

State Legislation Monitoring Report:

FY2005

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

Richard G. Moore, Administrator

Primary Authors:
Phyllis Blood, MPA
Paul Stageberg, Ph.D

February, 2006



Introduction

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

- Changes in speed limits on rural interstates and raising the scheduled fines (effective FY2006; see p.4).
- Imposing civil penalties (fines) for offenders with deferred judgments (effective FY2006, see p.4).
- No “good time” if offender refused sex offender treatment (effective FY2006, see p. 5).
- Class A felony enhancement for second and subsequent sexual offenses with child victims (effective FY2006, see p.5).
- Lascivious acts with a child, changed classification and penalties (effective FY2006, see p.5).
- Child endangerment, co-habiting with a sex offender (effective FY2006, see p.6).
- Establishment of parole eligibility at 70% of time served for persons sentenced under the “85% law” provisions of *Iowa Code* Section 902.12. (effective FY2005; see p. 6).
- S.F. 169, Pseudoephedrine, and related methamphetamine issues (SF 169 effective May, 2005, various other dates, see p.8).

Summary of Findings

- ***Speed limits and scheduled fines.*** Speed limits were raised to 70 on rural interstate highways and the fines for violations on these roads were raised. Traffic fatalities were higher in 2005 than in 2004, but the analyses on cause and location have not been completed by the DOT. The number of violations is down slightly, while the amount of fines collected has increased.
- ***Deferred judgments and civil penalties.*** Offenders with deferred judgments are now to be assessed a civil penalty (fine) equal to the amount of fine allowed under the criminal statutes. During the first six months this policy was in force, the number of deferred judgments remained similar to the previous six-month period. The amount of the new civil penalties collected was \$213,853 out of an imposed amount of \$990,214.
- ***Effect of “no good time” for refusing sex offender treatment.*** More time needs to elapse before any effect of this policy change could be noticed.
- ***Class A penalty enhancement.*** No offender has been given the enhanced penalty since the effective date of the policy change.
- ***Lascivious Acts, C felony, offender age changes.*** There have been 9 case filings with charges under the new C felony classification out of 38 lascivious acts case filings under 709.8. No juveniles have been adjudicated for lascivious acts since July 1st.
- ***Child Endangerment, cohabitation.*** Data are not currently available to distinguish the circumstances for charges of child endangerment.
- ***“85%” law parole eligibility.*** During the 2004 legislative session, changes were made to Code sections dealing with what had previously been referred to as “85% sentences,” establishing parole eligibility at 70% for all inmates previously sentenced under these sections. The first of these inmates became eligible for release consideration in FY05. Through January 24, 2006, 63 inmates serving sentences covered by this provision had been released from Iowa prisons. Only 17 of these would have been released under the previous 85% provisions. Another forty inmates were eligible for release on January 24, and an additional 68 will become eligible for release during the remainder of FY06.
- ***Monitoring Pseudoephedrine and various methamphetamine data.*** FY2005 saw the first reduction in prison drug admissions in a decade, as well as a reduction in the percentage of drug-related commitments stemming from methamphetamine. These decreases continued in the first two quarters of FY06. Charges related to the possession of precursors showed a significant reduction in FY2006 compared to the same time period in FY2005. The number of meth labs discovered has dropped as well since the effective date of SF 169.

Scheduled traffic, speed limits and fine revenue.

The Legislature raised the speed limit on rural interstate highways to 70 miles per hour, effective July 1, 2005. As a part of this move, they also raised the scheduled fines for excess speed on these roadways. The three issues identified for monitoring are 1) changes in traffic fatalities on interstates, 2) convictions for speeding > 55, and 3) fines imposed and collected.

According to the DOT, the total number of fatalities was higher in 2005 than in 2004; however, the analysis into the causes of crashes and comparisons to previous years has not been completed. Therefore, at this time it is not known if the change in speed limits on rural interstate highways has had an impact on traffic fatalities.

There were two discussion points made during deliberations to raise the speed limit: motorists would be more compliant with the speed limits; and peace officers would strictly enforce the limit. Comparisons were made of the number of convictions for speeding violations between the first six months of FY2005 and the first six months of FY2006. The number of convictions for > 55 was down very slightly between the two periods (.9%), with all of the decrease attributable to the number of tickets written by local law enforcement. All speeding convictions (both over and under 55 mph) were down by 4,186 (5.3%) between the two periods. No inference can be drawn on the reasons for the overall reduction in the number of speeding convictions at this time.

The amount imposed for scheduled violations (primarily traffic) was \$826,690 higher during the first six months of FY2006 compared to the same time period last year. The collection amount on that imposed amount was \$405,016 higher. Collection rates were slightly lower in the FY2006 period. It should be noted that forthcoming annual statistics may show different results.

Civil penalties for deferred judgments.

The 2005 Legislature mandated the imposition of civil penalties (fines) for all offenders given deferred judgments equal to the fine allowed in the criminal code for that offense. This change was effective July 1, 2005.

There was a large increase in the number of deferred judgments between CY2004 and CY2005, nearly a 100% increase. The number was similar between the first half of 2005 and the 2nd half; the effective date for the civil fine requirement was July 1st. At this time it does not appear as if the mandated imposition of a civil penalty has affected the number of deferred judgments.

The policy change created a new set of fines, as in the past offenders with deferred judgments had their fines suspended. The amount of civil fines imposed during the July-December time period resulted in an imposed amount of \$990, 215, with a collection rate of 21.5%. It is assumed that the total fine would need to be paid prior to the release from

supervision, suggesting that there would be a delay between imposition of the civil penalty/deferred judgment and the final payment.

As might be expected, analysis suggests that the imposition of a civil penalty was applied to offenders whose cases began on or after July 1, 2005. There were 2,408 cases with deferred judgments that met the post-July 1 criteria, out of 5,466 deferred judgments entered during the July-December time period. Financial records show that there were 1,998 cases with a civil fine imposed. As a case may have more than one deferred judgment, these numbers appear consistent with the assumption that fines were imposed for offenders whose case was initiated after the law went into effect.

There were discussions about how non-payment of the civil penalty would be handled—as a cause to revoke the deferral or as a civil matter. At this time there is no indication of how non-payment of the civil penalty will be handled by the courts.

Effect of “no good time” for refusing sex offender treatment.

H.F. 619 eliminated the ability of sex offenders to earn “good time” if they refused to participate in sex offender treatment while in prison.

Typically there is a 6-month lag time from the effective date of a legislative change and when convictions under that change occur; in this instance this lag time between the effective date of the policy change and its impact will be longer. This requirement will apply to offenders who are convicted and sent to prison for offenses committed after July 1, 2005; treatment is usually provided toward the end of an offender’s prison time. Therefore, the first date for data to become available would be in FY2007, the earliest time that some offenders would be eligible for release from prison under this requirement.

Class A felonies for second and subsequent sex offenses.

H.F.619 created a new penalty (life in prison) for sex offenders who are convicted of a second or subsequent offense for selected crimes with child victims.

This provision was for enhanced penalties under Iowa Code chapter 902. No one has received the new enhancement since July 1st. As it is an enhanced penalty, not a separate criminal charge, a second conviction is necessary prior to the imposition of the life sentence.

Changes in Lascivious Acts.

H.F. 619 increased selected types of lascivious acts (709.8) to a C felony, and lowered the age limit for offenders from 18 to 16.

Since July 1st, there have been 38 case filings in total for lascivious acts with 9 filed as a C felony charge. As more FY2006 conviction data becomes available, the convictions and dispositions of charges for 709.8 will be analyzed to determine the impact of the new Class C felony..

Prior to July 1st, an individual had to be at least 18 to be charged with lascivious acts. Changing the age to 16 did not require a minor to be tried in adult court, but did allow for the charge of lascivious acts to be made. There have been no juvenile adjudications since July 1st for any portion of 709.8.

Child Endangerment

H.F. 619 established a new definition for child endangerment, cohabiting with a sex offender if children were present in the home.

Although there have been news reports of instances where these charges have been filed, at the present time the coding structures in the Iowa Court Information System (ICIS) have not distinguished the reason for child endangerment charges. The Judicial Branch will be asked to modify the coding in the ICIS to enable the identification of the various definitions of child endangerment within the general charge.

Impact of SF 2275 (2004), parole eligibility at 70% for 85% sentences.

Provisions: Effective beginning in FY2005, all persons sentenced under “85% law” provisions of *Iowa Code* Section 902.12 automatically became eligible for parole after serving 70% of their maximum terms. Release of these inmates is discretionary by the Board of Parole until the sentence expires at 85% of the maximum term.

Monitoring Plan: A list of all persons sentenced under the “85% law” has been compiled which includes the tentative discharge date and the inmate’s parole eligibility date. This file is updated periodically to determine which of the eligible inmates have been released and whether any have returned to prison.

Impact to Date: As of 1/24/06, 63 offenders serving 85 percent sentences have been released from Iowa prisons. Of these 63 inmates, 17 would have been released by 1/24/06 under the original 85 percent law. The remainder would still be incarcerated.

Thirty-seven of the releases have gone to work release and 41 to parole (17 were paroled after originally going on work release and one was paroled, returned, and then released to work release). Three offenders were discharged directly from prison without having gone to either parole or work release.

Time served reductions resulting from the change from 85 percent to 70 percent parole eligibility ranges from zero inmate-days to 594 inmate-days, with the median reduction being 345 inmate-days. This suggests that the average offender serving a 70% sentence was released about one year earlier under the new provisions than he or she would have been previously. The overall reduction of time served since the change to 70 percent is 20,639 inmate-days. This figure accounts for six inmates who have been returned.

Inmates released to parole or work release under this new policy stayed in prison for an average of 199 days past the date they were eligible for release (when they had served 70 percent of their sentence). Six of these inmates have been returned to prison, although it appears that none were returned due to new convictions. One was re-released (to work release) four days after being returned.

There are currently 40 inmates serving 70% sentences who are eligible for release. Another 68 inmates will become eligible for release during 2006 as they pass their parole eligibility dates.

Estimated Long-Term Impact. CJPJ analysis of the potential correctional impact of the change effected under HF2275 suggests that the impact of the change is greatest in the short term, at least until potential release of Class B 85% inmates starts in late FY2014. The table below shows the estimated reduction in prison population resulting from the change to parole eligibility at 70%:

Estimated Population Reduction	
Fiscal Year End	Reduction
2006	36
2007	50
2008	55
2009	36
2010	42
2011	31
2012	20
2013	20
2014	12
2015	3

While it may not appear intuitive that the population decrease would diminish in the later years, one must remember that 85% sentences handed down for acts committed on or after July 1, 2003 had **already** been modified to permit parole consideration at 70%. The change occurring due to the passage of HF2275, therefore, will have no impact on these inmates. This accounts for the gradual reduction in impact after 2010.

After 2015 the impact of SF2275 again becomes significant, as those sentenced under 85% Class B provisions become eligible for parole consideration. The first of these offenders becomes eligible for release in 2014, but, assuming release midway between

expiration of the mandatory term and expiration of sentence, none are projected for release until 2016. As of June 30, 2005, there were 369 of these inmates housed in Iowa's prisons, 48 of whom were committed to prison in FY05. The potential impact of sentence reduction for these Class B inmates is greater than is the case for the Class C 85% commitments, as the possible reduction for the latter inmates is 18 months per inmate, while the same figure for Class B offenses is 45 months for 25-year terms and 90 months for 50-year terms.

S.F. 169, Pseudoephedrine, Related Methamphetamine Impacts

S.F. 169 made significant changes in the availability of products containing pseudoephedrine, a major ingredient in the manufacturing of methamphetamine. The act also repealed some previous provisions relating to the sale of products over the counter, eliminating one item included in earlier monitoring reports. Because of the number of meth issues that S.F. 169 was intended to address, all methamphetamine issues are included in this section.

Enhanced penalty, manufacturing meth in the presence of a minor. Since July 1st, there has been one charge filed for manufacturing meth in the presence of a minor. During FY2005 there were 2 convictions for the same charge.

Prison admissions. *Monitoring Plan.* Due to the significant impact of methamphetamine in Iowa, CJP staff were directed to compile regular data on the impact of its use on Iowa's prison population.

In response, data were collected from the Iowa Corrections Offender Network (ICON) on inmates admitted for drug offenses during state FY2005 and for the first half of FY2006. Data were collected on the type of drug involved in drug offenses for all incoming inmates whose lead charge involved drugs

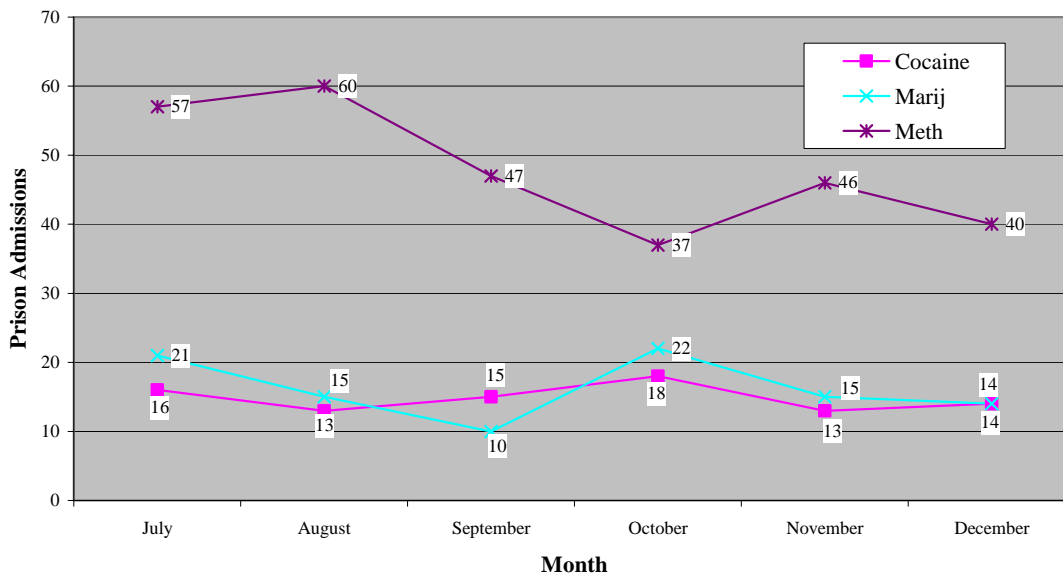
Impact to Date. The table below shows the primary controlled substance resulting in commitment for drug-related offenses during state FY2005 and the first two quarters of FY06. It shows that methamphetamine was involved in far more commitments than any other type of controlled substance throughout the fiscal year, with marijuana being next most likely to result in commitment. During the first quarters of FY06, however, the number of meth-related commitments has dropped.

Drug Involved in New Drug Commitments to Prison, by Quarter

Drug	FY05				FY06	
	1	2	3	4	1	2
Amphetamine	5	1	3	0	0	2
Cocaine	35	28	39	43	44	45
LSD	0	0	0	1	1	0
Marijuana	50	34	46	42	46	51
Methamphetamine	170	170	180	173	164	123
Other	9	13	4	7	8	1
RX	1	0	1	0	0	1
Unknown	1	1	0	0	0	2
Total	270	247	272	266	263	225

Monthly figures for FY06 are shown below:

Drug Involved in Most Serious Offense, FY06



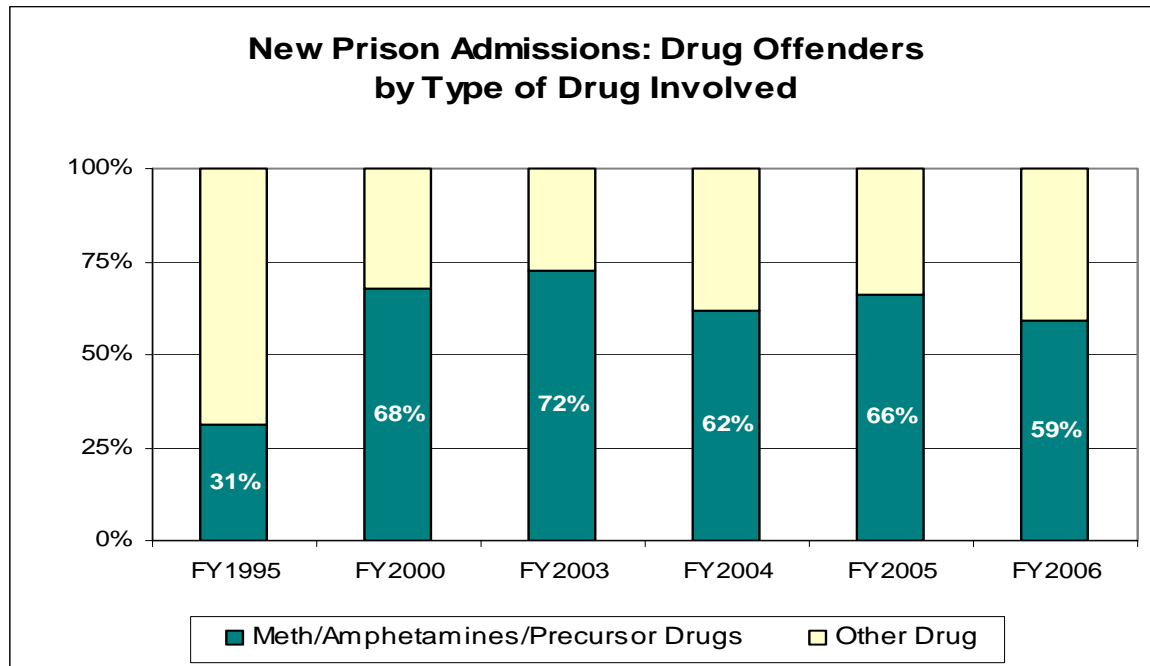
The monthly trend would suggest that the meth-related percentage may continue to drop during FY06.

To put this information into some perspective, the table below shows that admissions of inmates whose most serious crimes were drug-related dropped slightly in FY2005, the first such drop in ten years.

New Admissions to Iowa Prisons, FY2000-FY2005, by Lead Offense Type

Offense Type	Fiscal Year					
	2000	2001	2002	2003	2004	2005
Drug	839	904	966	1,096	1,110	1,055
Order	94	106	146	155	132	142
OWI	344	302	262	284	261	242
Property	1,043	1,059	1,070	1,130	1,070	1,044
Sex	208	269	258	235	214	261
Traffic	64	67	90	109	112	120
Violent	570	536	562	629	515	609
Weapon	52	56	53	67	34	56
Unknown	0	1	0	0	0	1
Total	3,214	3,300	3,407	3,705	3,448	3,530

It is evident that this decrease is continuing thus far in FY06.



Manufacturing. Below is a table showing the number of methamphetamine labs discovered in Iowa during CY2004 and CY2005 through the month of December. These data were chosen to identify the differences between 3 types of labs—active labs, labs that are “boxed” or have all the proper equipment but are not active at the time, and inactive “dumpsite” labs. The Iowa DNE also reports labs as a total, without differentiating among types. The DNE number is higher as the type of lab is not always specified, and reporting is timelier. In both sets, however, there has been a significant reduction in the number of meth labs discovered, especially since the enactment of S.F. 169.

	2004				2005				%
	LAB	CHEMICAL/ GLASSWARE	DUMPSITE	2004 TOTALS	LAB	CHEMICAL/ GLASSWARE	DUMPSITE	2005 TOTALS	reduction, monthly
JAN	62	27	56	145	25	14	34	73	49.66%
FEB	56	14	46	116	19	31	61	111	4.31%
MARCH	59	27	126	212	22	22	115	159	25.00%
APRIL	52	25	114	191	25	21	85	131	31.41%
MAY	41	23	64	128	12	9	25	46	64.06%
JUNE	28	19	30	77	5	2	8	15	80.52%
JULY	36	28	20	84	3	7	6	16	80.95%
AUG	39	14	23	76	1	1	1	3	96.05%
SEPT	18	12	27	57	0	1	5	6	89.47%
OCT	31	14	52	97	2	1	6	9	90.72%
NOV	29	23	77	129	1	1	1	3	97.67%
DEC	28	18	70	116	5	0	0	5	95.7%
				1428				577	59.94%
								Post SF169 reduction	90.00%

This table is based on information pulled from the EPIC database; which does not match with the numbers put out by the Iowa Division of Narcotics Enforcement. The Iowa DNE showed a total of 1472 labs for 2004. They currently have 731 labs for 2005.

Drug charges. CJJP compared charges filed (adult only) for drug offenses for a 6-month period in 2004 and 2005, beginning with June. June was selected as the first month to track as it was post-implementation of SF169 and would align with the methamphetamine data above. Charge data include all charges that were related to a case.

During the 6 month period June 2005 through November 2005, there was a 6% reduction in the number of drug offense charges filed compared to the same time period in 2004. The reduction was largest for those charges related to possession of precursors—79.8%. It is not possible to determine from charge data which controlled substances were involved in the other charges, so the exact nature of the other reductions cannot be determined.