## Drug Courts and Mental Health Courts

***Provide dedicated statewide funding to drug courts and mental health courts.***

- Currently, funding is funneled through CBC District Departments, and each district department makes its own funding decisions. This has resulted in disparities from district to district when districts face tough budgetary challenges. Funding decisions for drug courts and mental health courts should be made at the state level in a separate funding stream from community corrections.
- While funding these courts should be a separate line item, it should not come at the expense of existing programs with proven recidivism reduction results such as intensive supervision.
- All funding should initially be directed to the Department of Corrections, and disbursed to other agencies and providers from there. Such a structure allows for greater transparency and accountability of all costs associated with drug courts and mental health courts.

***Consistent participant criteria should be developed for statewide use in drug courts and mental health courts. The effectiveness of drug courts and mental health courts should be measured against non-participants sharing that profile.***

- Like funding, participant criteria are determined by the local drug court team, which includes the county attorney, judge, public defender, treatment provider, and the CBC District Department. This arrangement has created disparities among districts regarding the type of offenders who are accepted into drug court and mental health court programs.
- Drug courts and mental health courts are effective when they are operated with fidelity, and when they are true alternatives to incarceration. It is difficult to maintain statewide program fidelity when standards vary from district to district.
- While local flexibility should be maintained regarding which individuals are accepted to participate, consistent general criteria should be adopted statewide.
- Standards, procedures, and criteria which appear to have been effective include, for example:
    - Use of the "judge model" as opposed to the "panel model."

    - Participation should be voluntary – the person must want to address their addiction or mental health issue.
    - Basing criteria on National Drug Court Association standards.
    - Participants should be required to maintain full time employment, education, or community service.
- The Judicial Branch recently received grant funding to develop measures to quantify the effectiveness of drug and mental health courts. To the extent possible, funding for the drug and mental health courts should be conditioned on the cooperation and participation with the Judicial Branch grant work.

***Annual reports regarding the effectiveness of drug courts and mental health courts should be provided the Governor and the Legislature.***

- The Department of Corrections should provide an annual report detailing the previous fiscal year's expenditures of funds on drug and mental health courts, and providing measures of the effectiveness of the programs.

***Special efforts should be made to encourage minorities to voluntarily participate in drug courts and mental health courts.***

- A recent report by the Legislative Services Agency indicated that racial disparities exist in drug courts. That report found that while 17.4% of the offender population is African-American, only 10.4% of offenders admitted to drug court were African-American. Similarly, while 5.4% of the offender population is Hispanic, only 3.4% of drug court admissions are Hispanic.
- The goal should be to have drug court and mental health court demographics be reflective of overall offender demographics. To accomplish this, the Department of Corrections shall be responsible for developing an action plan utilizing research-based best practices to encourage minority participation.

***At least one drug court should be maintained in each Judicial District. The state should move toward creation of at least one mental health court in each Judicial District. Such courts should be appropriately funded.***

- Access to drug courts and mental health courts should be more equitable statewide. While such access cannot be created overnight, these goals should remain a long-term priority.
- It goes without saying that funding is necessary to operate drug courts and mental health courts. However, funding such courts can be a wise use of taxpayer dollars over the long term.
    - For example, funding drug courts at $7,401.67 per offender per year seems to be a better alternative than spending $34,025 on average to incarcerate an offender for a year.
    - Recent studies have shown that every one dollar spent on drug courts returns $9.61 in benefits over a ten year time frame.
    - The Department of Corrections should work with all districts to assist them in their efforts to obtain grand funding to help with the costs of these programs.

## Increasing the Diversity of Jury Pools

***The Judicial Branch should consider adopting new jury management software which will be more likely to generate jury pools which reflect a fair cross-section of the community.***

- A unanimous Supreme Court stated in Smith v. Texas, 311 U.S. 128, 130 (1940), that '(i)t is part of the established tradition in the use of juries as instruments of public justice that the jury be a body truly representative of the community.' To exclude racial groups from jury service was said to be 'at war with our basic concepts of a democratic society and a representative government.' This harm impacts minority defendants not only in cases that go to trial, but also in cases in which minority defendants enter guilty pleas out of fear they will be treated harshly by an all-white jury. Additionally, the scope of the Iowa statutory policy extends beyond accused individuals, as the Iowa Code 607A.1 declares that 'a person shall have both the opportunity in accordance with the provisions of law to be considered for jury service in this state and the obligation to serve as a juror when selected.'
- Current Iowa Code 607A.1 embraces this fair cross section requirement: "It is the policy of this state that all persons be selected at random from a fair cross section of the population of the area served by the court, and that a person shall have both the opportunity in accordance with the provisions of law to be considered for jury service in this state and the obligation as a juror when selected."
- Current Iowa Code 607A.22 seeks to fulfill the fair cross section requirement by mandating that both drivers' license and voter registration lists are used to compile the master jury list pool and by authorizing the use of "any other current comprehensive list of persons residing in the county, including but not limited to the lists of public utility customers . . . ." No change of Iowa law would be necessary should the Judicial Branch determine that expanding the existing master jury pool with addition of names from other source lists will achieve the ultimate goal of increasing diversity in jury pools.
- The Judicial Branch's current software is out-of-date and limited at meeting the legal requirements for the creation of jury pools. In the past year, anecdotal information has brought light to the software program's limitations as it currently can accept only lists provided by the Department of Transportation—both driver's licenses and state issued identification cards—and the list of eligible voters provided by the

Secretary of State, and does not have the capability to accept additional source lists.
- The Judicial Branch should consider replacing the current jury management software with a program that has the capability to accept and merge multiple source lists. In addition, such software should have the capabilities to utilize a variety of appropriate statistical methods to measure any potential underrepresentation in jury pools.

***The Judicial Branch should study the use of additional source lists to create jury pools in order to ensure greater diversity.***

- Additional source lists, such as utility customers, unemployment compensation and public welfare benefit recipients, should be researched by the Judicial Branch in an effort to find the best possible means to meet the goal of greater diversity.
- The Judicial Branch should be cognizant of the possibility that additional source lists could create duplication of names and, through investment in contemporary software and other means, should take steps to prevent such unintended consequences.

***The Judicial Branch should begin collecting and maintaining statistics regarding the racial composition of jury pools.***

- There currently is not a reliable mechanism to measure the racial composition of jury pools. Efforts should be made to collect this information, including requiring responses to racial demographic questions on the juror questionnaire.

***Jury pool lists should be updated at least annually.***

- Iowa Code Section 607A.20 currently requires the master jury pool list be updated every two years. The Code should be updated to reflect the current practice of updating the list annually.

***The Judicial Branch should study ways to improve response rates to jury summonses and evaluate juror terms of service.***

- Once a jury summons has been delivered to a prospective juror, it is that individual's responsibility to appear for jury service. A notable amount of individuals summoned fail to respond or fail to appear.
- In an effort to increase responsiveness, the Judicial Branch should consider and evaluate:
    - The issuance of a second summons.
    - Flexibility in length and terms of juror service such as limitations on the number of days or the number of trials. For example, some counties utilize a "one-week-one-trial," method.
    - An increase in juror compensation.
    - Public education and awareness campaigns targeting citizens and employers.

***Oversight and accountability should be restored to the jury selection process.***

- Iowa Code Chapter 607A requires local oversight of jury lists, including the appointment of jury managers.
- Though perhaps Chapter 607A has not been strictly interpreted in order to allow for technological advances since its adoption, Chapter 607A should be updated to allow for the use of current technology and to clarify the responsibilities of the State Judicial Branch and each Judicial District as to oversight and accountability for the jury selection process. The responsibility of each to take affirmative steps to ensure jury pools that truly reflect a fair cross section of the community will require ongoing monitoring and coordination at both the State and District Court levels.

## Confidentiality of Juvenile Delinquency Records*

***Juvenile delinquency records should remain confidential unless a judge specifically finds that it is in the best interests of the child and the public to make the records publicly available.***

- Under current law, the effective default rule is that the records are public unless a judge grants a request to make the records confidential or seals the records. Under this proposal, the default rule would simply be flipped – the records are confidential unless a judge chooses to make the records public. Legislative amendments to Iowa Code Section 232.147, 232.149, 232.149A, and 232.150 would be necessary to enact this change.
    - Such a change would bring Iowa more in line with the majority of other states regarding the confidentiality of juvenile delinquency records.
    - This change more closely reflects Iowa's former juvenile delinquency record laws which have been amended several times in the past.
- The prevailing standard throughout the juvenile justice code is "the best interests of the child and public." The matter of whether records should remain confidential or become publicly available should be measured against that same standard.
- Perhaps the most significant racial disparities in Iowa's criminal justice system involve juvenile justice. Though only 15% of Iowa youth are minorities, approximately 35% of juvenile complaints involve minorities, and minority youth comprise 45% of the youth in Iowa's juvenile detention facilities.[1]
- Adoption of this policy would help ameliorate the collateral consequences of a youthful criminal record – namely, the ability to get a job, apply for housing and other accommodations- and lead a productive life.
    - Though recent legislation has allowed records to be sealed after two years, the reality is that the juvenile's record will still be reported on a background check, as the information will be recorded during the period the record is publicly available.

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[1]Disproportionate Minority Contact, Criminal and Juvenile Justice Planning, Iowa Dept. of Human Rights, https://www.humanrights.iowa.gov/cjjp/disproportionate-minority-contact; State of Iowa Juvenile Delinquency Annual Statistical report, 2013, https://humanrights.iowa.gov/sites/default/files/media/Annual%202013%20Statewide%20Report.pdf

Therefore, even after a record is sealed pursuant to a judge's order, the harmful effects on job prospects remain.

***The presumption that records should remain confidential should be rebuttable.***

- We must strike a difficult balance between removing roadblocks to a child's rehabilitation, while also placing a high level of importance on the countervailing value of honoring the public's right to know.
- Under this proposal, this balance will be struck on a case-by-case basis, with a judge balancing the various interests and all parties with an opportunity to be heard.
- In reality, dangerous or repeat juvenile offenders are likely to be waived to adult court, where records are public information. Therefore, this policy change is most likely to benefit low-level offenders, who are most likely to be successfully rehabilitated.
- Additionally, due to the racial disparities in the juvenile justice system, this policy is most likely to benefit juvenile offenders who are minorities.

***The hearing regarding whether the records should remain confidential should occur at each disposition, while the child still has counsel to advocate for the child's interests.***

- Under current law, a hearing regarding the sealing of juvenile delinquency records can be set at the later of: (1) the date the child turns 18; or (2) two years after the date of the last official action. Iowa Code Section 232.150(1)(a).
- However, the child does not get counsel reappointed for this later hearing. The practical reality is that only juveniles with families of sufficient means to hire a lawyer are able to have an advocate at this subsequent hearing.
- Therefore, because minorities are both disproportionately poor and disproportionately involved in the juvenile justice system, they are the least likely to have legal representation on the question of whether the records should be confidential.
- If the hearing is held at disposition, the juvenile will still have appointed counsel, and the matter will be fresh in the minds of all parties involved.

***The court should have the discretion to subsequently make the records public if the juvenile later reoffends.***

- The threat of having confidential juvenile delinquency records later become public can serve as a significant additional incentive for a juvenile to remain on the right track toward rehabilitation, reducing the risk they will reoffend.

* Neither the Attorney General's Office nor the County Attorney Association are endorsing or opposing these strategies at this time.

# Prison and Jail Phone Calls

***The Department of Corrections (DOC) should seek to renegotiate its contract with the Iowa Communications Network (ICN), and should consider seeking bids from other potential vendors, notwithstanding statutory restrictions to the contrary. The goal of such renegotiation should be the reduction of rates paid by prison inmates and their families.***

- Affordable phone access is a critical means by which offenders can maintain family connections to the best of their ability. However, expensive phone rates can have the unintended consequence of preventing the maintenance of such positive connections for those who are trying to do the right thing during their incarceration.
- Current phone rates in DOC facilities are $2.90 for up to a twenty minute phone call. The ICN receives $1.50 of this amount.
- The DOC should renegotiate this contract to seek a reduction in rates. The DOC should also open this contract to other bidders, as free market competition may drive down rates.
- DOC recently reduced the above rate from $3.15 to $2.90, and information was provided by DOC suggesting it could further reduce the rate to $2.40, even without a renegotiation of its contract. The DOC should pursue this further rate reduction.

***The Department of Corrections should transition to a "per minute" calculation for call costs, rather than a flat fee.***

- Under the current arrangement, inmates are charged $2.90 for a call lasting up to twenty minutes. However, they are charged the same $2.90, even if the call lasts significantly less than twenty minutes.
- Inmates and their families should only be charged for the actual call time used. A transition to a "per minute" calculation would accomplish this goal.
    - In making this transition, the Department should ensure that the new "per minute" model will not end up putting a larger financial burden on the inmates than the current practice.

***Counties should be enabled and encouraged to partner with one another, or the Department of Corrections, to negotiate more favorable rates with phone vendors.***

- Currently, counties negotiate separate rates for jail phone service in their respective jurisdictions. This arrangement has the effect of splitting up their buying power into ninety-seven pieces.
- Counties should work together to increase their buying power, perhaps by using the mechanism of entering 28E agreements to allow for joint purchasing of such services.
- Counties and the DOC should also explore the option of partnering together on phone contracts.
- Counties will monitor the FCC rule process, and should consider adopting similar policies and practices as the Department of Corrections as the Department works to implement these new strategies.