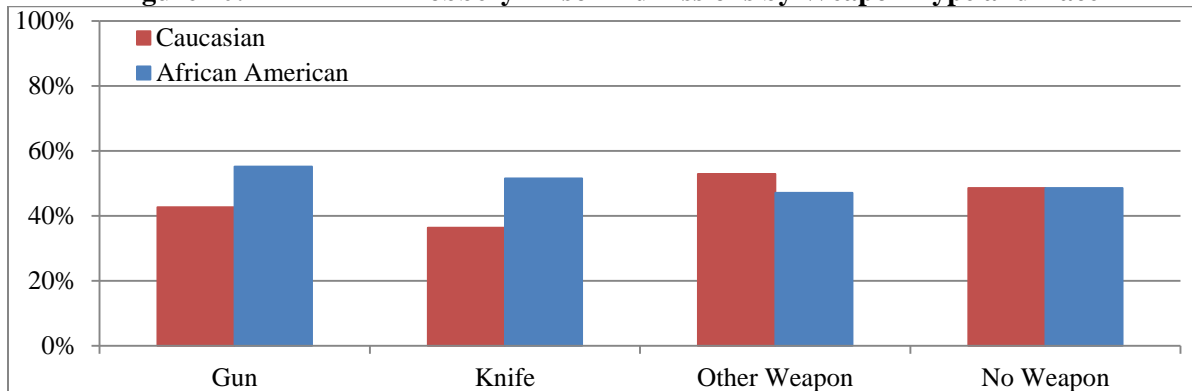


**Table 31: FY11-FY12 Robbery Prison Admission, by Conviction Type and Weapon<sup>33</sup>**

	Robbery-1 Conviction		Robbery-2 Conviction		Total	
	N	%	N	%	N	%
Firearm	26	55.3%	31	40.8%	57	46.3%
Knife	9	19.1%	15	19.7%	24	19.5%
Weapon-Other	6	12.8%	06	7.9%	12	9.8%
Hands/Feet*	3	6.4%	14	18.4%	17	13.8%
No Weapon	2	4.2%	08	10.5%	10	8.1%
Unknown	1	2.1%	2	2.6%	3	2.4%
Total	47	100%	76	100%	123	100%

\*Significant at a 95% confidence interval.

The following tables and charts include information on robbery weapon type for all offenders arrested on robbery charges who were admitted to prison in FY2011 and FY2012. The size of the FY2011 and FY2012 new prison admission cohort was small, inhibiting an examination of significance by race. It appears, however, that African-Americans are much more likely to use firearms and knives than Caucasians (55.2% vs. 42.7% for firearms and 51.5% vs. 36.4% for knives). Caucasians were more likely to use weapons other than guns or knives (52.9% vs. 47.1%). African-Americans and Caucasians were equally likely to have robbed without threat of a weapon.

**Figure 20: FY11-FY12 Robbery Prison Admissions by Weapon Type and Race****Table 32: FY11-FY12 Robbery Prison Admissions by Weapon Type and Race**

	Firearm		Knife		O-Weapon		Hands/Feet		No Weapon		Unknown		Total	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
Caucasian	41	42.7%	12	36.4%	9	52.9%	25	47.2%	18	48.6%	1	11.1%	106	43.3%
African-Amer.	53	55.2%	17	51.5%	8	47.1%	27	50.9%	18	48.6%	8	88.9%	131	53.5%
Other	1	1.0%	04	12.1%	0	0.0%	1	1.9%	1	2.7%	0	0.0%	07	2.8%
Unknown	1	1.0%	00	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	01	0.4%
Total	96	100%	33	100%	17	100%	53	100%	37	100%	9	100%	245	100%

<sup>33</sup> This particular table only includes robbery prison admissions who were *convicted* of either Robbery-1 or Robbery-2.

As shown below, an examination of all those admitted to prison following a robbery arrest suggests that charge reduction is somewhat more likely when less deadly weapons are used. Those actually convicted of robbery and receiving a 70% sentence were more likely to have used or threatened use of a firearm (46.3% vs. 32.0%). While it is evident that robbery offenders who use or threaten the use of firearms are more likely to be admitted to prison on a 70% mandatory minimum, it is also true that about 32 percent of these escaped the mandatory minimum.

**Table 33: FY11-FY12 Robbery Arrest Prison Admissions, by Sentence Type and Weapon**

	70% Sentence		Non 70% Sentence		Total	
	N	%	N	%	N	%
Firearm*	57	46.3%	39	32.0%	96	39.2%
Knife*	24	19.5%	9	7.4%	33	13.5%
Weapon-Other	12	9.7%	5	4.1%	17	6.9%
Hands/Feet*	17	13.8%	36	29.5%	53	21.6%
No Weapon	10	18.1%	27	22.1%	37	15.1%
Unknown	3	2.4%	6	4.9%	9	3.7%
Total	123	100%	122	100%	245	100%

*\*Significant at a 95% confidence interval.*

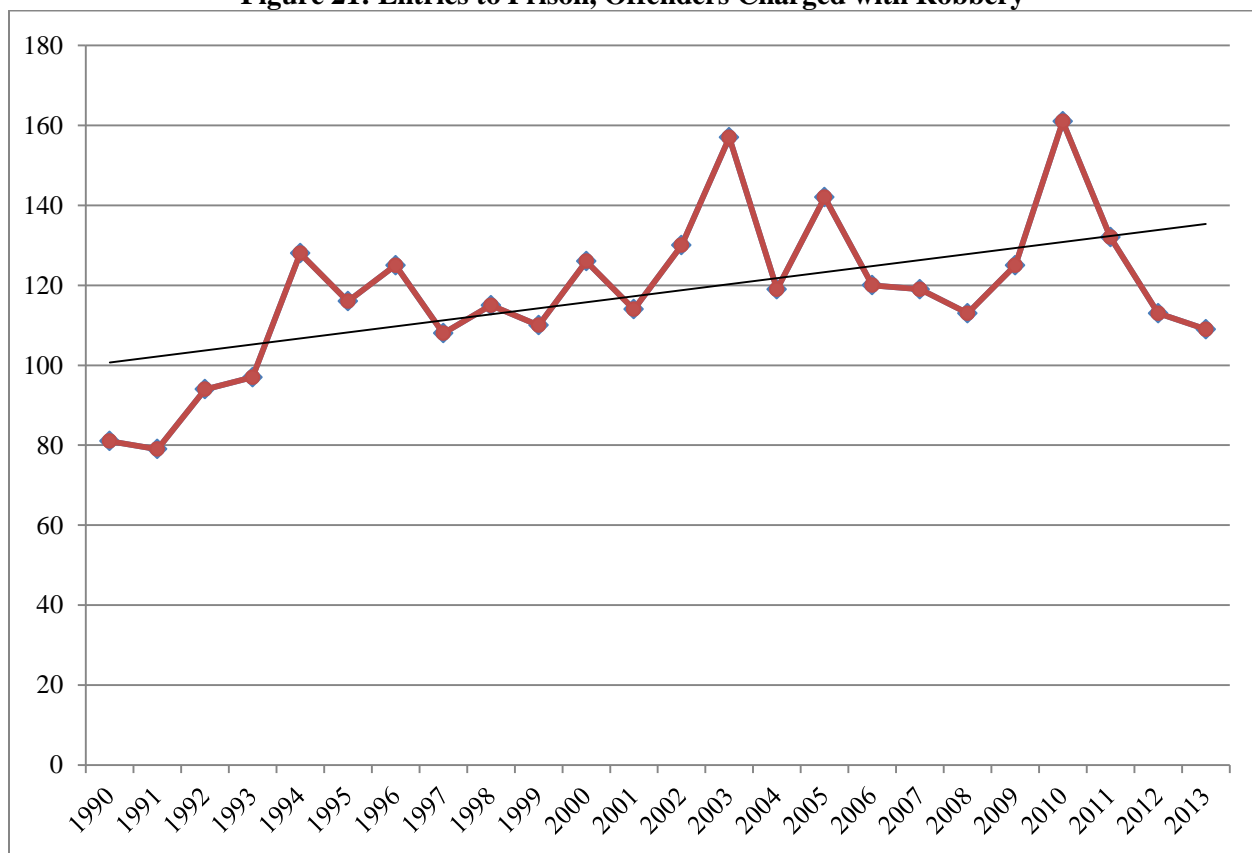
Offenders using knives during robberies were also significantly more likely to receive a 70% sentence, while those using hands and feet were more likely to receive a non-70% sentence.

### ***Robbery Prison Population***

This section focuses on the impact of Robbery-1 and Robbery-2 mandatory sentences on Iowa's prison population. The prison population is determined by two factors: how many people are admitted to prison and how long they stay. This portion of the report will address the first factor by examining the number of new Robbery-1 or Robbery-2 prison admissions by fiscal year and then the total number of prisoners incarcerated for robbery 70% sentences at the end of each fiscal year. The report goes on to identify how long prisoners stay by examining the number of robbery offenders released from prison during a fiscal year and calculating their average length-of-stay.

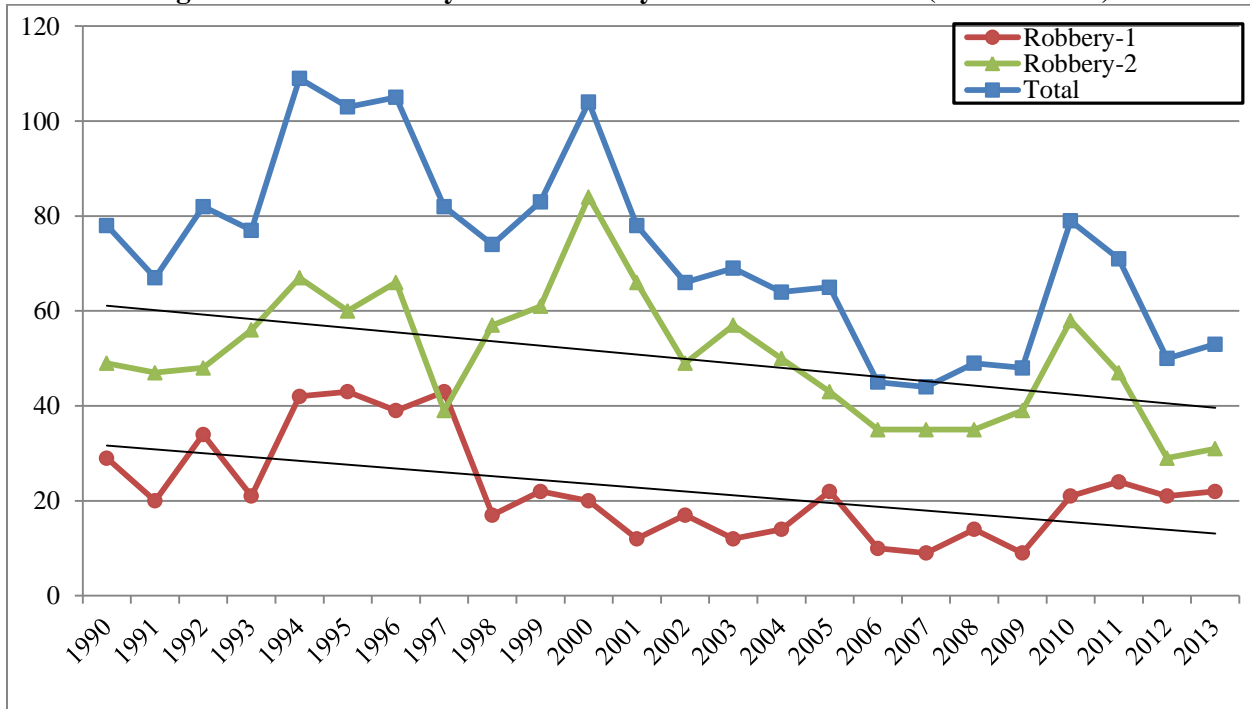
**Robbery Prison Admissions:** The total number of offenders originally charged with robbery and newly admitted to prison between FY1990-FY2013 totaled 2,833. As shown below, the trend line for these admissions is slightly upward, with the trend line at the end of the period about 35 percent higher than at the beginning.

**Figure 21: Entries to Prison, Offenders Charged with Robbery**



While the number of charged robbers entering prison has risen since 1990, the next chart shows that the number actually sentenced to prison after a robbery *conviction* has declined. Following the implementation of mandatory sentences in 1996, there was a steep decline in Robbery-1 prison admissions, probably relating to the severity of the new (then-85%) penalty. Shortly after the drop in admissions for Robbery-1 there was a rise in Robbery-2 admissions, followed by a lengthy period of decline. The trend lines for both Robbery-1 and Robbery-2 admissions are declining despite a jump in admissions during FY10 and FY11.

**Figure 22: New Robbery-1 and Robbery-2 Prison Admissions (FY1990-2013)**



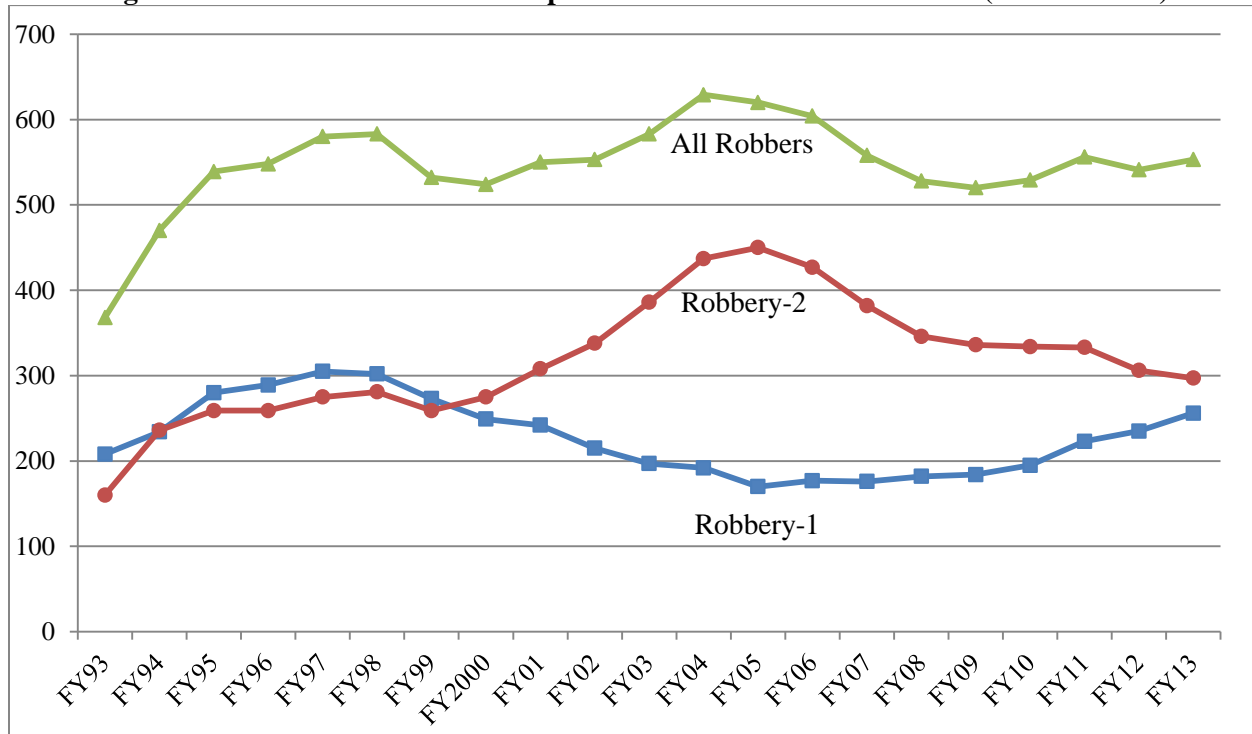
As shown below, since FY2005 there has been a drop in Robbery-2 inmates in the end-of-year prison population, as those who entered prison in the 1990's departed and were not all replaced by incoming inmates. After a period of decline between FY1997 and FY2005, the number of first degree robbers has begun creep up, a trend which is expected to continue until at least 2014, when the first of the 70% Class B inmates become eligible for release. The extent to which the Class B robbers influence the size of the prison population will depend on the extent to which they receive provisional release following parole/work release eligibility and the number of incoming robbers to replace them.

Looking at the total number of robbers in the population, it is curious that their number has remained largely stable since 1997. With the anticipated increase in first-degree robbers in the population through 2016, however, it is expected that the number of robbers in the population will approach the levels of 2004-05 between 2014 and 2016. During this time period it is expected that the number of second-degree robbers will remain stable, but a rise in Robbery-1 inmates will increase the total robbery number until such time that Robbery-1 releases rise to offset incoming inmates.

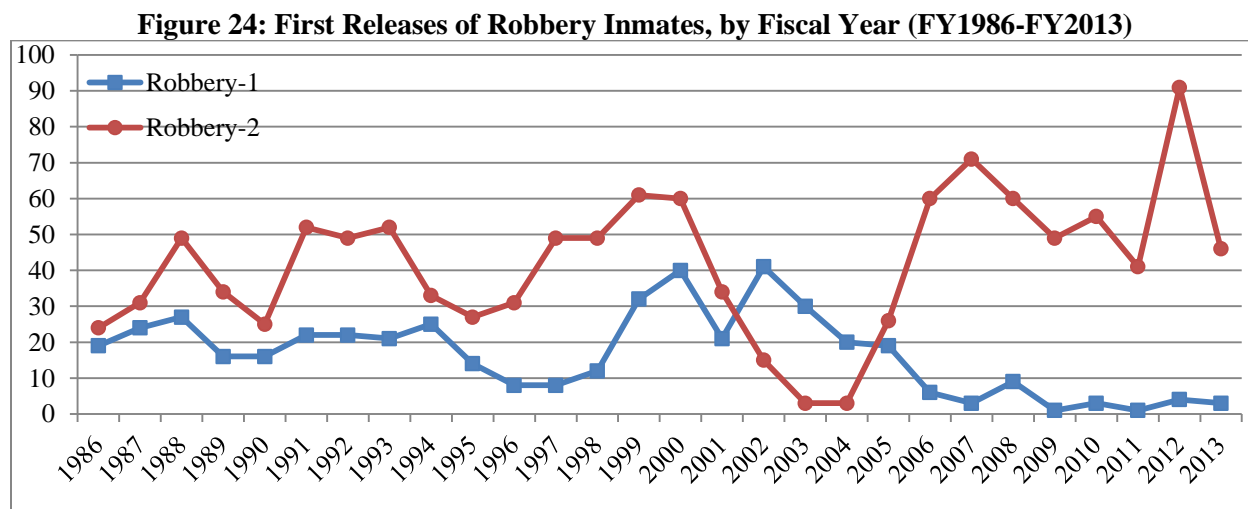
**Table 34: End-of-Year Population of Robbers in Prison**

	Robbery-1	Robbery-2	Total
FY1993	208	160	368
FY1994	234	236	470
FY1995	280	259	539
FY1996	288	263	551
FY1997	296	262	558
FY1998	303	278	581
FY1999	273	260	533
FY2000	249	275	524
FY2001	242	308	550
FY2002	215	338	553
FY2003	197	386	583
FY2004	192	437	629
FY2005	170	434	604
FY2006	177	412	589
FY2007	176	368	544
FY2008	182	336	518
FY2009	184	324	508
FY2010	195	328	523
FY2011	223	335	558
FY2012	235	308	543
FY2013	256	297	553
Total	4,519	6,307	10,826

**Figure 23: Robbers in the Prison Population at the End-of-Fiscal Year (FY1993-2013)**



Robbery Prison Releases: Another critical component in examining fluctuations in the prison population is identifying how many offenders leave prison in a given year. A total of 1,647 robbery offenders were released from prison between FY1986-FY2013, but at varying rates depending on their status vis-à-vis the mandatory minimum sentence.

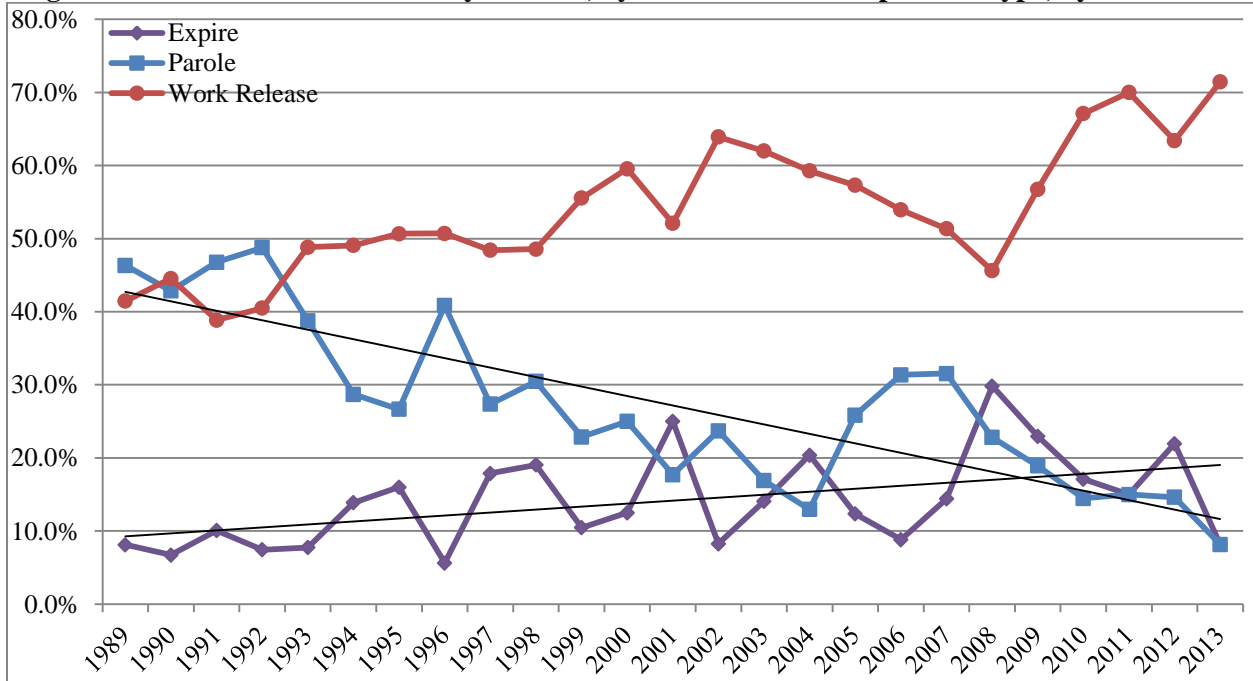


Since FY2005, first-releases for Robbery-2 inmates began to increase dramatically while releases for Robbery-1 continued to decline from FY2002 due to the absence of Robbery-1 offenders eligible for release consideration. The dip in Robbery-2 releases in FY2003-04 was due to the lack of Robbery-2 offenders eligible for release; nearly all the non-70% Robbery-2 offenders had been released, and the remaining offenders were covered by the 70% mandatory minimum and were not yet eligible for release consideration.

The disparity in releases between Robbery-1 and Robbery-2 offenders was greatest in FY2012 due to a spike in Robbery-2 releases. This discrepancy is not surprising because the inmate population at the end of FY2012 included 28 Robbery-2 offenders who were eligible for release, but only nine Robbery-1 offenders in the same status (none of whom had a 70% sentence). There was a period of inconsistency between 2002-2005 where Robbery-2 release rates fell drastically and were actually lower than Robbery-1 rates. This period of instability was due to fact that the Robbery-2 offenders initially affected by the 1996 mandatory minimum statute would not have been eligible for release until they had served 70% of their sentence (7.0 years), making them eligible only after 2004. During this particular time period, there simply were not any Robbery-2 offenders available for release.

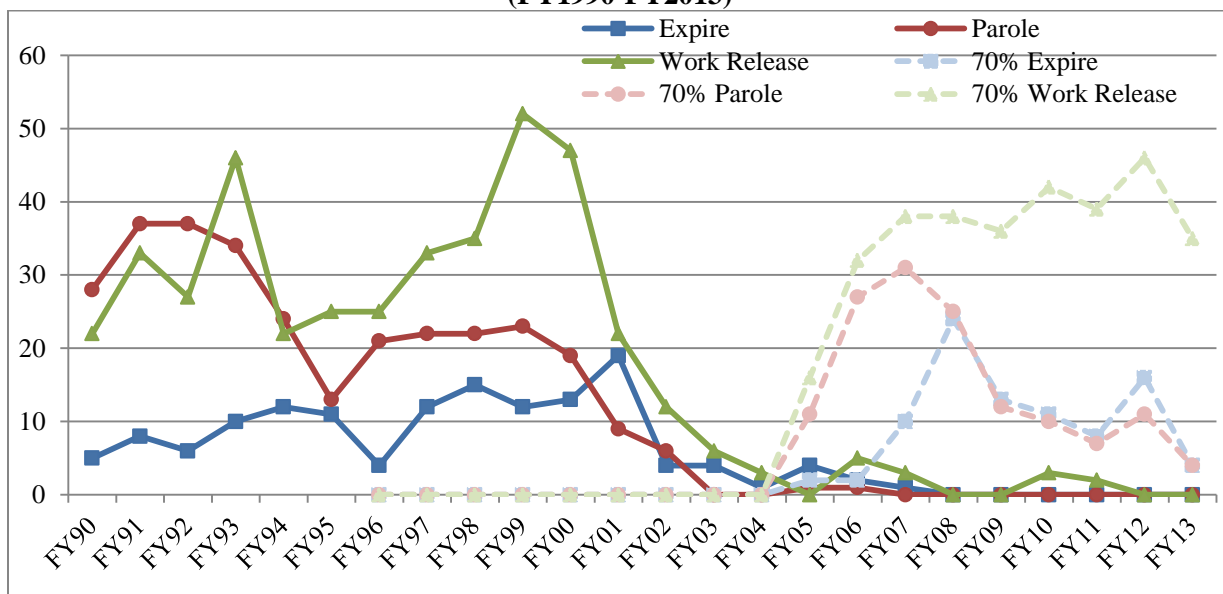
Releases by Departure type: When examining prison exits by departure type, we observe a substantial increase in the percentage of offenders leaving prison through work-release from FY1990-FY2013. Prison exits by way of parole have been steadily decreasing while sentence expirations have increased over time. The percentage of offenders exiting prison through sentence expiration or parole has become much more similar within the last fifteen years. From FY1989-FY1996 the percentage of prison exits by way of parole was substantially higher than that of sentence expirations.

**Figure 25: First Releases of Robbery Inmates, by Fiscal Year and Departure Type, by Fiscal Year**



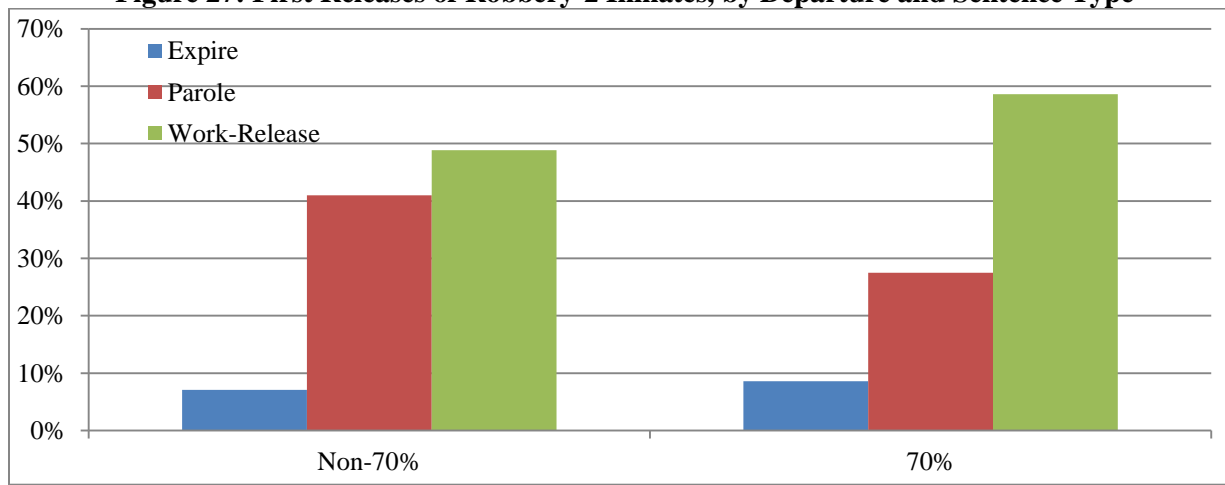
The next chart, which includes only those convicted of Robbery-2, shows that these inmates have historically been released from prison by work release and parole at higher rates than sentence expiration. Once the 70% statute was implemented, the number of robbery-2 releases declined substantially through FY2004, when the first 70% robbery-2 offenders became eligible for release consideration. From FY2004 through about FY2007 robbery-2 releases increased drastically for all departure types, but what is particularly interesting is that over the last six years the number of offenders released via parole or sentence expiration has remained relatively similar while work-release releases continued to climb. Note that the chart distinguishes between inmates released on pre-70% and post-70% sentences.

**Figure 26: First Releases of Robbery-2 Inmates, by Fiscal Year, Departure and Sentence Type (FY1990-FY2013)**



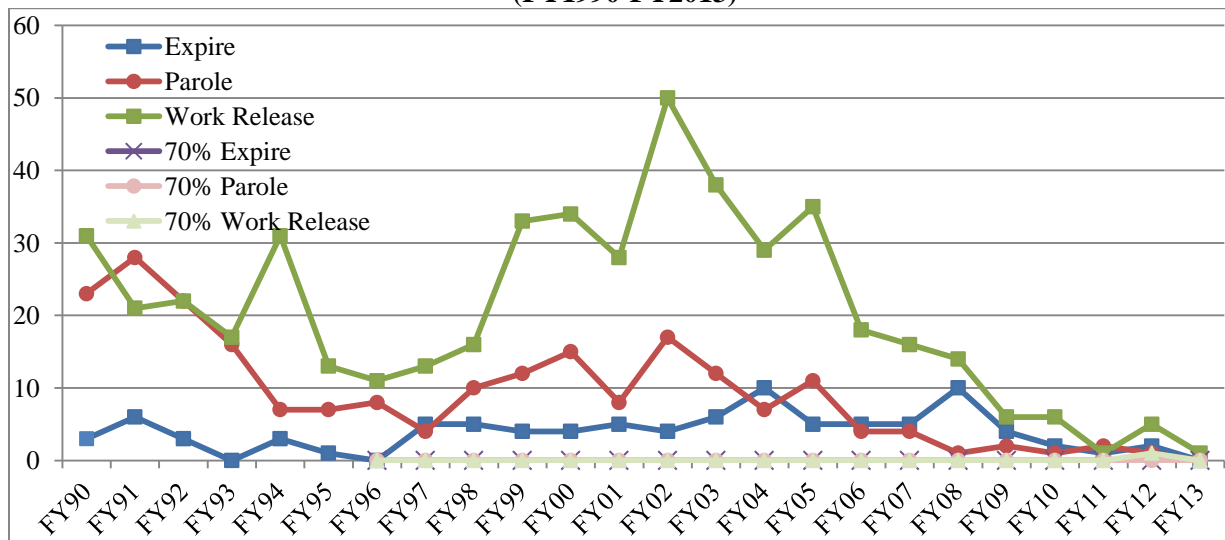
As shown below, offenders serving mandatory sentences have been released from prison via work release at higher rates than those who pre-dated the mandatory terms. They have also been somewhat more likely to expire their sentences. The non-70% group, however, was more likely to exit prison via parole.

**Figure 27: First Releases of Robbery-2 Inmates, by Departure and Sentence Type**



No Robbery-1 inmates who received mandatory 70% sentences have yet become eligible for release. One inmate in FY2012 was released on work release (due to a very unusual waiver of the mandatory minimum), but others will not become eligible until the last quarter of FY2014. The number Robbery-1 releases has recently been very low because nearly all the pre-70% inmates have been released and those serving the 17.5-year mandatory minimum are not yet eligible for release consideration. As has been the case for Robbery-2, the preferred vehicle for release of Robbery-1 inmates has been work release.

**Figure 28: First Releases of Robbery-1 Inmates, by Fiscal Year of Departure and Sentence Type (FY1990-FY2013)**



**Robbery Prison Length-of-Stay:** As stated earlier, the prison population is influenced by how many people are coming into prison and how long they stay. This portion of the report addresses the length-of-stay for offenders serving sentences on Robbery-1 or Robbery-2 charges.

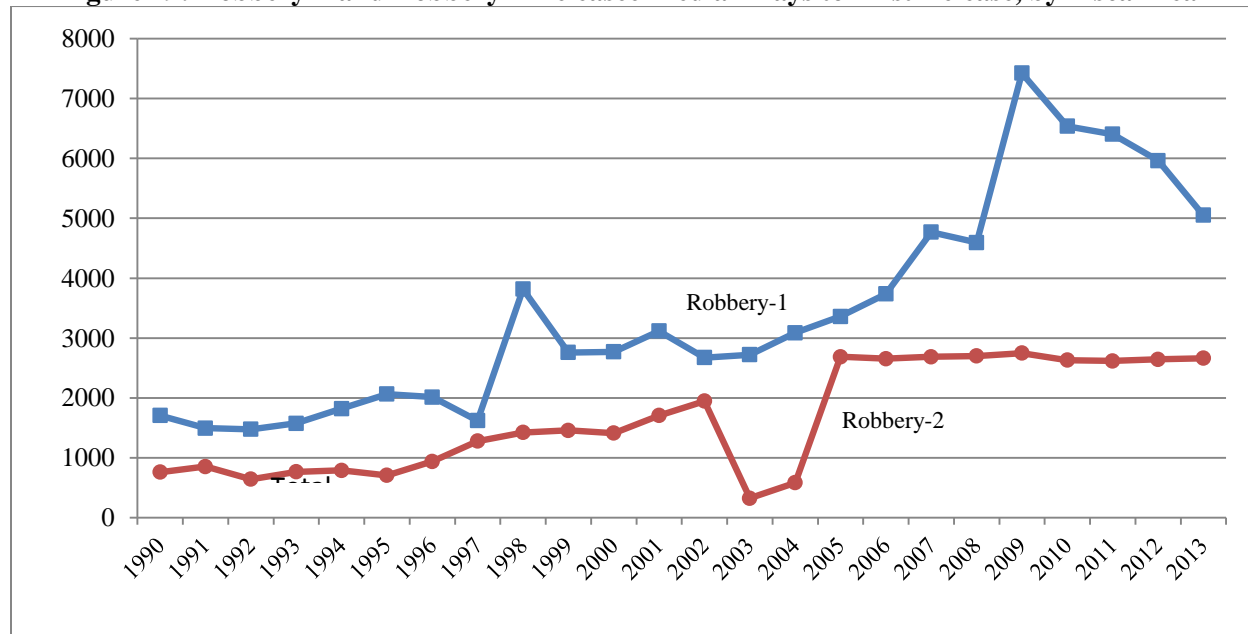


In FY1996, prior to implementation of VOI/TIS in Iowa, first-release inmates serving sentences for Robbery-1 averaged 1,636 days, or 4.8 years, prior to release. Those released on Robbery-2 convictions averaged 1,077 days, or 2.9 years. In FY2009-FY2010, the 93 Robbery-2 first-releases (under VOI/TIS convictions) served an average of 2,700 days. The only two Robbery-1 releases during that period were serving terms under pre-VOI/TIS convictions. Because of the existence of the mandatory minimum term for Robbery-1, the only offenders released prior to the expiration of 17.5 years will be leaving as the result of a court order, release to Interstate Compact, or death (with the one exception noted above). The first VOI/TIS Class B inmate will be eligible for parole consideration starting in April, 2014. The earliest expiration date for any of these Class B VOI/TIS inmates is in January, 2018.<sup>34</sup>

For reference purposes, the 33 inmates serving Class C Felony Vehicular Homicide sentences who were released in FY2009-FY2010 were released on pre-VOI/TIS convictions (this offense started being covered by the mandatory 70% minimum in 2003). Their average length-of-stay was 1,375 days, or 3.8 years. Anticipated length-of-stay for those sentenced under VOI/TIS will be at least 7.0 years.

While the length of stay for Robbery-2 has remained relatively stable since FY2005, it has drastically increased for Robbery-1 since FY1997. In FY2012, the median length of stay for Robbery-2 was 2,663 days, or 7.3 years prior to release, for Robbery-1 it was 5,053 days or, 13.8 years to release (with all three of these offenders sentenced under non-70% provisions). Given the mandatory minima, it is not possible for these figures to fall below 7.0 years (2,557 days) for Robbery-2 and 17.5 years (6,392 days) for Robbery-1. These figures are both well above the medians found prior to establishment of the minimum terms. Given the disproportionate African-American representation among robbers, these long terms also contribute to racial disproportionality in Iowa's prison population. This will be addressed further later in the report.

**Figure 29: Robbery-1 and Robbery-2 Releasee Median Days to First Release, by Fiscal Year**



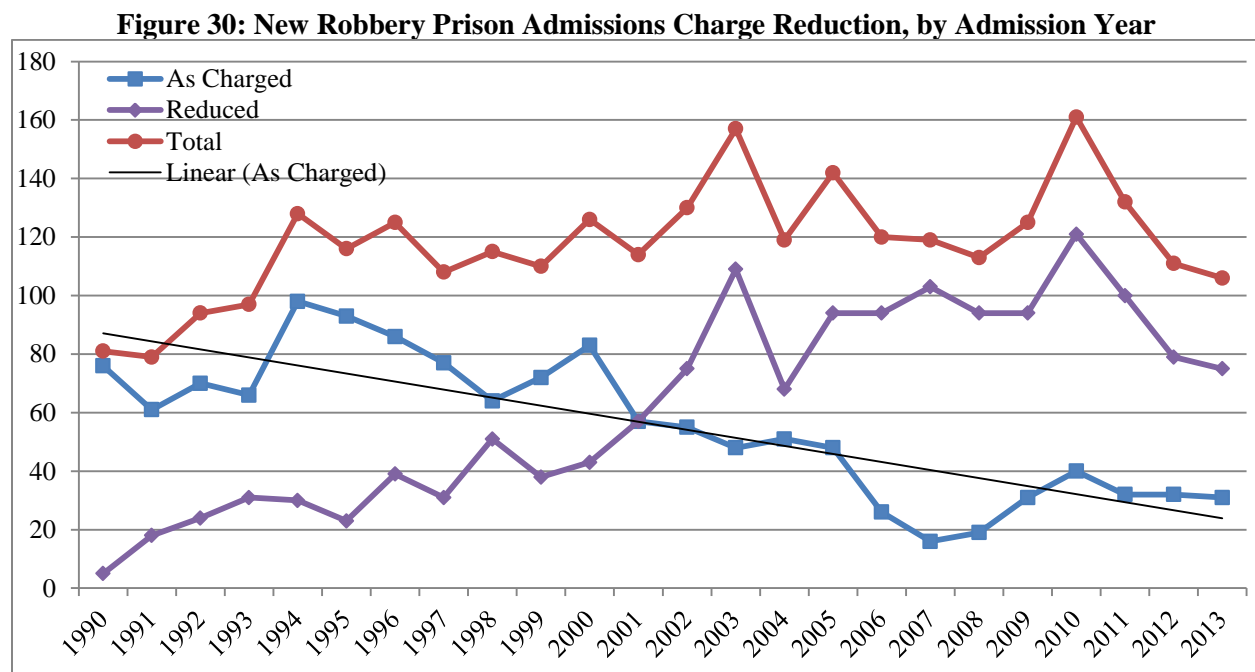
<sup>34</sup> There is one exception, a youth who entered prison at age 18 who had been sentenced as a youthful offender, with an expiration date during FY13. His offense had been committed at age 15, and as a youthful offender the mandatory minimum did not apply.

### ***Robbery Charges and Convictions Among Prison Inmates***

**Robbery Charges:** This analysis examines the robbery prison admission cohort (N=2,828) over time to examine changes in charging and plea negotiation practices prior to and following the enactment of the mandatory minimum statute sentences.

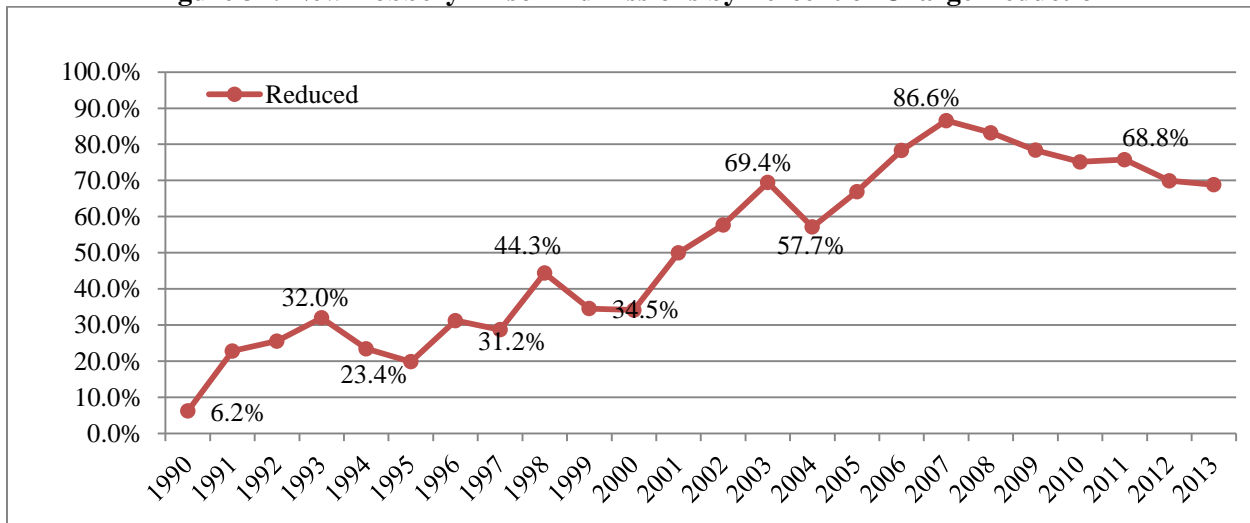
One of the claims made pertaining to the establishment of mandatory penalties is that, because of their mandatory nature, they're more likely than non-mandatory penalties to result in plea negotiation with criminal defendants. With a 20-year cohort of prison admissions for defendants charged with robbery, the current study offers an opportunity to study this contention. This is also another way to answer the question of whether the establishment of mandatory sentences ensures long incapacitation of those charged with offenses carrying mandatory terms.

Figure 30 shows admissions to prison among those charged with robbery since FY1990. The chart shows generally that the raw number of robbery charges resulting in admission to prison has increased since 1990. Note, however, that in the early 1990's most of those charged with robbery who entered the prison system were convicted of the offense with which they were originally charged, with a relatively small number of offenders entering prison on non-robbery offenses. Robbery convictions 'as charged' have decreased from FY1990-FY2013, but the number of reduced robbery charges has increased substantially. The result from this analysis suggests that the increase in reduced robbery charges may be likely influenced by the enactment of mandatory sentences



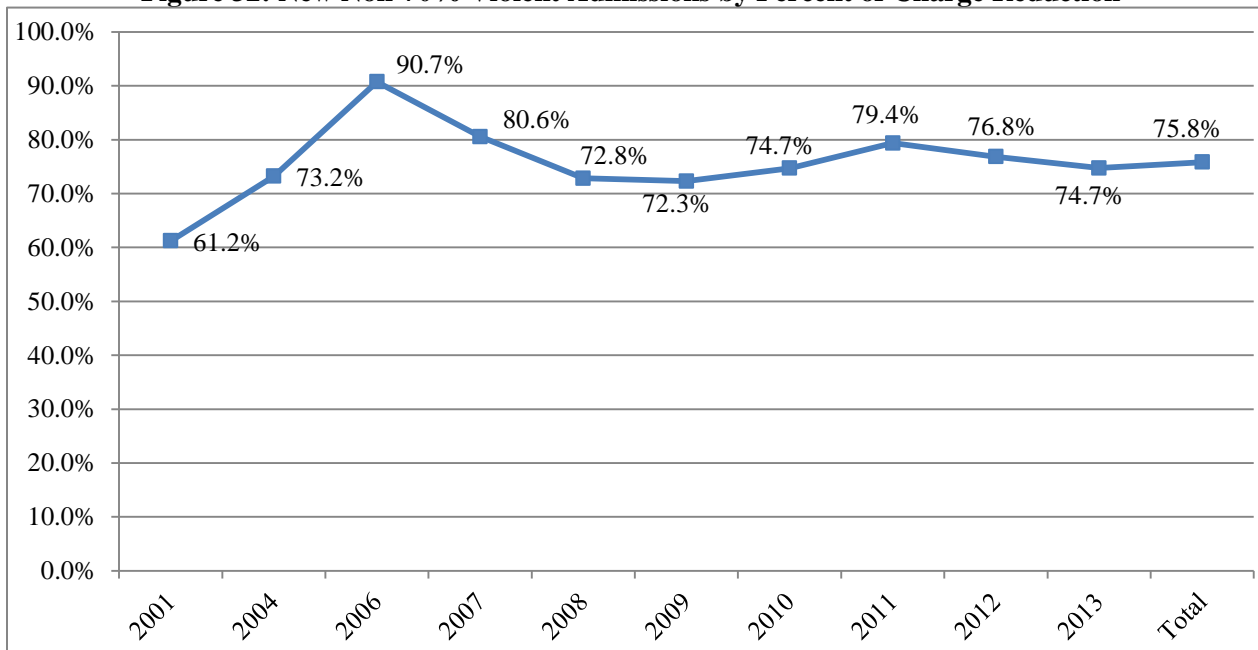
With the advent of the mandatory 85/70% terms in 1996, however, there was a decided trend away from charged robbers being convicted of the original charged offense. At the end of the studied period, in FY2013, it was much more common for those originally charged with robbery to be admitted to prison for a different offense. This is illustrated in another way in figure 31, below.

**Figure 31: New Robbery Prison Admissions by Percent of Charge Reduction**



The chart shows clearly that the extent to which charged robbers enter the prison system convicted of the offense with which they were originally charged has decreased since establishment of the mandatory term. While one is tempted to suspect the existence of a causal relationship between the two, an examination of violent non-70% admissions to prison is necessary to prove this point. An analysis of Class B and Class C non-70% offenses was conducted which examined prison admissions in FY2001 and from FY2004-FY2013. The resulting chart is presented below.

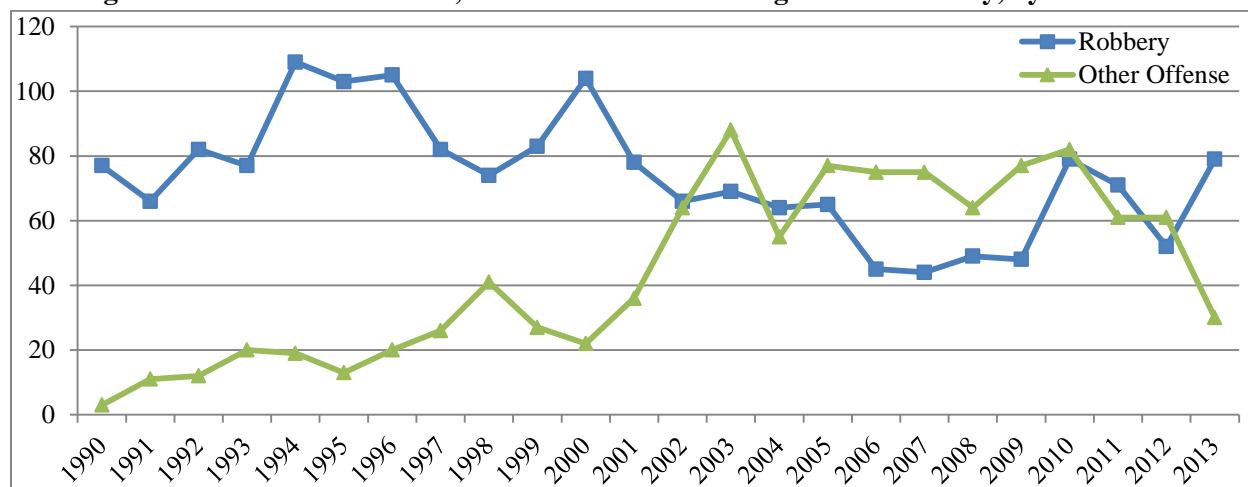
**Figure 32: New Non-70% Violent Admissions by Percent of Charge Reduction**



The chart immediately above covers a shorter time period than the chart preceding it due to the lack of reliable data on the non-70% violent crimes, but it is clear from the second chart that a high percentage of non-70% violent crime charges resulting in prison admission also are reduced at conviction. These crimes, the most frequent of which is Burglary-1 (a Class B Felony), are also violent crimes and have much in common with the 70% crimes. We are left to conclude that if establishment of the mandatory term has had an impact on plea negotiation, the impact is far from certain.

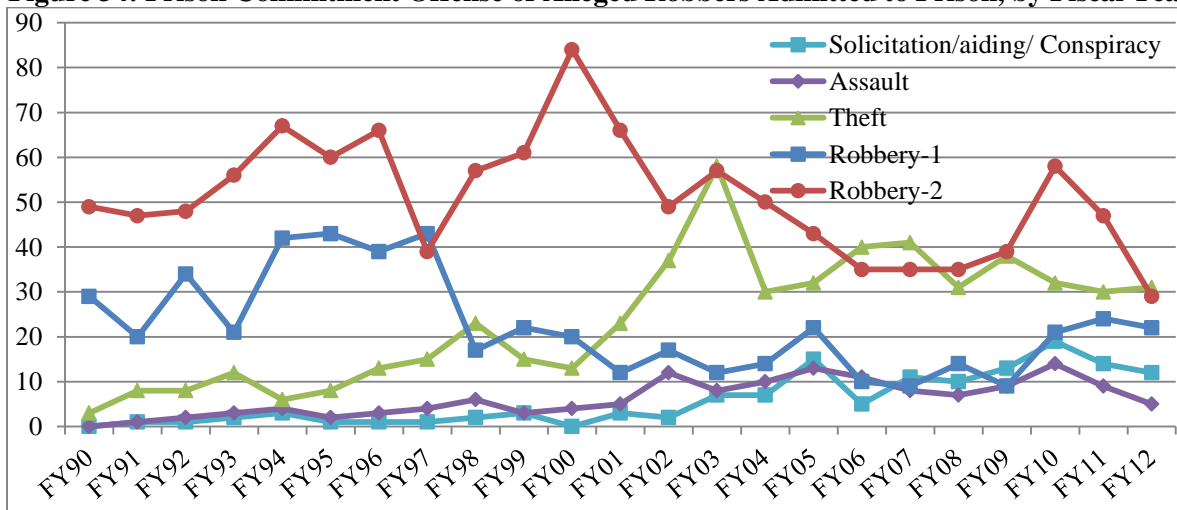
The plea negotiation phenomenon is examined further in the next two charts, the first of which shows the number of alleged robbers and whether they were admitted to prison on robbery or some other offense. The chart shows clearly that there has been a substantial change in conviction offenses since establishment of the 70% mandatory term. Since 2002 more alleged robbers have been admitted to prison on non-robbery offenses than on robbery (731 vs. 809). Again, however, one must be cautious in concluding that the change over time is causally related to establishment of the mandatory 70% term.

**Figure 33: Conviction Offense, Prison Admissions Charged with Robbery, by Fiscal Year**



The next chart provides more specificity as to the prison admission offense for this group, illustrating the most common admission offenses for those entering prison after originally being charged with robbery. The chart shows that the most common admission offenses over the period tended to be Robbery-2. It is evident, however, that following establishment of the mandatory 70% it became much more common to reduce robbery charges to theft offenses, with these theft admissions being more prevalent than Robbery-1 admissions beginning in FY2001, and occasionally outnumbering admissions for Robbery-2 as well. Note that admissions for assault offenses and conspiracy/ solicitation/aiding and abetting also increased following implementation of the 70% mandatory terms.

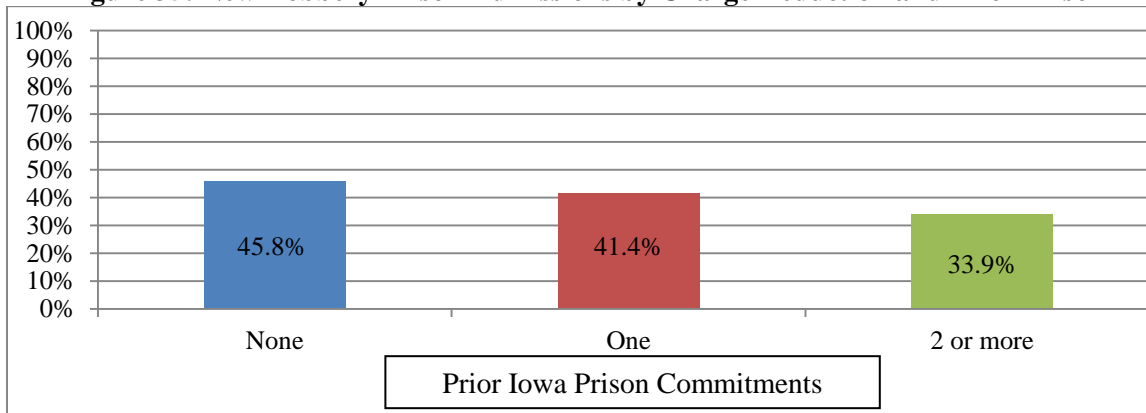
**Figure 34: Prison Commitment Offense of Alleged Robbers Admitted to Prison, by Fiscal Year**



As the final step in analyzing charge reduction, we examined charge reduction with regard to prior Iowa incarceration. The prison admission cohort originally charged with robbery was split into three groups

based upon prior Iowa prison commitments. Findings suggest that, while charge reduction was most common for those with no prior Iowa prison commitments (45.8 percent reduced), even about one-third of those with multiple prior commitments entered prison on the current offense under reduced charges.

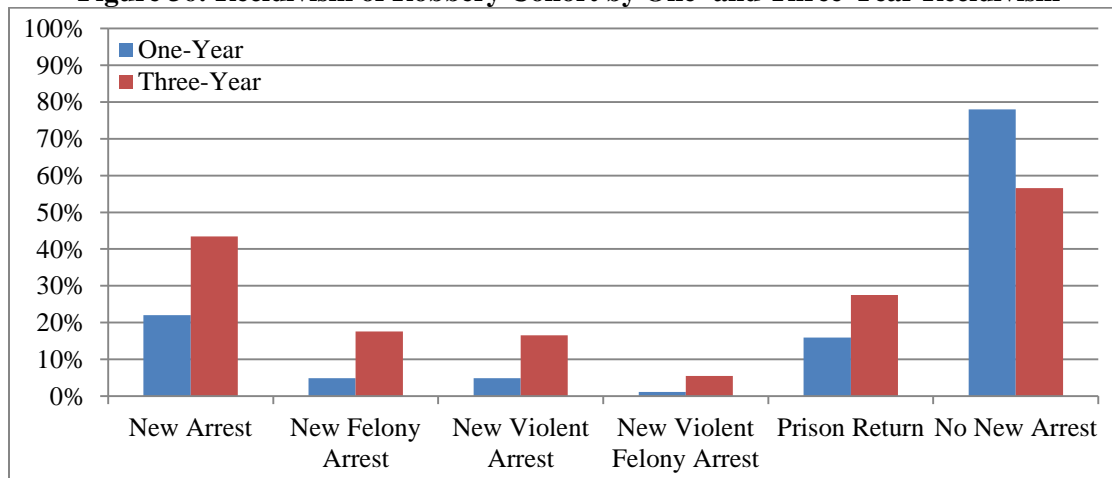
**Figure 35: New Robbery Prison Admissions by Charge Reduction and Prior Prison**



### ***Recidivism of Robbery Cohort***

Recidivism was measured at one and three years for robbery offenders exiting prison between 7/3/2006 and 5/15/2010. Recidivism information was acquired through the Iowa Computerized Criminal History (CCH) system, extracting arrest records. Two hundred-fourteen offenders were initially included in this cohort, but 25 were excluded due to the absence of a DCI or FBI number (a necessary component when using CCH data). An additional four offenders were omitted because their prison exit date did not allow for a full three years of tracking at the time recidivism information was collected. Three additional offenders were omitted because their exit from prison was due to death. The final sample included 182 offenders. All of these offenders had been committed to prison on convictions for Robbery-2.

**Figure 36: Recidivism of Robbery Cohort by One- and Three-Year Recidivism**



**Table 35: Recidivism of Robbery Cohort by One- and Three-Year Recidivism**

	One Year		Three Year		Total
	N	%	N	%	N
New Arrest	40	22.0%	79	43.4%	182
New Felony Arrest	9	4.9%	32	17.6%	182
New Violent Arrest	9	4.9%	30	16.5%	182
New Violent Felony Arrest	2	1.1%	10	5.5%	182
Prison Return	29	15.9%	50	27.5%	182

Released offenders had the highest amount of recidivism in the area of a new arrest at one (22.0%) and three years (43.4%). The likelihood that an offender would recidivate by way of either a new felony or violent arrest was low at one-year (4.9%), rising to 16-17% by the third year. Sixteen percent of the sample had returned to prison within the first year, a figure which rose to 27% by year three. Prison returns included parole and work-release revocations as well as new commitments. An offender need not have been convicted of a new charge to return to prison.

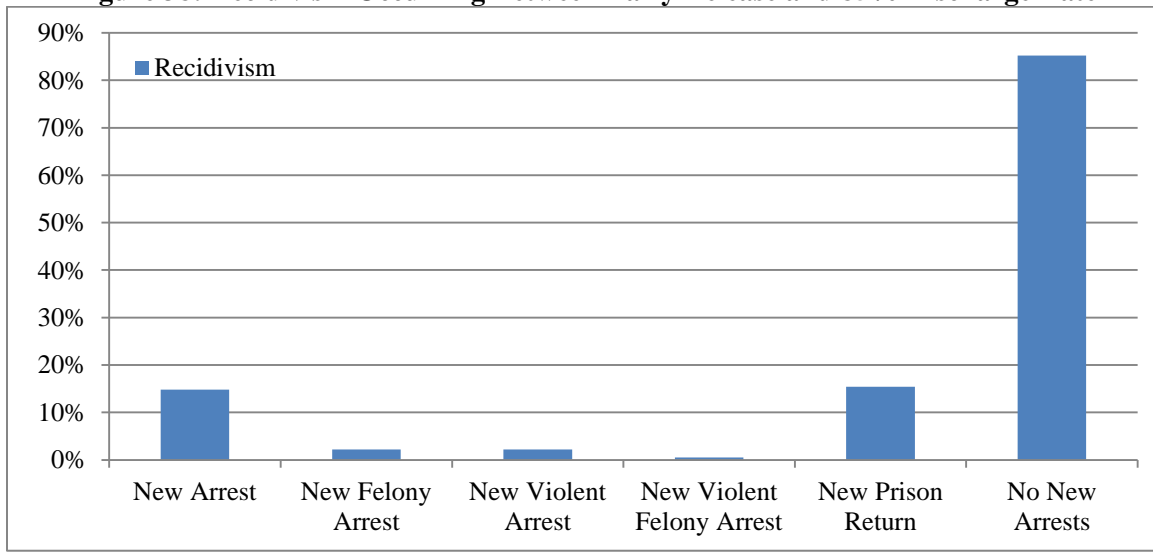
A report on violent offender recidivism released by CJJP in 2003 examined Iowa prison releases in FY1996, 1998, and 2000, using the same criteria as above in defining recidivism. The robbers followed in that study would not have been subject to the 70% mandatory minimum, as their convictions predated establishment of the mandatory terms. The Department of Corrections also acknowledges a drop in recidivism among all inmates since that period, but the comparison is still instructive. Note that the more recent group of releases showed lower rates of recidivism in virtually every category (with the only exception being one-year rate of returns to prison, which is likely due to parole and work release revocations).

**Figure 37: 2003 Violent Offender Recidivism Report: Recidivism of Robbery Offenders Released from Iowa Prison**

Criterion	Crime	N	Year 1	Year 3
Any New Arrest	Robbery-1	90	32.2%	64.4%
	Robbery-2	174	33.3%	67.8%
Any New Felony Arrest	Robbery-1	90	18.9%	44.4%
	Robbery-2	174	17.2%	40.2%
New Violent Arrest	Robbery-1	90	15.6%	34.4%
	Robbery-2	174	15.5%	36.8%
New Violent Felony Arrest	Robbery-1	90	10.0%	27.8%
	Robbery-2	174	9.8%	26.4%
Prison Return	Robbery-1	91	17.6%	47.3%
	Robbery-2	176	15.9%	41.5%

Additional recidivism data were examined to determine the extent to which the change from “flat” 85% sentences to the possibility of release at 70% jeopardized public safety. The chart and figures below assess recidivism which occurred between an offender’s prison exit and their original 85% discharge date. This analysis provides insight into the number of crimes that would otherwise not have been committed had these offenders not had the opportunity for early release.

**Figure 38: Recidivism Occurring Between Early Release and 85% Discharge Date**



**Table 36: Recidivism Occurring Between Early Release and 85% Discharge Date**

	N	%
New Arrest	27	14.8%
New Felony Arrest	4	2.2%
New Violent Arrest	4	2.2%
New Violent Felony Arrest	1	0.5%
New Prison Return	28	15.4%
No New Arrests	155	85.2%
Total	182	

The majority of offenders did not have a new arrest between their actual release and their 85% discharge date, suggesting that the establishment of the “window” for release between 70% and 85% had little impact on public safety.

### ***Racial Implications of the 70% Mandatory Minimum Sentence***

This final section examines racial aspects within the robbery prison admission cohort analyzed previously. The initial portion of this analysis presents Uniform Crime Report data on robbery arrests in Iowa, followed by offender-based data on convictions from the Iowa Court Information System. The final portion identifies the number of African-Americans admitted to prison by sentence type from FY1997-FY2013 following enactment of the mandatory sentencing statute and then examines conviction discrepancies by race and their influence on the African-American prison population using the robbery prison admission data from 2/13/1970-6/29/2013 by period.

The Public Safety Advisory Board (PSAB) suggests interpreting the results of this report with caution. This report indicates that robbery in Iowa is frequently committed by African-Americans, as suggested by arrest data. Data pertaining to prison admissions for robbery also indicate a high percentage of African-Americans. While this high rate of incarceration may suggest to some that Iowa's justice system is discriminatory, we have found little evidence of that here, as rates of conviction and charge reduction appear similar for African-Americans and Caucasians.

The table immediately below and the accompanying chart show the number of African-American arrests for robbery in Iowa, as reported by the Uniform Crime Reports:

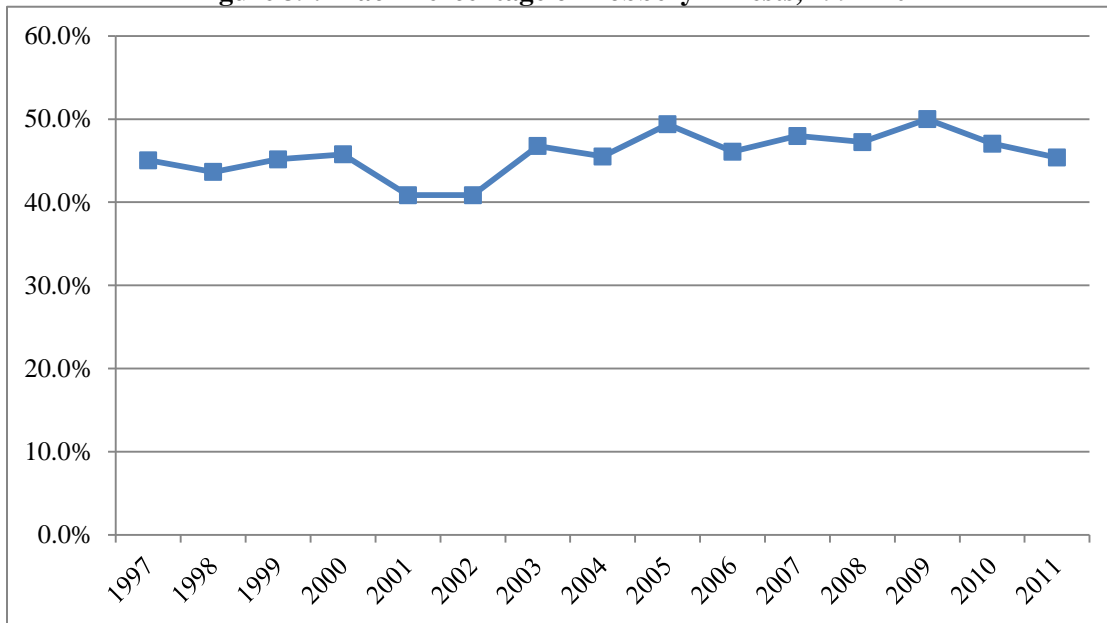
**Table 37: Total Robbery Arrests in Iowa, 1997-2011**

UCR Robbery Arrests			
Year	Total	Black	Percentage
1997	373	168	45.0%
1998	362	158	43.6%
1999	392	177	45.2%
2000	330	151	45.8%
2001	350	143	40.9%
2002	426	174	40.8%
2003	385	180	46.8%
2004	389	177	45.5%
2005	403	199	49.4%
2006	345	159	46.1%
2007	419	201	48.0%
2008	417	197	47.2%
2009	448	224	50.0%
2010	304	143	47.0%
2011	227	103	45.4%
+97-02	2,233	971	43.5%
+03-11	2,952	1,403	47.5%
Total	5,343	2,451	45.9%

Source: Iowa Uniform Crime Reports

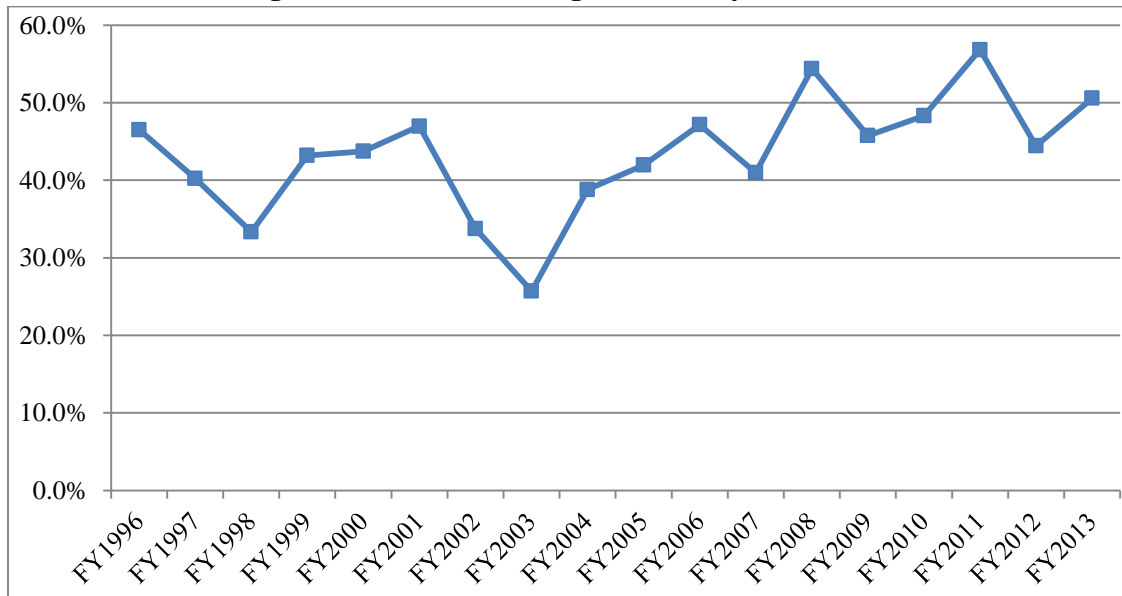


**Figure 39: Black Percentage of Robbery Arrests, 1997-2011**



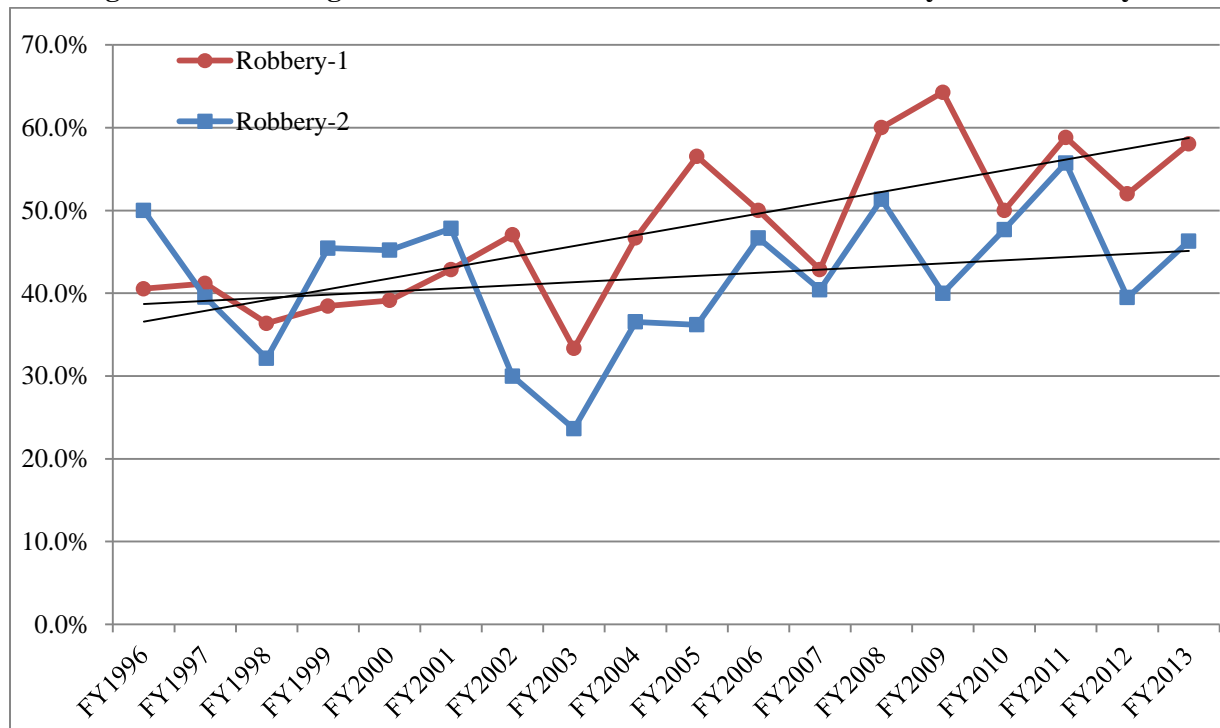
The next table illustrates the percentage of total robbery convictions accounted for by African-Americans in Iowa. Note that the conviction percentages fall in the same range as the arrest percentages.

**Figure 40: Black Percentage of Robbery Convictions**



The final chart pertaining to adjudication shows the African-American percentage of Robbery-1 and Robbery-2 convictions in Iowa between FY1996 and 2013. This information, coming from the Justice Data Warehouse, suggests that the African-American percentage of Robbery-2 convictions has risen slightly over the period, while a larger increase has occurred in the percentage of Robbery-1 convictions. The trend lines for each show the extent of change over time.

**Figure 41: Percentage of African-American Convictions for Robbery-1 and Robbery-2**



The table immediately below shows that African-Americans have been overrepresented among those entering prison after being charged with robbery, regardless of whether the original offense was Robbery-1 or Robbery-2. Note also, however, that the following table, which shows the type of sentence resulting from the original robbery charge, shows that African-Americans have been significantly more likely to be convicted of an offense resulting in a 70% sentence. Please note that the information below refers to offenders admitted to prison between 2/13/1970- 6/30/2012.

**Table 38: New Prison Admissions Stemming from Robbery Charges, by Race**

	Robbery-1		Robbery-2		Total	
	N	%	N	%	N	%
Caucasian	888	55.7%	909	55.8%	1,797	55.7%
African-Americans	668	41.9%	682	41.8%	1,350	41.9%
Other	38	2.4%	38	2.3%	76	2.4%
Unknown	0	0.0%	1	0.1%	1	0.0%
Total	1,592	100%	1,630	100%	3,224	100%

*\*Significant at a 95% confidence interval.*

**Table 39: New Prison Admissions Stemming from Robbery Charges, by Race and Sentence Type**

	70% Sentence		Non-70% Sentence		Total	
	N	%	N	%	N	%
Caucasian*	512	49.8%	1,284	58.5%	1,796	55.7%
African-Americans*	482	46.9%	867	39.5%	1,349	41.9%
Other	33	03.2%	43	2.0%	76	2.4%
Unknown	1	00.1%	0	0.0%	1	0.0%
Total	1,028	100%	2,194	100%	3,224	100%

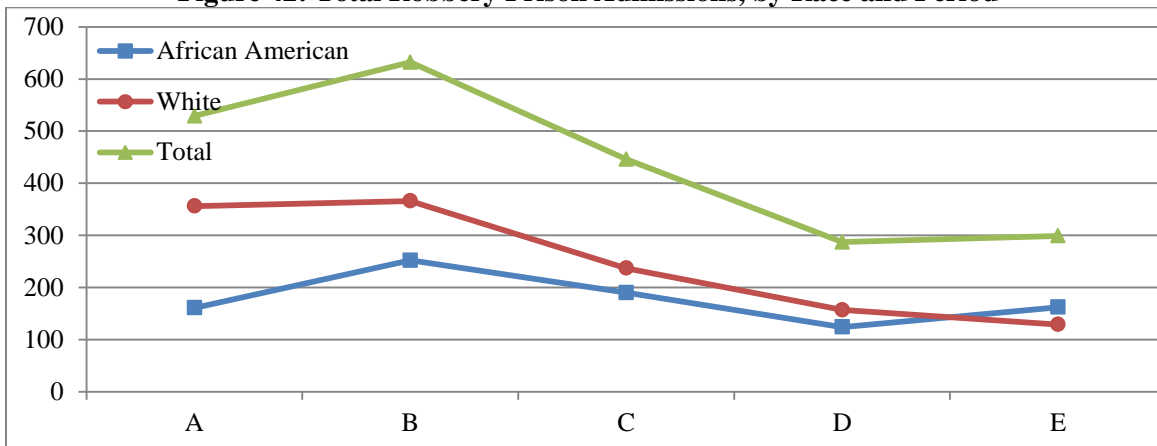
*\*Significant at a 95% confidence interval.*

There were no significant differences in the racial make-up of the arresting Robbery-1 and Robbery-2 cohorts, but African-Americans were overrepresented in both groups. Caucasians had higher percentages of both Robbery-1 and Robbery-2 arrests compared to African-Americans but, African-Americans received 70% sentences at significantly higher rates than Caucasians (46.9% vs. 39.5%).

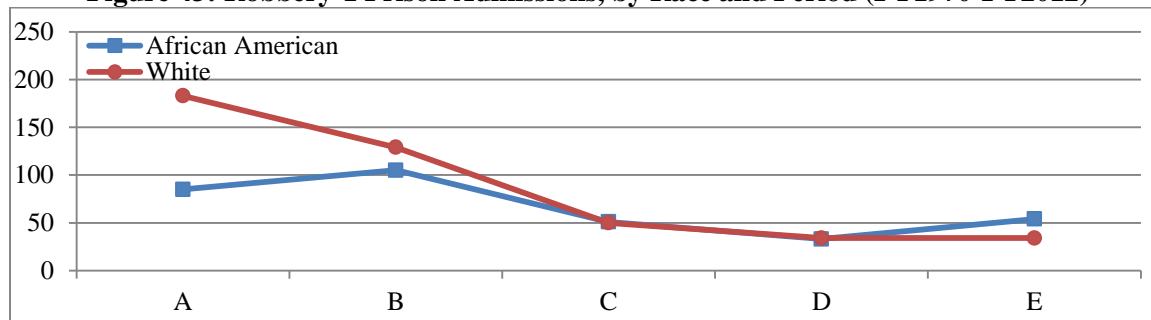
Specifically observing robbery prison admissions, we also see a higher proportion of African-Americans entering prison in recent years for Robbery-1 and Robbery-2. Should this trend continue, we can expect Iowa's prison population to continue to grow in the number of African-Americans, especially those charged with Robbery-1 as the length-of-stay is continually greater than Robbery-2.

The following charts include information specifically on conviction trends for Robbery-1 and Robbery-2 individually, by race. The number of Robbery-1 convictions declined initially from period A-C for both African-Americans and Caucasians, but has remained somewhat stable for the past 15 years. However, the number of African-Americans entering prison on Robbery-1 convictions during the most recent period has surpassed that of whites. Prison admissions resulting from Robbery-2 convictions have been declining since period B. However, the discrepancy between white and African-American admissions has slowly decreased as the number of white offenders decreases and black offenders increase. In the final the number of African-Americans entering prison on Robbery-2 convictions exceeded that of Caucasians.

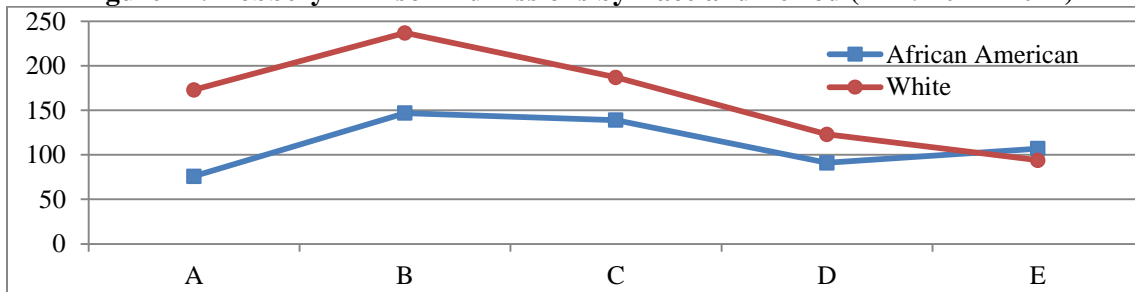
**Figure 42: Total Robbery Prison Admissions, by Race and Period**



**Figure 43: Robbery-1 Prison Admissions, by Race and Period (FY1970-FY2012)**

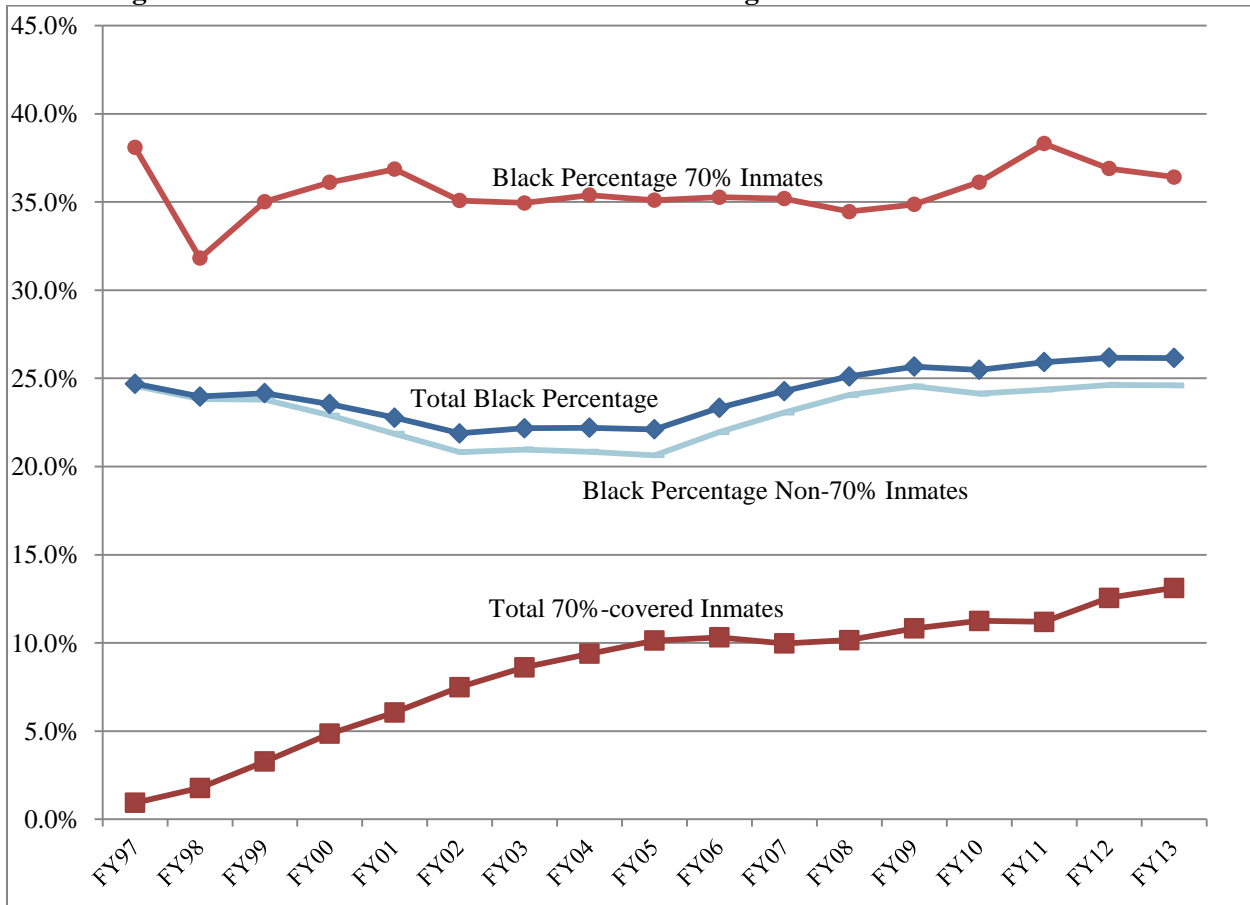


**Figure 44: Robbery-2 Prison Admissions by Race and Period (FY1970-FY2012)**



The chart below shows the African-American percentage of 70% inmates, non-70% inmates, and all inmates, and illustrates that, historically, African-Americans have entered prison on charges associated with 70% offenses at higher rates than non-70% offenses. In addition, the chart illustrates the percentage of the inmate population covered by 70% sentences. After a period of stability between FY2005 and FY2008, the percentage of 70% inmates in the population has begun rising again, and is expected to continue rising until at least 2021. With this rise in 70% inmates and the high percentage of African-Americans among 70% inmates, it will be extremely difficult for Iowa to reduce its disproportionate rate of African-American incarceration for the foreseeable future absent some vehicle to permit earlier release of 70% inmates.

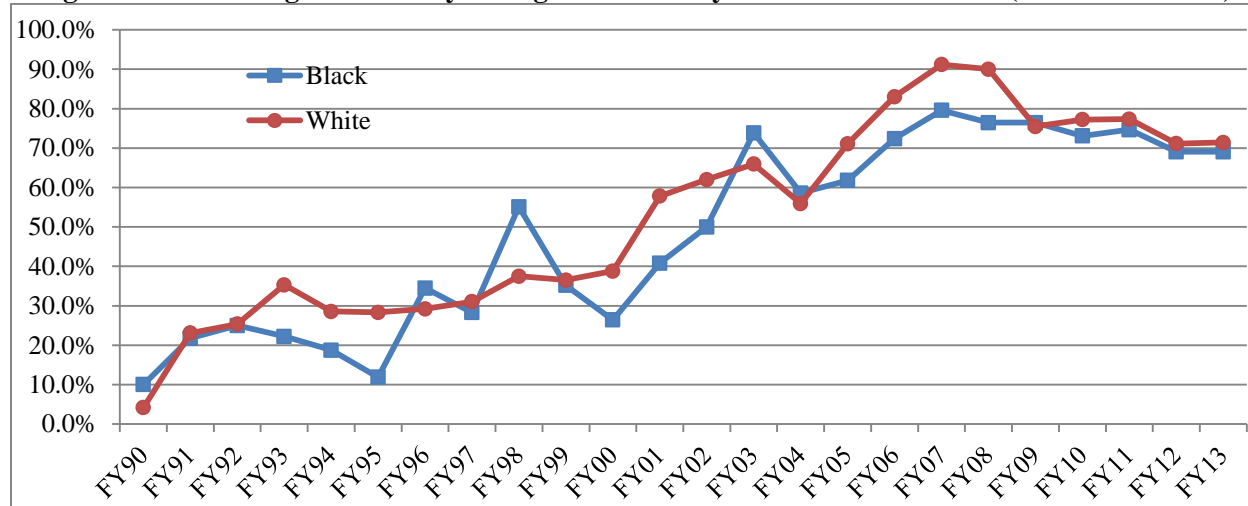
**Figure 45: African-Americans End-of-FY Percentage of 70% and non-70% Inmates**



As a final note, as previously indicated, the percentage of reduced robbery charges rose between FY1990 and FY2013, most substantially following enactment of the 70% mandatory sentence statute. Similar

percentages of African-Americans and Caucasians have entered prison after having been convicted of reduced charges after an arrest for robbery, although there were only four years during the period in which the percentage of reduced charges was higher for African-American admissions. Nonetheless, the trends for both races are similar.

**Figure 46: Percentage of Robbery Charges Reduced by Race and Fiscal Year (FY1990-FY2013)**



Finally, the chart below presents information on the amount of time served in prison prior to release for those convicted of Robbery-2. No data on Robbery-1 releases is presented because too few have been released under the 70% provisions to permit valid comparison. The chart first shows that there has been a demonstrable change in the amount of time spent in prison by those convicted of Robbery-1. Perhaps more important, however, the chart shows similar patterns for white and black offenders. While the increase in average time served may have a disproportionate impact on African-American offenders because of their over-representation among robbery offenders, it appears that white and black robbers have similar length-of-stay in Iowa's prisons.

**Figure 47: Median Length of Stay in Days for Robbery-2, by Pre- and Post-70% Law, by Race**

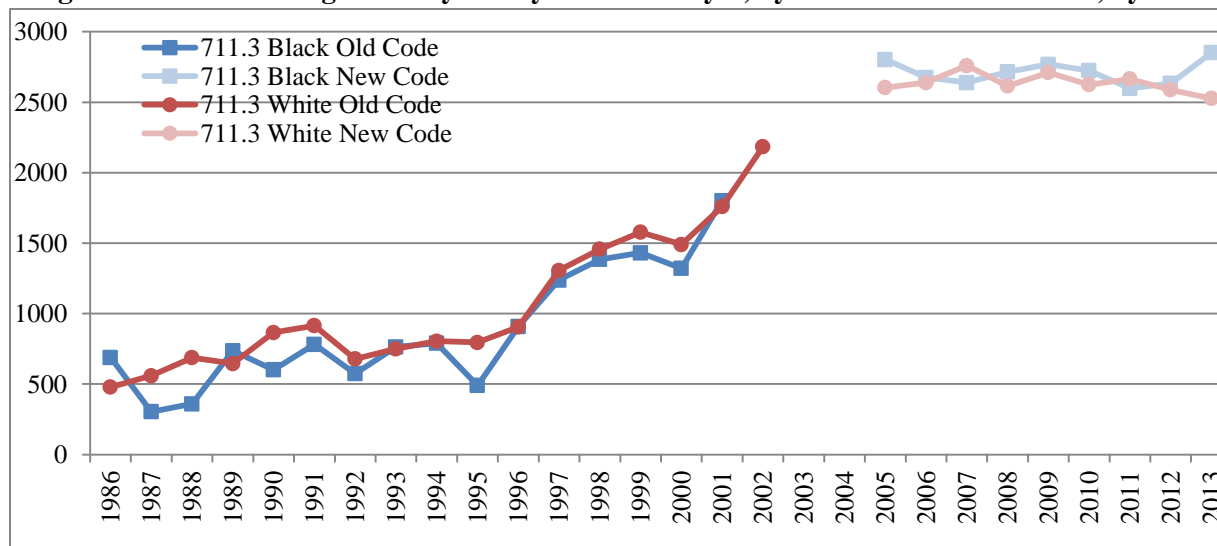


Chart includes only those years with five or more releases

## X. Conclusion and Discussion

The findings of this report suggest that the existence of mandatory minimum sentences has ramifications throughout the justice system. While it is not clear if the existence of mandatory minimum terms has an actual impact on the incidence of the proscribed crimes, it is evident from the analyses here that charging practices and court dispositions changed markedly in Iowa following establishment of 70% mandatory minimum terms. Analysis of imprisoned offenders originally charged with robbery indicates that most offenders admitted to prison prior to the establishment of the mandatory minimum were convicted of the originally-charged offense, while a substantial majority of those imprisoned after establishment of the mandatory term came to prison convicted of reduced charges. While it is not clear that these changes have been caused by the establishment of the mandatory minimum term, it is likely that a relationship exists.

While some might argue that the exercise of discretion in offering reduced charges is selective, benefitting only those who don't "deserve" a long mandatory sentence, data here suggest that the extensiveness of an offender's criminal history, or use of a weapon, are only marginally related to whether an offender originally charged with robbery enters prison on reduced charges.

Prosecutorial discretion can justifiably divert some individuals who may not pose a high risk to the public from serving extended prison sentences. Some studies argue that this discretion can positively influence the varying disparities in mandatory minimum sentencing in that prosecutors can use their discretion to seek lesser charges which circumvent mandatory minimum sentencing for some offenders.<sup>35</sup> This report found evidence to support this claim, as the number of reduced robbery charges has been steadily increasing. Along with this finding, this analysis also found several other interesting findings summarized in the text below.

The over-representation of African-Americans in Iowa's prison population has been an ongoing issue for many years. Results here show that African-Americans are disproportionately represented among those entering prison as the result of robbery charges. Higher rates of African-Americans enter prison on 70% sentences than on other charges not carrying mandatory sentences. The combination of this high percentage and long mandatory minimums has resulted in a gradually increasing percentage of African-Americans in Iowa's prisons long after Iowa was recognized as having one of the Nation's highest rate of African-American imprisonment. While this report has not suggested the existence of any biased decision-making pertaining to robbery offenses, the disproportion is nonetheless unsettling.

The 70% mandatory minimum sentence was established under the assumption that offenders receiving mandatory sentences were greater threats to public safety than other offenders. Lengthy incapacitation of these offenders, it was thought, was justified both due to the seriousness of the crimes of which they were convicted and the threat they represented to public safety. Examination of demographic and criminal history variables suggests that the 'threat' component of this assumption is not uniformly true. An analysis of scores on the Level of Service Inventory-Revised (LSI-R), a validated risk assessment tool used by the Iowa Department of Corrections to assess offender risk, indicated that offenders who were admitted to prison in FY 2013 on 70% sentences were actually less likely to be assessed at high risk than offenders in the general prison population. In fact, 20.2% of those serving 70% sentences were assessed at low-moderate risk compared to only 6.7% of other prisoners. Further, the criminal history sub-score on the LSI-R indicated that the 70% group also had fewer prior convictions. When one restricts comparisons to inmates serving 70% sentences and other violent felony offenders, we find that individuals serving

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<sup>35</sup> Bjerk, David. (2004). Making the Crime Fit the Penalty: The Roles of Prosecutorial Discretion Under Mandatory Minimum Sentencing. *Journal of Law and Economics*, Vol. 48, No. 2.

non-70% sentences had higher LSI-R scores than those serving 70% sentences. Similarly, offenders serving 70% sentences had significantly lower-criminal-history sub-scores than violent felony offenders.

Another surprising finding relates to the age of offenders entering prison on 70% sentences. Among the age categories studied in the report, a significantly higher percentage of those serving 70% sentences in FY2013 were aged 18 and under (18.5% vs. 3.4%) at prison admission compared to those not serving 70% sentences. Among the 70% inmates admitted to prison during FY2013, disproportionality in age was also evident, as about thirty percent were aged 19-25, and just slightly more than one-third of those serving mandatory sentences for robbery had not completed high school, a rate that has gradually decreased over the time period studied.

Although the number of inmates serving Class C 70% sentences appears to have stabilized, the number of those imprisoned for 70% Class B felonies is forecasted to increase at least through FY 2023 due to the 17.5-year mandatory minimum sentence. This increasing population has a significant correctional and fiscal impact and will also eventually be a burden on community based corrections, as these offenders will face challenges making the transition into the community after lengthy incarceration.

Thoughtful consideration should be given to modifying mandatory sentences, including relaxing or eliminating the mandatory minimum requirement. Mandatory minimum sentences, when given to the highest risk offenders, may postpone their opportunities to offend; however, lengthy incarceration of lower risk offenders taxes correctional resources with little benefit to public safety. Utilizing validated risk assessment tools, such as the LSI-R, to assess offender risk based on criminogenic and social factors may provide a vehicle to aid prosecutorial and judicial decision-making.<sup>36</sup> While use of risk assessment is an accepted practice in Iowa in the corrections system, it is not yet an accepted practice in Iowa at sentencing. This body has previously recommended the use of validated risk assessment tools at sentencing, and there is nothing here to support changing that position.

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<sup>36</sup> Division of Criminal and Juvenile Justice Planning. (2011). Outcome of Mandatory Minimum Sentences for Drug Traffickers.

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