



# JUSTICE ADVISORY BOARD 2021 Annual Update to Iowa's Three-Year Criminal and Juvenile Justice Plan

December 1, 2021

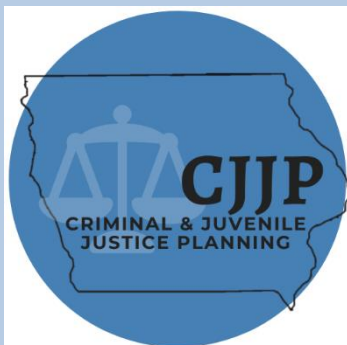
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## 2021 JUSTICE ADVISORY BOARD

### Annual Update to Iowa's Three-Year Criminal and Juvenile Justice Plan Executive Summary and 2022 Recommendations

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

The three-year criminal and juvenile justice plan, developed by the JAB in 2020, identifies the following priorities, goals, and recommendations, which are described in the full report with specific action steps. This report updates the initial three-year plan with current activities and research informing the JAB in the development of strategies and recommendations for the priorities; along with planning for upcoming action steps necessary to make improvements in the priority areas in years 2 and 3. Achieving the goals will require coordinated efforts from multiple justice entities and the legislature.

A summary of the JAB recommendations is below. The full updated report follows in more detail with the long-term plan.

#### **Priority 1 Racial Justice**

##### Goals:

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

##### Recommendations:

- Collect and analyze data to identify racial profiling and disparities in the juvenile and criminal justice systems
  - The Governor's FOCUS Committee on Criminal Justice Reform prioritized reducing racial disparities in the justice system. The group focused on finding ways to collect and analyze data to better understand who is being stopped by police, ban racial profiling by police, and more broadly, identify ways to prevent disparate treatment by law enforcement.<sup>1</sup> The JAB concurs with the FOCUS Committee recommendation to collect self-reported race/ethnicity at the time of obtaining or renewing driver's licenses. Embedding this information in the Department of Transportation (DOT) data would allow the Traffic and Criminal Software (TraCS) to automatically populate this information when a license or ID

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

[https://governor.iowa.gov/sites/default/files/documents/FOCUS%20Committee%20Report%202020.pdf?utm\\_medium=email&utm\\_source=govdelivery](https://governor.iowa.gov/sites/default/files/documents/FOCUS%20Committee%20Report%202020.pdf?utm_medium=email&utm_source=govdelivery)

card is scanned. This automated process will allow for more accurate data collection and analysis while easing any burdens on and eliminating selection perception by law enforcement.<sup>2</sup>

- Due to the uncertainty of accomplishing the FOCUS recommendations, the JAB will also seek to identify additional methods to collect data that will determine if racial profiling is occurring during law enforcement data stops. The JAB will contact local city and county entities that may be collecting such data due to local ordinances or agency policies.
- Eliminate racial disparities to create an unbiased justice system. A recent report published by the Sentencing Project (October 2021) has identified Iowa as one of the states with the largest disparity in Black/White incarceration. National recommendations offered in the report include eliminating mandatory sentences for all crimes, requiring prospective and retroactive racial impact statements for all criminal statutes, and decriminalizing low-level drug offenders.<sup>3</sup>
  - Require a legislative committee to review the Legislative Services Agency (LSA) correctional and racial impact statements for all proposed legislation to be reviewed, prior to being voted on in committee to identify the effect on the prison population and racial disparity, per Iowa Code Section §2.56.
  - Entry into the system – Provide pre-charge diversion opportunities for low-risk juvenile and adult offenders
    - Continue to study pre-charge diversion programs to determine effectiveness and expansion to additional communities
    - Explore strategies to end the school-to-prison pipeline and racial disparities by implementing effective practices that keep students in school and keep schools safe, such as school-based restorative intervention practices (please see page 6 of the report for details)
  - Pre-trial release – Provide alternatives to bonds and pre-trial services for adults and detention alternatives for juveniles
    - Establish a standardized structure for bond practices and policies
    - Establish a standardized structure for bail bond practices and policies for new offenses and parole revocations
  - Reduce juvenile offenders prosecuted as adults - Modify the Iowa code and enhance funding for juvenile offender services
    - Eliminate direct file for 16- and 17-year-old youth to adult court for certain offenses (Iowa Code §232.8.1.c)
    - Provide additional effective services and treatment for youth in the juvenile court system

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<sup>2</sup> *Ibid.*

<sup>3</sup> The Color of Justice: Racial and Ethnic Disparity in State Prisons <https://www.sentencingproject.org/wp-content/uploads/2016/06/The-Color-of-Justice-Racial-and-Ethnic-Disparity-in-State-Prisons.pdf>

- Utilize research on adolescent brain development to develop services, treatment, and methods of accountability for all persons under 25 years of age who are in the juvenile and adult justice systems
- Increase access and availability of community treatment options (please see page 28 for additional details)
- Iowa Code §124.401 was amended in 2017 for offenses that involve possession of crack cocaine that reduced the disparities between crack versus powder cocaine amounts, but did not equalize them. The JAB recommends equalizing the quantity for each class level and sentence, so African Americans are not incarcerated for longer periods of time than Whites (see page 8 of the report for full details)
  - The Iowa County Attorney’s Association supports the passage of H.R. 1693, the Eliminating a Quantifiably Unjust Application of the Law (EQUAL) Act to eliminate the disparity in Federal sentencing between crack and powder cocaine<sup>4</sup>

## **Priority 2 Mental Health**

### Goals:

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

### Recommendations:

- Standardize mental health services to enhance early intervention and diversion strategies for juvenile and adult offenders (e.g. crisis intervention teams, tele-health, available in-patient treatment, mental health courts)
- Explore funding availability for communities to develop mental health services to work with law enforcement during crisis situations encountered during officer calls, similar to the Marshalltown Police and Community Team (MPACT)
- Provide effective mental health treatment and medications for incarcerated offenders and during the transition as offenders reenter the community, including expediting Medicaid coverage upon release and providing 30-days of medication upon release from jail or prison
- Prioritize community-based mental health and substance abuse resources for those transitioning from jail and prison

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<sup>4</sup> Reynolds, Jessica A., Bull, Ed (2021). Equal Act Letter provided by Iowa County Attorney Association

### **Priority 3 Community-based corrections and alternatives to incarceration**

#### **Goals:**

- a. Reduce entry to prison
- b. Reduce revocations to prison, by enhancing and utilizing effective community-based services and treatment
- c. Increase the use of effective treatment courts
- d. Document lessons-learned from COVID-19

#### **Recommendations:**

- Enhance community-based correctional services to include additional alternatives to prison (e.g. restorative justice, innovative programs, and treatment courts), based on evidence-based practices
  - Advocate and support programs that provide alternatives to incarceration
  - Align prison-based apprenticeship programs with licensing boards to ensure career opportunities are available upon release from prison
- Review changes due to COVID and public safety
  - The 2021 Prison Population Forecast will provide information and data on COVID's effect, which the JAB can use for future plans

### **Priority 4 Sex offenders**

#### **Goals:**

- a. Examine the effectiveness of the special sentence, including the reason for revocations to prison (e.g. new offense, technical violation)
- b. Examine the efficacy of sex offender residency restrictions as well as restrictions on employment and ability to enter or access public facilities (e.g. libraries)
- c. Support survivors / victims

#### **Recommendations:**

- Determine the effectiveness of the Special Sentence supervision and residency restrictions (2,000 feet from parks, daycare facilities, and schools) in reducing sex offenses
- Educate legislators and policy makers on sex offenders outcomes and the effectiveness of current policies
- Provide promising practices to support victims/survivors of sex offenses

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

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



## 2021 JUSTICE ADVISORY BOARD

### Annual Update to Iowa's Three-Year Criminal and Juvenile Justice Plan

#### History and Introduction

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

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

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

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

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

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

The Justice Advisory Board began 2021 studying, researching, and learning more about the issues surrounding the priority areas. The board heard presentations on a number of the identified issues. In addition, the JAB received reports on the activities and recommendations of the Governor’s FOCUS Committee on Criminal Justice Reform and the Juvenile Justice Advisory Council. The CJP staff facilitated several discussions and provided data and research on identified topics. As a result, this update will describe the specific action steps taken to address the priorities, identify next steps for year two, and develop plans for year three and beyond.

In addition, there are several recommendations and action steps that will require input, guidance, and action from additional stakeholders (e.g. legislators, state and local agencies, and additional stakeholders). The recommendations are based on the learnings and cumulative knowledge and wisdom of the JAB members. CJP staff will partner with the specific entities needed to complete the recommended action steps to achieve the goals.

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

# Juvenile Justice Priorities and Goals

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

Andrew Allen, Chair of the JJAC, presented the five juvenile justice priorities of the juvenile justice three-year plan to the JAB:

## **Priority 1: Prevention and Intervention**

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

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

## **Priority 2: Mental Health**

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

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

## **Priority 3: Transition of Youth**

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

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

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

**Goal 4:** Standardize juvenile reentry best practices.

## **Priority 4: Female Equity**

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

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

## **Priority 5: Disproportionate Minority Contact**

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

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

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

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

# Justice Advisory Board - Priorities, Goals, and Action Steps

## Priority 1: Racial Justice

A recent report published by the Sentencing Project (October 2021) has identified Iowa as one of the states with the largest disparity in Black/White incarceration. National recommendations offered in the report include eliminating mandatory sentences for all crimes, requiring prospective and retroactive racial impact statements for all criminal statutes, and decriminalizing low-level drug offenders.<sup>5</sup>

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

The Iowa Justice Action Network is a statewide group of citizens concerned with criminal justice reform. In 2020, the group held a community forum to discuss racial inequality in Iowa's criminal justice system and created an action list for local and state reform. Policing was one of the action areas identified, including holding officers accountable, unarmed interactions with the community, publicizing data on disproportionality, funding community policing, and state policies on racial profiling, use of force, and citizen review of police encounters.

The Governor's FOCUS Committee on Criminal Justice Reform met and prioritized reducing racial disparities in the justice system. The group focused on finding ways to collect and analyze data to better understand who is being stopped by police, ban racial profiling by police, and more broadly, identify ways to prevent disparate treatment by law enforcement.<sup>6</sup> The JAB concurs with the FOCUS Committee recommendation to collect self-reported race/ethnicity at the time of obtaining or renewing driver's licenses. Embedding this information in the Department of Transportation (DOT) data would allow the Traffic and Criminal Software (TraCS) to automatically populate this information when a license or ID card is scanned. This automated process will allow for better data collection and analysis while easing any burdens on law enforcement.<sup>7</sup> The legislature should take significant precautions to ensure appropriate confidentiality of the driver's license data, and the data is only available to agencies such as CJJP for analysis purposes.

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<sup>5</sup> The Color of Justice: Racial and Ethnic Disparity in State Prisons <https://www.sentencingproject.org/wp-content/uploads/2016/06/The-Color-of-Justice-Racial-and-Ethnic-Disparity-in-State-Prisons.pdf>

<sup>6</sup> Recommendations of the Governor's FOCUS Committee on Criminal Justice Reform: Promoting an Unbiased Criminal Justice System. (October 29, 2020) [https://governor.iowa.gov/sites/default/files/documents/FOCUS%20Committee%20Report%202020.pdf?utm\\_medium=email&utm\\_source=govdelivery](https://governor.iowa.gov/sites/default/files/documents/FOCUS%20Committee%20Report%202020.pdf?utm_medium=email&utm_source=govdelivery)

<sup>7</sup> *Ibid.*

With the current driver's license renewal policies, it will take up to 8 years for existing drivers to register their race/ethnicity. Further research to determine if this data is collected at the county or agency level is needed. If it is collected locally, preliminary analyses could be conducted until a more comprehensive, state-wide analysis is possible.

The CJJP issued a report in 2020 that compiled data showing disparities among youth within the juvenile justice system and made recommendations for systemic changes. The report highlights the need to do more to eliminate disparities. Trend data shows when comparing African American youth to White youth:

- African American youth are 6.5 times more likely to enter the system with low level offenses
- African American youth are 9.8 times more likely to be waived to adult court
- African American youth are 14.3 times more likely to be direct filed to adult court.<sup>8</sup>

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

Racial inequality is simply not acceptable. There are obvious disparities between people of color and whites in the criminal justice system, ranging from police arrests to the disproportionate numbers of African American youth and adults who are incarcerated. *"Deeply racialized systems are costly and depress outcomes and life chances for us collectively. To advance equity, government must focus not only on individual programs, but also on policy and institutional strategies that are driving the production of inequities."*<sup>9</sup> Some inequalities may be the result of practices that are deeply embedded in the system, such as criminalizing or more harshly penalizing certain offenses. Other times, it may be the result of implicit biases among key players in the justice system in their responses to people of color. The reasons for disparities need to be investigated through the collection of data and the state needs to appropriately respond.

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

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

Systemic changes are necessary throughout the criminal justice system, and include changing policies, practice, and requiring training at every level of the system.

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

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<sup>8</sup> Iowa Department of Human Rights, Division of Criminal and Juvenile Justice Planning. (2020). *Racial Disparities – An Analysis of Three Decision Points in Iowa's Juvenile Justice System.*

<https://humanrights.iowa.gov/sites/default/files/media/Racial%20%20Disparities%20-%203%20Decision%20Points%20in%20JJ%2011%2023%2C%202020.pdf>

<sup>9</sup> The Government Alliance on Race and Equity. <https://www.racialequityalliance.org/>

**Table 1: Summary of Racial Justice Priority**

<b>Priority One: Racial Justice</b>
<b>Goal 1: End Racial Profiling</b>
<i>Traffic and Pedestrian Stops, Warnings, and Searches</i>
Action Item 1: The FOCUS Committee identified data elements necessary to collect on police stops and searches, such as the addition of capturing self-reported race/ethnicity when obtaining or renewing a driver’s license.
Action Item 2: Determine if race/ethnicity data is collected at the county or agency level.
Action Item 3: Support legislation that aims to prevent racial-profiling and promote unbiased policing
<b>Goal 2: Eliminate racial disparities to create an unbiased juvenile and criminal justice system</b>
<i>Pre-Charge and Pre-Trial Diversion</i>
Action Item 1: Investigate the assignment of bail bonds and granting of pre-trial release with services Action Item 2: Examine the use of pre-charge diversion programs in the juvenile and adult systems Action Item 3: Explore strategies to end the school-to-prison pipeline
<i>Iowa Code, the Court System, and Sentencing Practices</i>
Action Item 1: Investigate racial disparity in waivers to adult court and the impact of waivers Action Item 2: Work with Juvenile Justice Advisory Council to propose recommendations on waivers Action Item 3: Analyze sentencing practices for racial disparity Action Item 4: Propose code and sentencing recommendations to reduce or eliminate racial disparity
<i>Jail and Prison</i>
Action Item 1: Investigate methods and cost of collecting jail data Action Item 2: Partnering with the Department of Corrections (DOC) to examine opportunities for treatment and services, while in prison, by race Action Item 3: Assess racial disparity in parole releases
<i>Systemwide</i>
Action Item 1: Evaluate racial bias and cultural competency training of school resource officers (SRO), law enforcement, court personnel, and correctional staff Action Item 2: Identify institutional bias and develop strategies to create a more equitable system Action Item 3: Include an assessment of the impact of COVID on areas studied
<b>Goal 3: Eliminate disparities in excessive use of force and death in custody</b>
<i>Law Enforcement and Corrections</i>
Action Item 1: Review and report on best practices that reduce excessive use of force, including de-escalation techniques Action Item 2: Examine use of force policies and recommend changes Action Item 3: Identify standardized methods for collecting reports of excessive use of force Action Item 4: Analyze racial disparities in death in custody Action Item 5: Analyze racial disparities in use of force by law enforcement and correctional officers

## Racial Justice Implementation Activities

### **THREE-YEAR GOAL: End Racial Profiling**

Racial profiling is defined as any police-initiated action that relies on the race, ethnicity, or national origin rather than the behavior of an individual or information that leads the police to a particular individual who has been identified as being, or having been, engaged in criminal activity.<sup>10</sup> In 2021, legislation was passed in Iowa to require annual implicit bias training for law enforcement officers; however, a proposed bill that would have specifically prohibited “disparate treatment in law enforcement, including racial and ethnic profiling,” was not passed by the legislature.

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

- 1) The FOCUS committee has determined the data elements needed to identify racial profiling during traffic stops and pedestrian stops, however proposed legislation in 2020 to capture this data was not passed
- 2) Legislation in 2022 to collect data during arrests and traffic stops.

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

- Race and ethnicity of individuals being stopped by law enforcement
- Reason for the stop
- Duration of the stop
- Search information
- Result of the stop (arrest – released)

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

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

The JAB continues the recommendation to support legislation banning anti-racial profiling and promoting unbiased policing efforts, which requires:

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

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<sup>10</sup> U.S. Department of Justice. (November 2010). Resource Guide on Racial Profiling Data Collection Systems: Promising Practices and Lessons Learned. p. 6. (NCJ Number: 184768).  
<https://www.ncjrs.gov/pdffiles1/bja/184768.pdf>

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

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

The JAB will partner with other agencies to accomplish these goals.

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

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

#### **Pre-Charge and Pre-Trial**

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

- 1) Investigating the assignment of bail bonds and pre-trial release with services through jail data recently obtained by CJJP
- 2) Examining the use of pre-charge diversion programs in the juvenile and adult systems
- 3) Continue to support strategies to end the school-to-prison pipeline

The JAB would like to investigate bonds and pre-trial release for explicit or implicit racial bias and disparity. Research on these topics is sparse and outdated. The Bureau of Justice Statistics' last update of its Survey of Inmates in Local Jails was in 2002, with the next update tentatively scheduled for 2021. CJJP has recently obtained jail data for CY 2019 - CY 2021. The Board recommends that this data be analyzed to evaluate effectiveness, uniformity and standardization. Additionally, Iowa's bail schedule should be compared to other states' schedules to determine if differences exist.

Studies that examine other geographical areas are more plentiful and have shown that African American defendants are more likely to be detained pre-trial than Whites, which requires paying for bond or staying in jail<sup>11</sup>. Also, bond amounts for African Americans tend to be higher and they are less likely than Whites to qualify for other options like pre-trial release without bond.<sup>12</sup>

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<sup>11</sup> Equal Justice Initiative (2015) *Disproportionate Pretrial Detention of People of Color Drives Mass Incarceration*. <https://eji.org/news/people-of-color-disproportionately-detained-pretrial/>

<sup>12</sup> Sawyer, W. (October 2019). *How race impacts who is detained pretrial*. Prison Policy Initiative. [https://www.prisonpolicy.org/blog/2019/10/09/pretrial\\_race/](https://www.prisonpolicy.org/blog/2019/10/09/pretrial_race/)



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

The JAB would like to explore strategies to end the school-to-prison pipeline. Specifically, the board is interested in gathering information and data on any racial disparities in youth referred to juvenile court by schools and school resource officers (SROs). SROs are police officers stationed in schools. In addition to referral data, the board would like to examine the extent that SROs are used in Iowa schools, background and training requirements for SROs, their roles/responsibilities, and adherence to best practices.<sup>13</sup> DHR and CJP activities to date include:

1. In 2021 two DHR Racial Justice Youth Action Squad members provided recommendations supported by data and research to Des Moines Public School Board (Iowa's largest and most diverse school district) with a districtwide approach to restorative justice. These youth met with district administrators, school board members, and other stakeholders to present student and community survey data regarding experiences/perceptions of School Resource Officers. At the request of the Youth Action Squad members, CJP prepared a data report which highlighted juvenile complaints originating at Des Moines Public Schools between 2015-2019. Beginning in the 2021-2022 school year, DMPS has redirected funds previously used to support the School Resource Officer program to implement a district wide approach to restorative justice, which includes dedicated student support staff members who lead this work in the district's high schools.
2. During the summer of 2021 CJP was approached by the Cedar Rapids Community School District (CRCSD) to provide data regarding juvenile complaints and allegations originating at Cedar Rapids Schools as the district was exploring modifications to its School Resource Officer Program. CJP provided CRCSD with a data profile from the last 6 school years to show the demographic breakdown of juvenile complaints and allegations originating at schools. CJP also connected CRCSD with members from the Racial Justice Youth Action Squad to share best practices for engaging youth in changing the planning and discussion regarding the SRO program.
3. Beginning in the fall of 2021, CJP has participated in discussions with the ACLU of Iowa to review statewide data of juvenile complaints occurring at schools including the demographic makeup of complaints and the nature of allegations within these juvenile complaints. This dialogue between CJP and the ACLU is in its early stages and will continue into 2022. It is important to note that the data available in the Justice Data

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<sup>13</sup> National Association of School Resource Officers, Inc. (2018). *Standards and Best Practices for the School Resource Officer Programs*. <https://www.nasro.org/clientuploads/About-Mission/NASRO-Standards-and-Best-Practices.pdf>

Warehouse is limited to being able to identify the place of occurrence for juvenile complaints which allows us to identify those complaints that occurred at schools across the state, but it is not known if these complaints involved a designated SRO.

### Iowa Code, the Court System, and Sentencing Practices

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

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

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

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

The JAB is interested in further study to identify decision points that may result in racial disparities among youth who are waived to adult court. In addition, a review of other states' laws and policies, specifically for mandatory waivers (direct file) of older youth (16 and 17 years of age). The JAB will invite the JJAC to collaborate on a joint recommendation. This could include steps to eliminate direct file of youth to adult court, extending juvenile court jurisdiction, and/or providing more services in the juvenile court system

Mandatory minimum sentences have been studied by the PSAB<sup>14</sup> and the group made recommendations for modifications to robbery mandatory minimum legislation prior to the passage of HF2064 in FY2016. A portion of the bill was then repealed in 2019, eliminating robbery 3 (aggravated misdemeanor). The JAB would like to continue to study and make recommendations on mandatory minimum sentences and its impact on African Americans.<sup>15</sup> In addition to robbery mandatory minimums, the JAB intends to research the impact of the legislature's elimination of aggravated theft as a non-felony charge on African Americans and

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<sup>14</sup> Stageberg, P. & Rabey, S. (2013). *An Analysis of the use of 70% Mandatory Minimum Sentences in Iowa*. [https://humanrights.iowa.gov/sites/default/files/media/Violent\\_Offender\\_70Pct\\_Report%5B1%5D.pdf](https://humanrights.iowa.gov/sites/default/files/media/Violent_Offender_70Pct_Report%5B1%5D.pdf)

<sup>15</sup> A 2013 CJJP analysis studied mandatory minimum sentences imposed by §902.12 of the Iowa Code (the "70% rule"). It found a disproportionate impact on minorities, showing that 37% of offenders serving mandatory minimums were African American (compared to 26% of African Americans in the total prison population).

investigate any racial disparities in robbery charges.

Penalty options for equalizing the amount of crack and powder cocaine has been discussed for a decade by PSAB. Iowa data presented to the PSAB suggest that this disparity in penalties contributes to disproportionate incarceration of African-Americans. Research illustrates that the physiological and psychotropic effects of crack and powder cocaine are the same, and that the drugs are now widely acknowledged as pharmacologically identical.

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

**Table 2: Cocaine Possession Penalties in Iowa as of 2017**

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

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

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

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

Additionally, the JAB will monitor marijuana legalization and outcomes in other states. This is important because Iowa ranks as the fifth highest state in racial disparities for marijuana arrests.<sup>16</sup> In Iowa, a Black person is 7.3 times more likely to be arrested than a white person for marijuana possession even though usage is similar.<sup>17</sup> The collateral consequences of a drug charge can be substantial.

Finally, the JAB is interested in analyzing sentencing practices for racial disparity. Prior to legislation being passed, Iowa law currently mandates correctional and racial impact statements to identify any impact on the prison population and racial disparity. These statements need to be carefully reviewed and given consideration by the legislature and other decision makers, prior to passage. The JAB is exploring ways to increase legislative consideration of impact statements prior to passing legislation, including having a subcommittee review proposed bills prior to their passage if they are determined to potentially have a big impact on minorities.

<sup>16</sup>American Civil Liberties Union. (April 2020). *A Tale of Two Countries: Racially Targeted Arrests in the Era of Marijuana Reform*. [https://www.aclu-ia.org/sites/default/files/tale\\_of\\_two\\_countries\\_racially\\_targeted\\_arrests\\_in\\_the\\_era\\_of\\_marijuana\\_reform.pdf](https://www.aclu-ia.org/sites/default/files/tale_of_two_countries_racially_targeted_arrests_in_the_era_of_marijuana_reform.pdf)

<sup>17</sup> Ibid.

### Jail and Prison

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

- 1) CJPJ initiate analyzing jail data that has recently become available on an ongoing basis
- 2) Partnering with the Department of Corrections (DOC) to examine opportunities for treatment and services, while in prison, by race
- 3) Partnering with DOC to assess racial disparity in parole releases and revocations while on parole.

Currently jail data has just been made available on a statewide level for CY 2019 - CY 2021. This will allow the ability to gain further insight into disparities within the criminal justice system. The JAB recommends that efforts be made to determine the feasibility and cost of acquiring, housing, and maintaining statewide jail data. CJPJ will partner with DOC to review and analyze the identified data.

### Systemwide

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

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

In 2021, Iowa code §80B.11 established a requirement for annual implicit bias trainings for law enforcement. Racial bias and cultural competency trainings for other criminal and juvenile justice staff also have potential to reduce systemwide biases and racial disparity. Training models should be assessed to determine the effectiveness, quality, availability, and routinely evaluated to verify their ongoing efficacy. Alongside training for individuals, efforts should be made to identify and remedy institutional bias.

COVID-19 has had an impact across the justice system. The JAB believes it is important to study and assess the impact COVID-19 has in relation to existing racial disparities, in particular that of early releases and revocations.

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

A number of national cases over the years resulting in violence and death by law enforcement against African American civilians has called for eliminating racial disparities in the use of force during policing. According to the National Institute of Justice, there are different levels of

force.<sup>18</sup> The “use” of force refers to the “amount of effort required by police to compel compliance by an unwilling subject.” The level of force needed in trying to get someone to comply varies depending on the officer and the given situation. There are no universal rules governing when force should be used and to what extent.

The Supreme Court has ruled all police use of force is governed by a standard of reasonableness, such as the seriousness of the crime, whether the suspect is resisting or attempting to flee, and whether they pose a threat to officers’ or others’ safety (*Graham v. Connor*, 490 U.S. 386 (1989)). The use of deadly force violates the Fourth Amendment, unless the suspect poses a deadly threat or serious harm to police officers (*Tennessee v. Garner*, 471 U.S. 1 (1985)).<sup>19</sup>

Iowa HF2647 (2020), amends and adds provisions relating to the certification, training, and prosecution of peace officers, and the use of chokeholds. The bill requires Iowa law enforcement officers to receive annual training in de-escalation and bias prevention; bans chokeholds with some exceptions; prevents the rehiring of police who were fired or quit because of misconduct; and allows the attorney general to prosecute officers whose actions result in death.<sup>20</sup>

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

- 1) Define excessive force, and study and review best practices that reduce excessive use of force
- 2) Examine use of force policies (e.g. rules or standards guiding police departments on when to use force and the process for investigating incidents where force was used by law enforcement) and recommend changes
- 3) Identify standardized methods for collecting data. For example, the NIJ/FBI data does not make the distinction between excessive vs. appropriate use-of-force, as this is a politicized and contentious topic. Instead, use-of-force is characterized by the type and level of force (involving death, serious bodily injury, or the use of a firearm is considered serious).<sup>21</sup>

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

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

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<sup>18</sup> National Institute of Justice. (2020). *Overview of Police Use of Force*. <https://nij.ojp.gov/topics/articles/overview-police-use-force>

<sup>19</sup>Schwartz, M. (2020). *How the Supreme Court Enables Police Excessive Force*. New York Law Journal. <https://www.law.com/newyorklawjournal/2020/06/05/how-the-supreme-court-enables-police-excessive-force/?slreturn=20200913105821>

<sup>20</sup> HF2647. <https://www.legis.iowa.gov/legislation/BillBook?ga=88&ba=hf2647>

<sup>21</sup> Federal Bureau of Investigation. National Use-of-Force Data Collection. <https://www.fbi.gov/services/cjis/ucr/use-of-force>

- In January, 2019, the FBI began collecting nationwide data on police use of force from law enforcement agencies. It is collecting information on subjects and officers involved and details about the incident when use of force results in death, serious bodily injury, or discharge of a firearm at a person.<sup>22</sup>
- The Use of Force Project collects information on police policies from the largest 100 cities in the United States. It issued a report analyzing the effect of the type of policies on deadly incidents and maintains a policy database on its website.<sup>23</sup>
- News releases from jails and correctional facilities are issued when there is a death in custody.
- Internal investigations occur when police are involved in an incident where a weapon is used or death occurs.

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

## Priority 2: Mental Health

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

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

The sequential intercept model is used in the criminal justice system to identify how people with mental health and substance abuse issues come into and move through the system. Each step in the model is an opportunity for intervention and can help communities identify resources or gaps in service.<sup>24</sup>

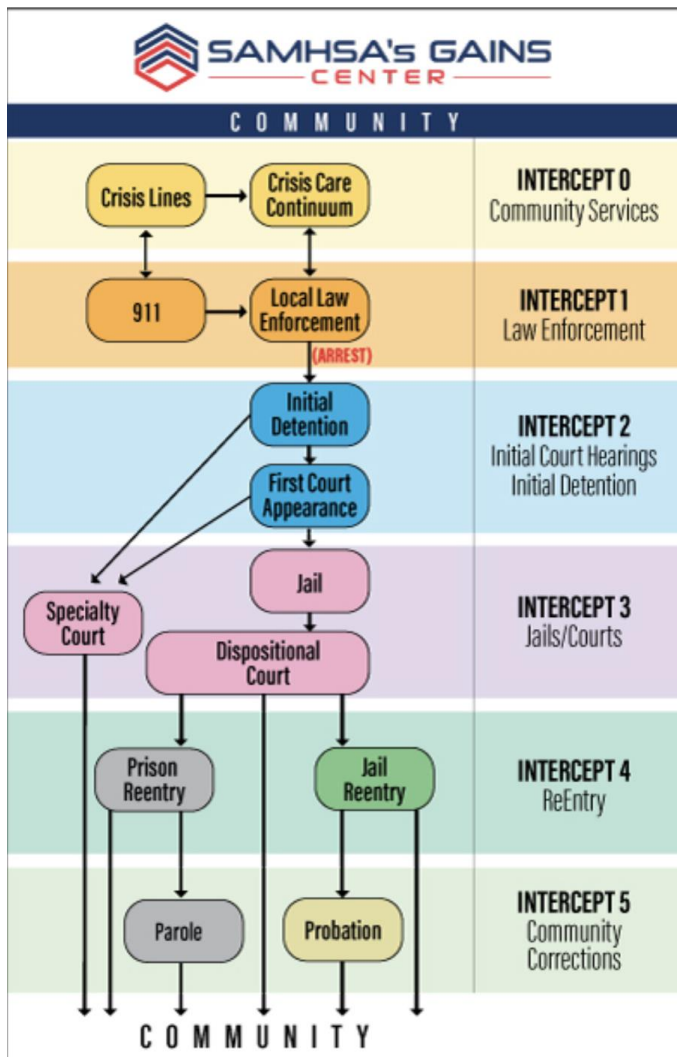
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<sup>22</sup> Ibid.

<sup>23</sup> Ibid.

<sup>24</sup> U.S Department of Health & Human Services, Substance Abuse and Mental Health Services Administration. *The Sequential Intercept Model*. <https://www.samhsa.gov/criminal-juvenile-justice/sim-overview>

**Figure 1. The Sequential Intercept Model**



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

For example, the LEAD (Law Enforcement Assisted Diversion) program in Seattle is a well-recognized diversion program for low-level drug crime, prostitution, and crimes associated with poverty. The program partners law enforcement with case managers who can provide immediate crisis response and psychosocial assessment, and services for substance use treatment and housing. “LEAD effectively disrupts the cycling of individuals with behavioral health issues through our criminal legal system and uses a low barrier, harm reduction-based model of care to help participants work toward achieving stability in the community.”<sup>25</sup> More information is needed to investigate if diversion models such as LEAD may be useful for law enforcement in responding to mental health crises.

<sup>25</sup>Law Enforcement Assisted Diversion (LEAD). <https://www.kingcounty.gov/depts/community-human-services/mental-health-substance-abuse/diversion-reentry-services/lead.aspx>



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

- Tools for law enforcement to identify and respond to those with immediate mental health needs
- Diversion programs
- Mental health courts
- Appropriate living conditions and services in jails and prisons
- Medication
- Community resources

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

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

**Table 4: Summary of Mental Health Priority**

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

## Mental Health Implementation Activities

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

#### Law enforcement

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

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

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

Crisis Intervention Teams (CITs) and Crisis Response Teams (CRTs) are collaborative partnerships between law enforcement and community mental health providers. According to National Alliance on Mental Illness (NAMI), these teams provide benefits to law enforcement by quickly and safely responding to situations, reducing arrests of people with mental illness, and providing appropriate services.<sup>26</sup> The JAB will identify CITs and CRTs to establish the geographic availability in Iowa and review the effectiveness of these existing approaches.

One program being utilized by police in Iowa is Marshalltown’s MPACT, which helps police identify and respond to offenders with mental health problems. Through a partnership between the Marshalltown Police Department and YSS of Marshall County, police have access to social workers (Community Advocates) to help resolve mental and behavioral health calls. This program connects individuals and families to community social services when the police receives calls that and a mental health crisis is identified. MPACT presented information about the program to the JAB in September 2021. The JAB supports the project as a strategy to address mental health needs and divert individuals to services instead of an arrest. JAB is also interested in collecting data from the program and conducting an evaluation of its outcomes.

Iowa Code Section §331.397 established access centers in Iowa to provide short-term

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<sup>26</sup> U.S Department of Health & Human Services, Substance Abuse and Mental Health Services Administration. Crisis Intervention Team (CIT) Programs. [https://www.nami.org/Advocacy/Crisis-Intervention/Crisis-Intervention-Team-\(CIT\)-Programs](https://www.nami.org/Advocacy/Crisis-Intervention/Crisis-Intervention-Team-(CIT)-Programs)

assistance to lowans in crisis situations<sup>27</sup>. The bill stated that centers should provide detoxification and crisis observation as well as stabilization services<sup>28</sup>. Increased capacity and availability would allow those in need of these services to be triaged here for treatment instead of entering the criminal justice system.

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

- Tele-health
- In-patient treatment prior to arrest
- Hiring social workers to accompany police officers, CITs and CRTs

### Pre-Charge Diversion

The JAB will review and study the effectiveness and implementation process of diversion models for offenders with mental illness, which include programs in Iowa. The establishment of effective pre-charge diversion programs will divert individuals from entering the criminal and juvenile justice systems and provide treatment for the issues affecting each person. CJJP is currently conducting an evaluation on a 3-county (Jones, Black Hawk, and Story) pilot pre-charge diversion program for low level drug offenders.

### Specialty Courts

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

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

Currently, there are four Mental Health Courts in Iowa. A review of each model will assist in determining effectiveness, uniformity of processes, and availability of services. Dr. Eric Howard, Problem-Solving Courts Coordinator for the Judicial Branch, has presented to the JAB on problem-solving courts, including mental health courts. Formal standards for the adult criminal drug courts were developed recently, with guidance developed by the National Association of Drug Court Professionals, and the National Center for State Courts.

With the assistance of a federal grant awarded to the Governor's Office of Drug Control Policy, CJJP evaluated drug courts with "enhanced" mental health services. It found that "enhanced" drug courts were limited in their capacity to serve offenders with severe mental illness, but the mental health services available were generally regarded by staff as being beneficial to the court and offenders, especially given limited community mental health resources. "Enhanced" drug court participants fared better than a matched group of drug probationers and a historical comparison group of drug court offenders on measures of recidivism (new convictions) within a

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<sup>27</sup> <https://www.legis.iowa.gov/docs/code/331.397.pdf>

<sup>28</sup> <https://www.thegazette.com/article/iowas-mental-health-access-centers-another-tool-to-help-those-in-crisis/>

three-year follow up period.<sup>29</sup> The program ended in 2016.

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

#### Jails and Department of Corrections

For mentally ill offenders at the “back end” who are already serving time for their crime, the JAB’s goal is for jails and prisons to provide safe treatment and living conditions. The board intends to gather more information on effective housing for and treatment of offenders with mental health problems by taking the following actions:

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

A literature review of best practices for housing inmates with mental health issues should be conducted. For example, the efficacy of having separate living quarters for inmates who need mental health services within a jail or prison. Current prison and jail programs for offenders with mental health issues should be inventoried. Also, investigating the use of certain practices, such as solitary confinement (extended social isolation), for those who suffer from mental illness is warranted. Research has shown that the use of solitary confinement not only has adverse psychological and physical effects on inmates, but can actually exacerbate mental health problems.<sup>30</sup>

Finally, studying inmate medication use and costs could be explored. The DOC has policies for medication administration and compliance for traditional offenders and civilly committed psychiatric offenders. Iowa Administrative Code §201.50.15, subsections 7 through 9, outlines procedures for medication management by jail staff.<sup>31</sup>

#### Community-Based Corrections

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

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<sup>29</sup> Davidson, C. (2016). *Evaluation of the Statewide “Enhanced” Drug Courts Offering Mental Health Services for Substance Abusing Offenders in Iowa*.

[https://humanrights.iowa.gov/sites/default/files/media/CJJP\\_Enhanced\\_Drug\\_Court\\_Report.pdf](https://humanrights.iowa.gov/sites/default/files/media/CJJP_Enhanced_Drug_Court_Report.pdf)

<sup>30</sup>Medical New Today. *What are the effects of solitary confinement on health?*

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

<sup>31</sup> Iowa Code Chapter 50 <https://www.legis.iowa.gov/docs/iac/rule/08-29-2018.201.50.15.pdf>.

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

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

Medications can be covered by Medicaid for those who are eligible. “Medicaid is a combined state and federal program that provides health coverage to people with low income, including those who are unable to work because of a mental health disability.”<sup>32</sup> However by law, Medicaid does not cover services provided to people while in jail or prison. Offenders released from DOC institutions are provided a short supply of medication, which can be extended if applicable through a partnership with SafeNetRx. DOC policy states:

*All patients leaving the institution for discharge of sentence, parole, parole furlough, shock probation, work release, OWI facilities, residential care facilities, etc., will be given an appropriate supply of medication, as determined by the DOC’s licensed medical practitioners, not to exceed a 30-day supply. If specified, the patient’s prescription information may also include instructions on how to have 2 additional refills, good for 90 days from the patient’s date of release, transferred to a community pharmacy of the patient’s choosing. Mental health medications may be obtained at no cost from the SafeNetRX pharmacy; all other medications must be paid for by the patient. If the medication order expires prior to 30 days from the date of departure, the quantity of medication dispensed will be sufficient to last until the expiration date of the medication order. Prescriptions for controlled substances will not be transferrable or refillable.<sup>33</sup>*

Jails in some counties have programs to pay for 30 days of medication. The JAB is interested in investigating this further to see which counties provide medication. Also, of interest is taking inventory of available community resources and identifying gaps for incarcerated and recently released offenders needing mental health services and medication and identifying points of contact in the counties through local National Alliance on Mental Illness (NAMI) organizations and other agencies.

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<sup>32</sup>Resources to Recover. Mental Health Resources in Iowa. <https://www.rtor.org/directory/mental-health-resources-in-iowa/>

<sup>33</sup> State of Iowa Department of Corrections, Policy and Procedures, Chapter 6 Health Services, HSP-504. [https://doc.iowa.gov/sites/default/files/hsp-504\\_exit\\_health\\_consultation\\_0.pdf](https://doc.iowa.gov/sites/default/files/hsp-504_exit_health_consultation_0.pdf)

## Priority 3: Community-based Corrections and Alternatives to Incarceration

The United States continues to have the highest incarceration rate in the world despite decades of decreasing crime rates. In Iowa, the increasing prison population in the early 1990's sparked the development of the Prison Population Forecast by CJJP and subsequent annual releases of the report because of sustained overcrowding. The JAB supports efforts to limit the reliance on incarceration without compromising public safety. The board has identified community-based corrections and alternatives to incarceration as a priority. Four goals and actions are outlined in the following table and more information is provided in the following section of the report.

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

<b>Priority Three: Community-based corrections and alternatives to incarceration</b>
<b>Goal 1: Reduce entry to prison</b>
Action Item 1: Analyze DOC funding and structure to ensure it reflects the priorities of the corrections system for both prison and CBC Action Item 2: Review prison sentencing by county/district Action Item 3: Examine alternative methods such as transformative or restorative justice Action Item 4: Advocate and support programs that provide alternatives to incarceration, such as drug courts and police partnerships with social workers and mental health professionals.
<b>Goal 2: Reduce revocations to prison</b>
Action Item 1: Examine the types of interventions that have demonstrated decreases in revocations Action Item 2: Understand needs of offenders and how those needs can be met from their viewpoint Action Item 3: Study results of and obtain data from the Board of Parole's "Community success program" Action Item 4: Evaluate risk assessment to determine if there's racial bias and its effectiveness Action Item 5: Examine workforce opportunities and apprenticeship programs for prisoners and current legislation to provide employment opportunities for current and former prisoners
<b>Goal 3: Increase the use of effective treatment courts</b>
Action Item 1: Study different models and effectiveness of different types of treatment courts Action Item 2: Examine the funding sources for different types of treatment courts
<b>Goal 4: Document lessons learned from COVID-19</b>
Action Item 1: Study the impact of COVID-19 on jail and prison numbers and any association with crime/public safety

## **Community-Based Corrections and Alternatives to Incarceration Implementation Activities**

### **THREE-YEAR GOAL: Reduce entry to prison**

To reduce offenders from entering prison, JAB will:

- 1) Analyze DOC funding and structure to ensure it reflects the priorities of the corrections system for both prison and Community-Based Corrections (CBC)
- 2) Review prison sentencing by county/district
- 3) Examine alternative community-based strategies such as transformative or restorative justice
- 4) Advocate and support programs that provide alternatives to incarceration, such as drug courts and police partnerships with social workers and mental health professionals.

### **THREE-YEAR GOAL: Reduce revocations to prison**

Reducing admissions to prison due to revocations is another avenue to reduce the prison population. The FY2020 Prison Population Forecast reported Iowa's prisons were 9.2% overcapacity and estimated that it would continue to rise over the next ten years. The report notes that between FY 2011 to 2020 the number of parole returns to prison increased by 112.4%.<sup>34</sup> The board is particularly interested in which interventions and programs are successful in decreasing revocations. The board has proposed the following action items to determine effective ways to reduce revocations to prison.

- 1) Examine types of interventions that have demonstrated decreases in revocations
- 2) Understand needs of offenders and how those needs can be met from their viewpoints
- 3) Study results of and obtain data from the Board of Parole's "Community Success Program"
- 4) Evaluate risk assessments to determine if there's racial bias and its effectiveness
- 5) Examine workforce opportunities and apprenticeship programs for prisoners and current legislation to provide employment opportunities for current and former prisoners

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

CJJP is currently working on an evaluation on a prison-based apprenticeship program through the DOC to assist individuals prepare for their return to the community. The study will offer insights into offenders who are successful in the program and their outcomes.

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<sup>34</sup> TenNapel, M., Berta, M. & Roeder-Grubb, L (2020). *Iowa Prison-Population Forecast FY 2020 - FY 2030*. <https://humanrights.iowa.gov/sites/default/files/media/2020%20Iowa%20Prison%20Population%20Forecast.pdf>

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

Treatment courts seek to divert individuals with substance abuse or other issues from prison or jail into treatment. It is widely held that these courts can be effective and cost efficient.<sup>35</sup> Iowa has nearly 40 specialty treatment courts across the state focusing on adult drug and/or OWI, juvenile drug, mental health, family, and veterans.

**Table 6. Number and Type of Specialty Treatment Courts<sup>36</sup>**

Court Type	N
Family Treatment Court	12
Adult Criminal Drug Court	12
Juvenile Drug Court	5
Mental Health Court	4
Adult Hybrid OWI/Drug Court	3
Veterans Treatment Court	1
Total	37

Recently a study of the effectiveness of Iowa's specialty courts was mandated by HF2492.<sup>37</sup> The study conducted by the National Center for State Courts concluded it was not currently feasible to conduct a study on the effectiveness of Iowa drug courts due to the reporting timeline and because Iowa drug courts are not generally in good compliance with the national drug court model. The report provided an overview of Iowa treatment courts, recommendations for improvement, and future research.<sup>38</sup>

Since then, the Iowa Judicial Branch received a grant from the federal Bureau of Justice Assistance to achieve some of the recommendations. A report based on Iowa's standardization efforts was recently released in August 2021 by the National Center for State Courts (NCSC). The comprehensive report was a collaborative effort between NCSC, the Iowa Judicial Branch, and districts operating problem solving courts across the state. Iowa's Statewide Problem Solving Court Coordinator presented on the findings and the status of the court standardization process at the September 2021 JAB meeting. Recommendations for standards at each point throughout the program from initial selection of clients to the exit of clients were provided.<sup>39</sup> The JAB will monitor progress made by these efforts and review any findings obtained by the

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<sup>35</sup> National Center for State Courts (2018). *The State of Specialty Treatment Courts in Iowa: Opportunities for Enhancement and Suggestions for Research*. p. 15. <https://www.legis.iowa.gov/docs/publications/DF/1033936.pdf>

<sup>36</sup> Data provided by Eric Howard, Statewide Problem Solving Court Coordinator, via e-mail on June 15, 2021.

<sup>37</sup> HF2492 <https://www.legis.iowa.gov/docs/publications/LGE/87/HF2492.pdf>

<sup>38</sup> National Center for State Courts (2018). *The State of Specialty Treatment Courts in Iowa: Opportunities for Enhancement and Suggestions for Research*. <https://www.legis.iowa.gov/docs/publications/DF/1033936.pdf>

<sup>39</sup> National Center for State Courts (2021). *Iowa Judicial Branch: Adult Criminal Drug Treatment Court Standards*. Report available upon request.



Judicial Branch, in particular those that:

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

The JAB is currently exploring opportunities to evaluate drug court programs through federal grants from agencies including the Substance Abuse and Mental Health Services Administration (SAMHSA).

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

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

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

CJJP's annual prison population forecast captures how the COVID pandemic has resulted in changes in the prison and community-based corrections (CBC) populations. There were 7,569 prisoners in 2020, which was the lowest prison population observed in the last two decades. There was a 10.6% decrease in the 2020 prison population compared to the year prior to the pandemic. Also, probation revocations decreased 17.3% and non-probation revocations decreased 5.3%. Pandemic-related policies and practices by courts, IDOC, and the Board of Parole directly contributed to these changes, by helping to reduce new admissions to prison, improving release planning efforts, and facilitating release from prison when possible.<sup>40</sup> The 2021 prison population forecast will be released in December 2021 and will continue to include information tracking COVID-related impacts.

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<sup>40</sup> TenNapel, M., Berta, M. & Roeder-Grubb, L (2020). Iowa Prison-Population Forecast FY 2020 - FY 2030. <https://humanrights.iowa.gov/sites/default/files/media/2020%20Iowa%20Prison%20Population%20Forecast.pdf>

## Priority 4: Sex Offenders

Sex offenses are serious crimes that can have long-term effects on victims. Unfortunately, estimates of sexual violence are high. The Center for Disease Control and Prevention reports nearly one in five women and one in 38 men have experienced completed or attempted rape during their lifetime.<sup>41</sup>

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

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

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

**Table 7: Summary of Sex Offenders Priority**

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

### Sex Offender Implementation Activities

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

In 2005, Iowa passed legislation that increased penalties for certain sex offenses and created “special sentences” for individuals convicted of a sex offense under Iowa Code §709, §726.2, and §728.12 (1), (2), or (3). The special sentence places offenders on either 10-year or lifetime

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<sup>41</sup> Center for Disease Control and Prevention. Injury Prevention & Control. <https://www.cdc.gov/injury/features/sexual-violence/index.html>

community supervision after the completion of their original sentences. Offenders convicted of A, B, and C felony sex offenses are placed on lifetime community supervision while those with D felony, serious misdemeanor, and aggravated misdemeanor convictions are placed on 10-year supervision.<sup>42</sup> The purpose of the special sentence was to reduce future victimization through extended supervision and monitoring of this population.

An analysis of the special sentence by CJJP in 2015 found no significant differences in new sex offense convictions between a sample group of those serving a special sentence and a pre-special sentence cohort. However, the findings showed the special sentence group had lower rates of new convictions than the comparison group.<sup>43</sup> These findings led the PSAB and SORC to make recommendations to modify Iowa's special sentence by allowing the court to determine if an offender could be removed from special sentence supervision based on an evidentiary hearing.<sup>44</sup>

A longitudinal study on the efficacy of the special sentence was completed by CJJP in May 2021 and findings were presented at the May 2021 JAB meeting. The study examined outcomes for the original (2014) two sample groups and tracked recidivism for a longer 9-year period of time. Rates of reconviction for sex crimes did not change much given a longer tracking time. Only 4% of sex offenders had a new sex conviction within 9 years of being placed in the community on special sentence supervision; however 51.9% of them returned to prison during time period, largely due to technical violations (not new offenses).<sup>45</sup> No specific recommendations were made by the JAB in light of the report, but discussion included how to better educate legislators and share findings to help them make evidence-based decisions, reexamination of the criteria to allow an early discharge or removal from the special sentence, closer examination of the reasons for technical violations, and obstacles sex offenders face in the community.

CJJP will soon begin another study of special sentence offenders in January 2022. The study proposes to examine a more recent, larger group of special sentence sex offenders. Their outcomes, including any new convictions, new sex convictions, prison returns, and reasons for technical violations will be tracked for a minimum of two years. The cohort will be more representative of sex offenders serving sentences for more serious crimes that carry the lifetime special sentence. Finally, the study will seek to identify additional factors that could help predict who is most likely to commit new sex crimes, including risk assessment tools, demographics, and characteristics of the original sex offense.

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<sup>42</sup> Iowa Code Chapter 903B <https://www.legis.iowa.gov/docs/ico/chapter/903B.pdf>

<sup>43</sup> Johnson, S. & Davidson, C. (2015). *An Analysis of the Sex Offender Special Sentence in Iowa*. [https://humanrights.iowa.gov/sites/default/files/media/CJJP\\_2015%20SORC%20Annual%20Report%20-%20An%20Analysis%20of%20the%20Sex%20Offender%20Special%20Sentence%20in%20Iowa.pdf](https://humanrights.iowa.gov/sites/default/files/media/CJJP_2015%20SORC%20Annual%20Report%20-%20An%20Analysis%20of%20the%20Sex%20Offender%20Special%20Sentence%20in%20Iowa.pdf)

<sup>44</sup> Ibid.

<sup>45</sup> Yates, C. & TenNapel, M (2021). A Longitudinal Analysis of Iowa's Sex Offender Special Sentence Supervision. Iowa Department of Human Rights, Division of Criminal & Juvenile Justice Planning. Report available upon request.

The JAB will monitor and review evidence regarding the effectiveness of the special sentence in order to:

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

The results of the studies will be shared through presentation and infographics distributed to other interested boards, legislators, and the public in order to educate others on sex offender outcomes and the effectiveness of current policies.

### **THREE-YEAR GOAL: Examine technical violations**

One of the consequences of the special sentence has been an increase in the numbers of individuals under community supervision, and, subsequently, the number of revocations. The 2020 Prison Population Forecast reports that from 2011 to 2020 special sentence returns have increased 110.3%.<sup>46</sup> The analysis of the special sentence by CJJP in 2021 found that among a small sample group of sex offenders serving special sentences, 36.2% returned to prison on technical violations within 9 years.<sup>47</sup> The JAB will:

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

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

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

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

An expert on Iowa's Sex Offender Registry presented information to the JAB in February 2021. This included a history of the sex offender registry, who the 2000-foot rule applies to in Iowa, legislation, and the number of offenders currently placed on the registry. All states are required by federal law to operate sex offender registries. CJJP plans to provide additional resources to the JAB on policies in other states for sex offender registry and also identify available data from the registry.

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<sup>46</sup> Berta, M. & TenNapel, M. (2020). *Iowa Prison-Population Forecast FY 2020 - FY 2030*  
<https://humanrights.iowa.gov/sites/default/files/media/2020%20Iowa%20Prison%20Population%20Forecast.pdf>

<sup>47</sup> Yates, C. & TenNapel, M. (2021). *A Longitudinal Analysis of Iowa's Sex Offender Special Sentence Supervision*. Iowa Department of Human Rights, Division of Criminal & Juvenile Justice Planning. Report available upon request.

### **THREE-YEAR GOAL: Survivors/victims**

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

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

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

One organization that is currently working on restorative justice is called Impact Justice. The group's "Restorative Justice Project" partners with communities across the nation on pilot projects, including pre-charge diversion and provides training and technical assistance. More information on the core elements of their restorative justice model, current projects, and resources they could offer will be provided to the JAB.