

# The Iowa County

Sentencing Reform:  
Not Likely To Go Away  
in Iowa

August 2003





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# The Iowa County

The official magazine of the  
**Iowa State Association of Counties**  
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### ISAC's Mission:

To promote effective and responsible county government for the people of Iowa.

### ISAC's Vision:

To be the principal, authoritative source of representation, information and services for and about county government in Iowa.

Cover photo provided by the California Department of Corrections.

## Sentencing Reform In Iowa: Not Likely To Go Away

Iowa has one of the lowest incarceration rates in the country. According to the Bureau of Justice Assistance, Iowa ranks near the bottom, 12<sup>th</sup> lowest, in incarceration rates per capita (2001 figures). Unfortunately this does not mean that Iowa's prison population isn't growing. It is and this is a concern for county officials in Iowa. If current offender behaviors and justice system practices continue, Iowa's prison population may be expected to increase from 8,141 inmates on June 30, 2002 to about 12,127 inmates on June 30, 2012, or by about 49% over the 10-year period (Iowa Department of Human Rights, February 2003). Should criminal sentences be reduced or more prisons built? The Iowa County Attorneys Association (ICAA) doesn't think these are the only two options available and prefers a set of alternative proposals.

### Choices to Address the Prison Population

ICAA knows first hand that the issue of "sentencing reform" is complicated and controversial. The Association has been working on the issue for many years, and has compiled choices that exist to address the prison population;

- 1) Expand community-based corrections, with an emphasis on eliminating the waiting lists at facilities to break the "log-jam" of inmates waiting in prison for community placement.
- 2) Increase the parole rate by providing education, job training, substance abuse and sex offender treatment while inmates are in prison.
- 3) Create alternative sanctions such as drug courts to divert, when appropriate, offenders from prison.
- 4) Increase probation and parole supervision to reduce prison revocation rates and stop the revolving door back to prisons. (An astonishing 52% of the total admissions to prison are due to failure in community corrections situations.)

Contrary to a popular misconception about a lack of judicial discretion, judges have discretion in the vast majority of their cases. Many alternatives are now available to judges including "reconsideration of a felon's sentence" which allows the court to take another look at, and reduce, the sentence initially imposed. Other discretionary alternatives include suspended sentences, deferred judgments, deferred sentences and residential treatment. The only cases in which judges have no discretion in sentencing are forcible felonies (see Chapter 702.11) and certain methamphetamine cases. Only a small fraction of the inmates in prison are serving mandatory minimums. The vast majority, almost 80%, of offenders in Iowa's prisons are serving sentences that do not have a mandatory minimum. These inmates are not staying in prison because of sentencing statutes, but because they are risks to public safety or because they have not yet met minimum rehabilitation standards.

By: **Fred McCaw**

*Dubuque County Attorney/President ICAA*

**Tom Ferguson**

*Black Hawk County Attorney/ICAA Legislative Chairperson*

**Julie Flemming**, ICAA Lobbyist

### Legislative Action on Sentencing Reform

There have been significant reforms made in the area of criminal sentencing in the recent legislative sessions. A Sentencing Commission made up of legislators and a long list of experts representing all aspects of our criminal justice system worked on the topic for two years and did not reach consensus on what direction "reform" should take. For one year prior to the formation of the Sentencing Commission a Legislative Interim Study conducted its own review. Neither review found that wholesale changes in the current system were needed. Many people involved believed that, although improvements could be made, Iowa's system works well.

Following the work of the Sentencing Commission in 1999, the Legislature enacted six of the eight bills during the 2000 Session that were introduced and referred to as the "Sentencing Reform Package." These proposals consolidated "special interest" crimes back into general statutes; created a new system of "post-release" supervision for certain sex offenders; allowed credit to an inmate's sentence for time incarcerated in another jurisdiction; allowed credit in the community-based corrections program for progress made by the offender in OWI treatment while in prison; changed automatic "good time" to "earned time," and continued the effort to modernize simple misdemeanor fines.

Another significant provision enacted by the Legislature in 2000 required each judicial district to implement intermediate criminal sanctions programs by July 1, 2001. The purpose was to reduce the strain on the court system as well as county jails by allowing community corrections officials to move offenders along a continuum of sanctions, as appropriate, with less administrative hurdles.

Beginning in 2001 the Iowa State Bar Association (ISBA) facilitated a Correctional Services Study Group. That group made a series of proposals designed to relieve prison crowding, two of which were promptly supported by the Legislature: the expansion of time for reconsideration by the court of a felon's sentence from 90 days to 1 year and the establishment of a substance abuse treatment facility for offenders on probation to be located at the current Veterans Home in Knoxville, Iowa. This 100-bed secure facility would be able to treat 200 offenders each year. The reconsideration of a felon's sentence proposal was enacted. Unfortunately the substance abuse treatment facility at Knoxville received initial support but was ultimately delayed due to budget constraints. Several of the other important proposals, such as expansion of drug courts and community-based corrections, were also hampered by the serious budget constraints faced by the state. A proposal to expand community-based corrections focused specifically on eliminating the waiting lists at residential facilities that cause a delay in prison releases. ICAA felt this was an excellent, fiscally responsible alternative to building another prison.



A significant amount of time and energy was spent on all these issues again during the 2002 Legislative Session. The ISBA Correctional Services Study Group continued to work. Their 2002 proposals included further study of a Community-based Corrections Advisory Board, modification of Robbery II from an 85% requirement to a 70% requirement followed with post-release supervision for three years, elimination of the disparity between powder and crack cocaine, creation of a Robbery III crime that is not covered by the 85% statute and a reaffirmation of support for drug courts. The House and Senate Judiciary Committees developed their own proposals embodied in SF 2300 and HF 2555. Consensus was not reached on the bills and no sentencing changes were enacted in 2002. You will recall that the 2002 Session was cut short by budget constraints.

### Sentencing Legislation Passed

This past legislative session Justice Budget Co-chair, Rep. Lanch Horbach informed the House Appropriations Committee that his number one priority in the budget was to “control the growth of the inmate population.” The Justice Budget Subcommittee met and exceeded the Governor’s recommendations in the budget in almost all areas. Community-based corrections received significant and meaningful funding. This funding seemed to signal a change in the mindset of many legislators towards an increase in community-based corrections resources as a way to address the prison population.

Sentencing reform legislation (SF 422) was passed this year.

Key components included the expansion of the Parole Board’s discretion to consider inmates for parole after serving 70% of their 85% mandatory minimum sentence. Post-release supervision was established for inmates paroled under the new 85% proposal. The disparity was reduced between “crack” and “powder” cocaine penalties. The bill repealed the optional “determinate D” sentence under 902.3A. This basically repealed SF 543 from 2001. And finally, SF 422 established a procedure that would allow “reopening” of a sentence of 85% pursuant to a motion of the county attorney. The victim of the crime is served a copy of the motion and can object.

### Conclusion

The issue of sentencing “reform” is not likely to go away, due mostly to increasing budget constraints at the state and local levels. Let’s not forget that public safety is a core function of government and one that cannot be ignored. There are fiscally smart and effective ways to address public safety that does not include additional legislation to simply reduce prison sentences for criminals. As already noted, a comprehensive list of sentencing alternatives and the statewide availability of such programs is the key to meaningful sentencing reform. We also must work towards funding and implementing educational job training, sex offender treatment and substance abuse treatment for offenders, which can successfully change their behavior. This can make our communities safer in the long run.

## counties in the spotlight

**Polk County** Supervisor and ISAC 2<sup>nd</sup> VP Angela Connolly was selected by the *American City & County* magazine as the 2003 County Leader of the Year. The magazine presents the award annually to recognize outstanding leadership in county government. Connolly has been the leading advocate for the county’s construction of the Iowa Events Center, a \$217 million arena and convention center in downtown Des Moines. In the course of lining up funding for the project, Connolly was instrumental in creating Vision Iowa, a state grant program for similar local government capital projects. Additionally, Connolly worked with county staff and Iowa State University to conduct the first scientific survey of county residents’ opinions of county services. Connolly was presented with the American City & County award at the 2003 NACo Annual Conference in Milwaukee July 11-15. In addition, she was featured in the July issue of *American City & County*.

**Linn County** received a “Special Achievement in GIS” award at the Environmental Systems Research Institute, Inc (ESRI) 23<sup>rd</sup> Annual User Conference in San Diego, July 10, 2003. The award was given to GIS user sites around the world in recognition of their outstanding work in the GIS field. Linn County was selected to receive this prize from over 100,000 user sites world-

wide, for developing an enterprise GIS through geodatabase and ArcIMS implementation, resulting in multi-user editing capabilities, increased GIS data availability and improved overall system performance. Linn County will be showcased on ESRI’s website later this year and will be featured in ArcUser magazine.

**Linn County** received two NACo Achievement Awards for their Core Values Program and their Rural Land Use Plan and Interim Development Ordinance. The Core Values Program began as a process to develop a set of core values for Linn County employees. Nearly 700 employees shared their thoughts on how to improve their workplace. The results were refined and developed into five core values to improve the workplace and provide better service. The Rural Land Use Plan and Interim Development Ordinance implemented a strategy for managed growth and includes a point system to guide development in Linn County. The system balances the competing interests of economic development, agricultural land preservation, and the protection of private property rights using objective and consistent criteria for evaluating development proposals.

Barbara L. Smith has been appointed to fill the vacancy of District #5 member on the **Grundy County** Board of Supervisors.

# counties in the spotlight

## The Hybrid Revolution

Conservation is a form of citizen action, and is reflected in the daily choices we make. One of the most far-reaching conservation choices anyone can make relates to the type of vehicle they drive. The choice to purchase fuel-efficient vehicles is now easier than ever. New technologies have opened the door to safe, affordable, quality vehicles that are a viable choice for conservationists and agencies looking to save money through efficiency.

In June, the Buchanan County Conservation Board made a choice to demonstrate its leadership role in promoting clean technologies and energy efficiency. The Board decided to purchase a hybrid car – a vehicle that uses both a conventional combustion engine and an electric battery-run motor. The hybrid car is averaging about 50 mpg, without compromising safety, comfort, or utility. The decision to purchase the vehicle was based on many impressive selling points:

- **Air quality:** Hybrids have the potential to reduce smog emissions by 90% and global warming pollutants by half.
- **Habitat Protection:** Widespread use of hybrid technology would save far more oil than could be produced by drilling in the Arctic National Wildlife Refuge, and would lessen the need for oil exploration in other public forests, parks, and refuges.
- **National security:** Even modest increases in fuel efficiency would reduce reliance on foreign oil by one million barrels of oil *each day*.
- **Vehicle needs:** The Conservation Department was in need of a dependable road vehicle to take to meetings and for business trips to town.
- **Cost:** The hybrid vehicle is expected to save the county more than \$9,000 in fuel costs over its life, compared to driving a pickup, making it the Board's most cost-effective vehicle.
- **Display:** The hybrid vehicle is a noticeable display of energy efficiency and technology, and will be taken to public gatherings and educational programs.

Purchasing the car “is right in line with our philosophy,” said Ken McDonough a Conservation Board member from Hazleton. Board member Richard Vogel of Jesup agreed, “I like the idea. It promotes a good image.” “It’s a smart purchase,” said Board chair Loren Hamilton of Independence. Buchanan County Supervisor Ellen Gaffney thought the Conservation Board had come up with an “innovative idea for these difficult budget times — one that will prove to be a cost savings.”

The Conservation Board purchased a four-door Toyota Prius from Toyota of Iowa City. The Prius was the pioneer in hybrid

By: **Dan Cohen**

Buchanan County Conservation Director

cars, first introduced in Japan in 1997, and later sold in the U.S. Today, American consumers have their choice of three hybrid vehicles, priced comparatively to conventional cars: The Toyota Prius, Honda Insight, and Honda Civic.

It is unfortunate that hybrid technology is not yet available from the Big Three U.S. automakers, but change is on the way. In 2004, Ford will introduce a hybrid version of the Escape SUV, GM promises hybrid versions of the Silverado pickup and GMC Sierra, and Daimler-Chrysler also plans to make a hybrid vehicle available soon. Hybrid technology does not limit the comfort of a vehicle, and is planned for introduction in sedans, sport vehicles, and pickups during the next four years.

Hybrids are being viewed as “transition vehicles” as our nation looks long-term toward alternative fuels, such as hydrogen

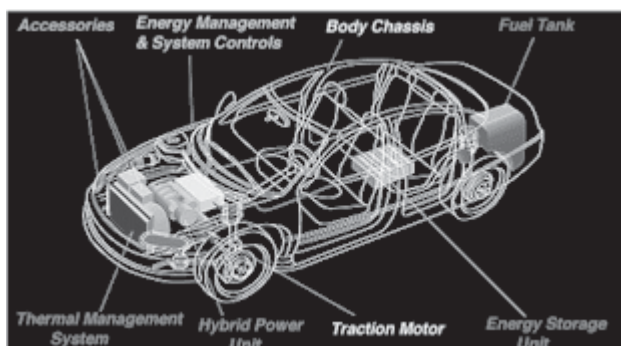
fuel cells. Unfortunately, when the Bush Administration announced its support of fuel cell vehicles as part of its Cooperative Automotive Research (CAR) program, it did away with a Clinton Administration Program designed to promote energy efficiency now. At best, fuel cells are 10-20 years away from the consumer market, and during that time period hybrid cars and government support of fuel efficiency could save billions of gallons of oil and the associated

environmental side effects. Whereas hybrid technology is a current reality, fuel cells are still only a vague promise. According to David Hawkins of the Natural Resources Defense Council, “The U.S. can’t afford another research program that just gives billions of dollars in subsidies to the automobile industry with no commitment from them to actually produce advanced vehicles for consumers to buy.”

The good news is, regardless of political support, there are signs American consumers will choose to become more efficient. Although average fuel efficiency hit its lowest level in recent decades (20.4 mpg in 2002 compared to 22.1 mpg in 1988), Americans are beginning to demand better from automakers. For the first time in 17 years of surveys conducted by the consumer research organization JD Power and Associates, fuel efficiency was a major complaint of consumers who had recently purchased or leased a vehicle. Other market studies indicate 25%-30% of consumers are already interested in purchasing hybrid vehicles, and hybrid sales were up 43% last year. The Union of Concerned Scientists recently endorsed a “hybrid revolution” that would take advantage of improved hybrid technology.

The Buchanan County Conservation Board is proud to be part of the hybrid revolution, and a cleaner, safer, and more enjoyable future. The hybrid vehicle demonstrates these benefits, and will be proudly displayed wherever it goes.

*Hybrid Electric Vehicle Components*



*U.S. Department of Energy*



## Makeup Exam on the 2003 Legislative Session

*"I come from Des Moines. Somebody had to."*

*"There are three things you just can't do in life. You can't beat the phone company; you can't make a waiter see you until he is ready to see you, and you can't go home again."*

- Bill Bryson in *The Lost Continent* (1989)

Sometimes a topic discussed during an ISAC sponsored meeting is one which has already received significant amounts of ink in newspapers around the state. Other issues about which the staff make note are important to county officials but of little interest to much of anyone else. Still other items are those which even make county officials furrow their brow. An example of each were topics of remarks during each of the ISAC district legislative workshops in June.

### Iowa Values Fund

Under the first heading (issues already receiving statewide news coverage) is the legislation which contained the provisions of the "Iowa Values Fund." Based upon the history of county involvement with local economic development, ISAC staff at the workshops indicated that we like the infusion of money from this fund to local development efforts. However, the original version of what became HF 683 and HF 692 would have been preferable to county community development efforts because of the emphasis on the eligibility of county economic development offices, also known as "multi-community development organizations," for Iowa Values Fund assistance. At least two-thirds of Iowa's counties are the sponsor of or are a party to funding such an operation. While the final version does contain a provision for "targeted economic development grants," they are fairly narrowly focused. The original bill's provisions were changed during the special legislative session in June to making eligible funding to large segments of the state consisting of five regions of nine to 24 counties each.

Also included in these interlocking bills were other provisions of particular interest to county government. These included the so-called Streamlined Sales Tax, the adoption of the sales tax on internet based sales. This is part of a national effort which has been endorsed by both the National Association of Counties and the National League of Cities. The application of state sales tax to the increasingly popular use of the internet for the retail purchase of everything from soup to nuts finally puts these commercial exchanges at par with shopping at brick and mortar stores, at least with respect to the sales tax to be included in the price. Application of sales tax to such purchases won't hurt state revenues either.

Another part of this package which survived the governor's vetoes is the plan which could lead to a significantly different property tax system. The new system would be based upon two provisions which would change the current cobbled-together tax system. One bases the assessed valuation of a structure on its

By: **Robert Mulqueen**

ISAC Public Policy Analyst



size, i.e. its square footage. The other equally controversial part would provide that changes to assessed valuation would not occur by means of re-evaluation on a regularly scheduled basis, as is now the case, but on the occasion of the property's sale. The legislation calls for trial of this system by three counties and advice to the legislature on the workings of such a system by an ad hoc committee, which includes county officials. It also calls for a second vote by the Legislature before such a system can be put into effect.

### Technology Fee Placed on Real Estate Transactions

Under the second heading (issues of note by county officials, but almost no one else) is the new technology fee placed on real estate transactions which are put on the books by the county recorder. This fee, which went into effect on July 1, goes into a fund to be used to "build" a statewide real estate documents website. Such a site could be used by realtors, commercial lenders, attorneys or anyone interested in the status of real estate documentation. Such an internet site would not take the place of recording such property documents at the courthouse, but would supplement the current procedures. After June 30, 2004, this fee would remain but would be reduced to one dollar per transaction. Such a statewide internet system has been accomplished in no other state. The proposed site, which will be administered by the Iowa County Recorders Association, follows the internet sites constructed by the county engineers and the county treasurers and those produced by a number of county assessors. These make electronic government at the county level a reality in Iowa.

### Legislation Involving 9-1-1 Systems

The third type of issue (a puzzlement to nearly everyone) which was addressed during the June workshops is the legislation involving 9-1-1 systems which faltered during this year's legislative session. An important piece of legislation which was the product of a year's worth of work was sidetracked, if not bludgeoned, by 1) two cellular telephone companies and 2) a faulty belief by certain state representatives that counties have secret vaults of cash which supervisors swim in like Scrooge McDuck. House File 649, which received little press coverage, would have by means of a one dollar monthly surcharge on wireless telephones, enabled counties and the state Office of Emergency Management to finish the second and last phase of applying the latest technology to making enhanced 9-1-1 systems completely compatible with the use of wireless telephones and, thus, allow public safety personnel to respond faster. This unheralded initiative should be made a priority next January.

County officials who attended their district workshops in June should, with a reading of this column, be assured an "A" in the upcoming quiz. For those who were otherwise occupied at the time, this is chance for a makeup exam on the 2003 legislative session – both of them.

## Can Employees Be Fired For Consulting A Lawyer?

### Retaliatory Discharge

Back in 1994, in a case called *Thompto v. Coborn's Inc.*, 871 F.Supp. 1097 (N.D.Iowa), a federal district court in Iowa announced that employees can sue for retaliatory discharge if they are discharged based upon the consultation with a lawyer or the threat of consultation with a lawyer.

This idea, that employees cannot be fired for talking to lawyers about trouble they are having at work, arose again recently in a lawsuit involving an Iowa county.

In *Davis v. Horton*, 661 N.W.2d 533 (Iowa 2003), Beverly Davis had been an employee of the Webster County treasurer's office since 1977. When Janice Horton was elected county treasurer in 1994, she appointed Davis as first deputy. In 1998, Davis and Horton began having difficulties at work. They went through two informal mediations. Then in 2000, Davis requested a formal mediation, as provided in the county employee handbook. Following the formal mediation, Horton put Davis on 60 days probation and demoted her to second deputy.

Shortly after that, Davis had an attorney write a letter to the board of supervisors asserting that the demotion was illegal and demanding that the action be rescinded. One month later, Davis was terminated by Horton.

Davis sued, and citing the *Thompto* case, claimed that she was illegally fired for hiring an attorney. The district court granted summary judgment for Horton. Davis appealed, and the Iowa Supreme Court affirmed the district court decision in favor of Horton.

In this appeal, the Iowa Supreme Court was asked to decide whether, in Iowa, public policy prohibits employers from firing employees for hiring an attorney. That had been the decision in *Thompto*, but that precedent only applied in federal court cases brought in the Northern District.

The Iowa Supreme Court did not reach the issue. The Court held that it was "clearly impossible to separate Davis's act in hiring an attorney from her act in challenging a personnel decision made by her employer."

In other words, when Horton put Davis on probation and demoted her, Davis did not respond by meekly accepting these measures. Instead she went to the board of supervisors and complained. The Iowa Supreme Court said that this was an "attempted rebuke of an employer's personnel decision," and said that such an act "should not be insulated from sanction merely because it has been carried out through an attorney."

This is an interesting result, and perhaps somewhat surprising in light of *Thompto*. While the Iowa Supreme Court did not exactly decide the issue raised on appeal, the bottom line is that employees who hire an attorney to challenge an employer's decision do so at their peril.

### Negligent Inspections

There are certain circumstances under which local govern-

By: David Vestal

ISAC Deputy Director



ments cannot be sued, even when they act negligently. In May, the Iowa Supreme Court decided a case that shows just how important these so-called "tort immunities" in the Iowa Code really are.

In *Madden v. City of Eldridge* (02-0604), Eleanor Madden died in 1999 when her apartment ceiling collapsed on her. The building was constructed in 1975 in the city of Eldridge. It turned out that at the time of construction, the city failed to conduct a lath/wallboard inspection as required by the local building code. When the city inspector went to conduct a final inspection, he determined that no preliminary inspection had been done. But by that time the drywall had been mudded, taped, and painted. This completely concealed the nails, nail heads, and nail spacing used to hold the ceiling in place. Nonetheless, the city inspector issued a certificate of occupancy. Twenty-four years later the ceiling of Madden's apartment collapsed because of defects in its construction, including too few nails and improper size and spacing of the nails.

Madden's estate claimed that the city inspector failed to inspect the building as required by the city building code and ignored code violations in the building thereby causing the ceiling to collapse, killing Madden. But the city escaped liability based on the immunity for negligent inspections in Iowa Code §670.4(10). This section provides that cities and counties are immune from liability for any claim based upon an officer's or employee's negligence in the "issuance of permit, inspection, (or) investigation..."

The district court granted the City's motion for summary judgment, finding that this was covered by the discretionary immunity exception which is also in Iowa Code chapter 670.4. The Iowa Supreme Court found that the discretionary immunity exception did not apply. But the Court held that since the City's involvement was strictly limited to conducting an inspection and issuing a permit, the negligent inspection immunity applied, and the case against the City should be dismissed.

This case, where someone died because of the city inspector's mistake, is a strong testament to the power of this statutory tort immunity.

**Parting Ponderable:** According to the "iowa-counties.com" website, which has nothing to do with ISAC, there are some interesting stories behind some Iowa county names.

- Louisa County was named for Louisa Massey, "area folk heroine who avenged her brother's murder by slaying his assassin;"
- Monona County was named for an "Indian girl who, believing her white lover was killed by her people, jumped from a high rock into the Mississippi;"
- In 1846, Kishkekush County was renamed Monroe County. Wise move.



## Everyone is Getting Older



By: **Sandy Longfellow**  
ISAC Administrative Assistant



Baby Boomers are in the middle. We have wonderful children and grandchildren. We also have parents that are reaching an age in which we become caregivers. As my parents and my parents-in-law have always been very active, this is a new thought for me.

With all the new innovative vehicles that are being created, I have noticed some accommodations that need to be made. My first experience was when our family bought a van and took my parents on a vacation. It wasn't very easy for them to get into the van. We brought along a little stool to make climbing in less difficult.

We need to remember to make accommodations when transporting our elderly loved ones.

- **Four-wheel Drive Vehicles:** These vehicles can present challenges. They are generally too high off the ground for older friends and relatives to get into easily. Getting out is even harder; there is a fear of falling. Be sure to bring a step stool or something to help them get in easier.
- **Sports Cars:** This type vehicle has the opposite problem for the four-wheel drive vehicles. It is very difficult for

elderly to get down that low and also very difficult to climb out.

- **Vans:** I have already mentioned this one, but you can have steps installed in your van if you will be transporting people on a regular basis who might have challenges. If this is not an option, remember something to step on.
- **Air Bags:** It is best for older folks to sit in the back seat. If they are fragile, a deploying air bag could cause considerable damage.

So what is the best vehicle to use? Larger cars with long back doors and a lot of room are very helpful. Station wagons are usually roomy and they have a convenient place for a wheel chair or walker. Because of the onset of arthritis and other challenges, the extra room is very welcome.

Remember to be very attentive to your older passengers. Help them in the car and help them buckle up. You may want someone to do it for you someday!

## technology center

## Simple Computer Fixes and Tips



By: **Tammy Norman**  
ISAC Technical Administrative Assistant



Here are some quick and simple computer fixes if your computer is not behaving. If the keyboard and mouse are not responding, no matter how many times you click or type, a possible solution is to check the connections at the back of the PC. Particularly if the CPU (central processing unit) is up against a wall or located where it can be easily moved or jostled. A slight shove of the CPU is enough to dislodge one or both of the cables. If either the keyboard or mouse is cordless, check the batteries.

If the computer fails to start, remember that it needs electricity. It is a common practice to plug our computers into power strips with a switch that seems designed to be stepped on and turned off by you, the dog or a book tossed onto it. You may also want to check the power strip itself and make sure that it is functioning properly. If both computer and monitor are lifeless, the electricity is the probable culprit, thus another simple fix.

You are in the middle of a project and your computer freezes and the keyboard and mouse are non-functioning; you will need to perform the infamous "ctrl, alt, delete" to bring it back online. Unfortunately, this may bring your computer back to life but the document will revert back to the last time you saved. If you

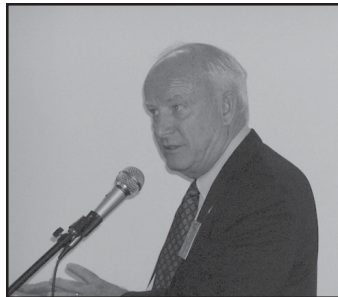
never saved the document, it is lost, therefore, remember to save often. If you tend to forget to do this, you may want to activate the "Auto Save" feature. To activate this feature, click on "Tools", "Options", "Save." Under "Save Options", check "Always create backup copy." The "Auto Save" feature will allow you to view the most recent version of your document including the last "hard saved" copy. You can now select the document you wish to retain. This feature can save you hours of work but remember you must perform an initial hard save to enable it.

**Website Note:** Take a moment to check out ISAC's homepage. Every couple of months, Denise Obrecht redesigns the look of the homepage and highlights an important event or subject relevant to county officails. So make sure you keep coming back to see the new look. Your feedback is vital to us, so please e-mail with any questions or comments you may have at [tnorman@iowacounties.org](mailto:tnorman@iowacounties.org). Until next month, keep clicking!

# ISAC brief

## The Legislative Session Outcome: Presentations at the ISAC District Workshops

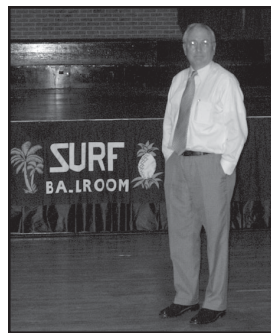
Approximately 350 county officials attended the six ISAC District Legislative Workshops held in June. The agenda for the workshops included ISAC staff speaking about the 2003 legislative session. John Easter, Director of Intergovernmental Affairs, and Bob Mulqueen, Public Policy Analyst, discussed the legislative outcome of topics that were of concern to county officials. Topics included the E9-1-1 bill, the HAVA bill, the loss of federal funding down to counties, the Grow Iowa Fund, and the Recorders Technical Fee. Bill Peterson, Executive Director, gave a stirring speech on his disappointment in the \$60 million reduction in aid from property-tax relief and replacement programs, the outcome of decisions made in the Reinvention Bill (SF 453). He also spoke of his concern for the legislative process in general and said, "The Iowa Legislature places too much reliance on



small working groups, holds too many secret meetings and invites too little public input." He also stated that there appears to be a disconnect that happens somewhere on the roads between our lawmakers' hometowns and Des Moines. "Somewhere on that drive, legislators forget that the people they represent are the same people that receive services provided by cities and counties," said Peterson. Legislators were invited to speak over lunch and shared their view of how the legislative session progressed and then answered questions that county officials voiced. Then the rest of the afternoon affiliates had time to meet. ISAC would like to thank all of the legislators that came to speak at the ISAC District Legislative Workshops.



*Above: Sen. Thurman Gaskill spoke at the Forest City District Workshop. Left: Ken Slothouber, Jasper County Auditor and District 1 President, greeted county officials in Des Moines. Bottom Left: Rep. Donovan Olson shared his experience of being a new legislator during the 2003 legislative session. Below: Rep. Henry Rayhons addressed county officials in Forest City.*



*Above: Staff stopped at the Surf Ballroom in Clear Lake on their travels to the six district workshops. Back row (left to right): Steve DeVries, Engineers Service Bureau Executive Director; Mike Wentzien, Iowa State Association of County Supervisors Lobbyist; Jay Syverson, ISAC Fiscal Policy Analyst; Bill Peterson, ISAC Executive Director. Front row: John Easter, ISAC Director of Intergovernmental Affairs and Jerri Noboa, ISAC Meetings Administrator. Left: Bob Mulqueen, ISAC Public Policy Analyst, at the Surf Ballroom.*



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## Dispelling Myths About the New Property Tax System

**By: Jay Syverson**

ISAC Fiscal Policy Analyst



The Governor's recent signing of House File 692 paves the way for Iowa to move to a new property tax system, sort of. The "square footage system," championed by freshmen Representatives Jim Kurtenbach (R-Story) and Kent Kramer (R-Polk) still must be technically tweaked by an implementation committee, successfully passed through a pilot study in three counties, and pass both houses of the legislature again before it goes into effect. Nonetheless, many county officials seem more than a little apprehensive about the prospect of changing to a new system. In an effort to quell some of that apprehension, allow me to dispel a few myths about this new system.

**Myth:** The new system would base taxable property values solely on the size of a property, i.e. its square footage.

**Fact:** Taxable property values will continue to be determined largely as they are now, based on a property's assessed value.

Any legitimate system of property taxation must be based on valuation. The folks in the Legislature that formed this plan realize that not all properties of equal size are of equal value. Many factors go in to determining a property's value; its location, condition and structural makeup - as well as its size - must all be accounted for. That is why the new system assigns a *value per square foot* to each property. In the base year, local assessors will assess all properties just the way they have in the past. Each property's assessed value will then be divided by its size to get a value per square foot. It is this value per square foot, not just the number of square feet, which will determine the taxable value of a property.

**Myth:** Assessors will soon go the way of the dinosaurs.

**Fact:** The role of local assessors will change only minimally under the new system.

First of all, base year values must be established, so it will be business as usual through 2005. Beyond that, any time a property is sold an assessor would make sure that the sales price is accurate, in that it represents an "arm's length" transaction. Any new construction would have to be assessed, just as it is now. Additionally, the bill calls for removing the effects of inflation from the taxable value of all properties that are sold or built after the base year. To accurately determine the effects of inflation in each county's housing market, the actual market value of *all homes* will need to be established. The current system of assessment must be retained for that to happen.

**Myth:** This proposal is just a creative way of imposing a property tax limitation.

**Fact:** The presence or absence of levy rate limitations is

one of the items set to be discussed by the implementation committee.

In its current form, the new system would allow local governments to set levy rates without limitation. However, the bill explicitly calls for the implementation committee to study "whether or not maximum square footage rates and land tax rates should be imposed...." The usual suspects (Farm Bureau, Iowans for Tax Relief) will undoubtedly push for the inclusion of those maximum rates. Even one legislator has allowed for that possibility, noting that Iowa has had a philosophy of imposing maximum levy rate limits in the past, and that philosophy may well continue under the new system. It will be up to local officials, as well as ISAC and the League of Cities, to convince the Legislature that levy rate limitations have no place in a system in which valuations are relatively static.

**Myth:** The primary reform in this proposal is moving to a "square footage" system.

**Fact:** Converting assessed valuations to a square footage basis is unnecessary and redundant, and this system could be implemented without doing it.

At its most basic level, the proposed system calls for establishing the base year valuation of a property and holding that value constant - for tax purposes - until the property is sold or expanded. The drafters decided to convert valuations to a square footage basis because they believe taxpayers can more easily understand a square footage system than the millage system (i.e. dollars per thousand) currently in place. That may or may not be the case, but a simple math equation can demonstrate that converting assessed values to a square footage basis is a provision straight out of the Department of Redundancy Department.

*Square Footage System:*

House: \$150,000 assessed value ÷ **1500 sq. ft** = \$100 value per sq. ft.

#1 Levy rate of \$0.03 per dollar of value per square foot  
Tax bill = \$0.03 \* \$100 value per square foot \* **1500 square feet** = \$4,500

Now let's simplify the equation, using the same house:  
#2 Levy rate of \$0.03 per dollar of valuation (or \$30 per thousand, or 3%)

*Continued on page 12*

Continued from page 11

Tax bill =  $\$0.03 * \$150,000$  assessed value = \$4,500

The system generates the same result with or without the square footage calculation. By eliminating the redundancy in equation 1 (**the bolded items**), equation 2 is easier for the taxpayer to understand and more efficient for county officials to carry out.

The square footage complication aside, this system would make some reforms. It improves transparency, in that if a homeowner sees a tax increase from one year to the next, and has not added living space to his or her property, the only reason for the tax increase would be a higher levy rate imposed by a local government. Currently, a person's property tax bill can increase even in the face of a static or declining levy rate if the assessed value of the property increases.

Another reform this bill makes is that it would eliminate the primary complaint against most property tax systems, because it would avoid taxing unrealized capital gains. A house that was purchased for \$100,000 in 1990 might be assessed at \$165,000 today. The \$65,000 increase in value is a 'paper gain,' or unrealized gain, because the owner of the home has not yet benefited from the increased value. However, the owner has been paying taxes on that unrealized gain for the past 13 years, and will continue to do so even if the home is never sold. The new property tax proposal would avoid taxing unrealized gains because the taxable value of any property, in any year, would simply be its base-year market value (\$100,000 in our example), plus the base-year value of any additions that the owner chooses to build. Taxable value would be based entirely on choices made by the property owner. That isn't to say, however, that a person's tax bill, or share of the tax burden, would be any less just because his or her taxable valuation is lower. Local governments could simply increase the levy rate as needed to make up for the difference. Nonetheless, the reforms may be worthwhile, if taxpayers are more likely to understand a system that holds valuation constant and has only one variable – the tax rate.

There are many things we don't yet know about the property tax proposal in HF 692. We don't know if it will shift the tax burden from structures to land or vice versa, or from one class of property to another. We don't know if the implementation committee will work for two years and then throw up its collective hands in disgust, saying 'this system just won't work.' We don't know if the committee will work for six months and say 'we've got it,' or even if the Legislature would listen to its recommendations. We do know a few things. We know that the underlying method of assessing the value of property will not change; thus, we know that assessors are here to stay. We know that this system is at least three years away from implementation. Most importantly, we know that local officials have a chance to be the most influential voice at the table as this

system either evolves or erodes over the next few years.

So relax a little bit. Stop listening to unfounded myths and please, don't spread the gloom and doom message promulgated by the misinformed. After all, with the reinvented budgets of FY 2004 just kicking in, and ag land values about to drop 18%, most local officials have more immediate concerns.

## Shortenhaus Named IPAIT's Marketing Manager

The Iowa Public Agency Investment Trust (IPAIT) is proud to announce the addition of Ron Shortenhaus as IPAIT's marketing manager. Ron will be taking over the duties of Paul Kruse whom resigned from Investors Management Group to pursue other opportunities. Ron is an experienced investment counselor that has spent his professional career helping institutions, as well as individual investors, to evaluate investment alternatives.



Ron is responsible for sales and relationship management to institutional clients, including insurance companies, banks and non-profit organizations. These responsibilities include identifying and soliciting prospects, presenting investment management proposals and on-going client retention.

Ron joined Investors Management Group in May 1997 and has been employed in the financial services industry for 12 years. He has eight years of direct investment experience and three years experience devoted exclusively to bank cash management services.

Investors Management Group acts as the investment advisor, administrator and developer for the IPAIT program. If you have questions or suggestions about IPAIT's cash management services, please contact Ron on IPAIT's toll-free line, 800-872-4024 or Ron's direct cell line at 515-491-5050.

## Iowa Law Enforcement Workshop

Chiefs, sheriffs, mayors, and city managers are encouraged to attend a class on meeting the Iowa Law Enforcement record requirements. The class will review Iowa Law Enforcement Academy hiring standards and required documents. The class will provide insight into recruiting, selecting and background investigation and its impact on public safety. Ways to use the POST and MMPI tests for hiring decisions will be explored. The class will be offered October 14, January 6, or May 12. The registration fee is \$35 and the lunch fee is \$4.81. The classes will be held at the Iowa Law Enforcement Academy at Camp Dodge in Johnston, Iowa. To register for one of the above dates contact JoAnn Hively at the Iowa Law Enforcement Academy (515) 242-5357.



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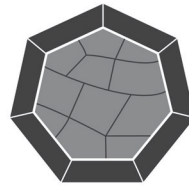
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# readership survey

## Tell Us What You Think!

Please take part in this survey to determine what the ISAC staff can do to improve this publication. We want this magazine to be useful and an important piece of mail that you look forward to getting each month. Visit our website under "Publications" for additional copies of this survey. **Thank you for taking this time to tell us your opinion and suggestions for future issues!**

1. The general appearance of The Iowa County is:

- Excellent
- Very Good
- Average
- Below Average
- Poor

2. Each month I read:

- All of the articles
- Most of the articles
- About half of the articles
- A few of the articles

3. Articles in The Iowa County are:

- Excellent
- Very Good
- Average
- Below Average
- Poor

4. Rank the articles in order of interest to you:

- Feature story
- Around the Statehouse
- Legal Briefs
- Health Check
- Technology Center
- Case Management
- NACo News
- Calendar of Events

5. Rank the feature stories in order of interest to you:

- IMWCA - July
- Prepare for HIPAA - August
- Environmental Health Directors - September
- Doug Gross & Governor Vilsack - November
- Consolidation: The Pro's & Cons - December
- Iowa's Rail Freight - December
- ICIT ISAC's New Affiliate - January
- Fight Against Terrorism - February
- State Cuts to Conservation - March
- Supporting County Airports - April
- Lock Down on Anhydrous Tanks - May

Refinancing Your Home Loan: The Effect on County Recorders - June

6. Your county patronizes *The Iowa County* advertisers:

- Frequently
- Sometimes
- Seldom
- Never

7. Each month I look at:

- All of the ads in the magazine
- Most of the ads in the magazine
- A few of the ads in the magazine
- None of the ads in the magazine

8. The overall letter grade I would give *The Iowa County* is:

- A (Excellent)
- B (Very good)
- C (Average)
- D (Below Average)
- F (Poor)

Areas that need improvement are:

Suggested topics for feature stories are:

Other comments:

*When completed, fax the survey to 515-244-6397 or mail to 501 SW 7<sup>th</sup> St., Ste. Q, Des Moines, IA 50309. Thanks again for taking the time to help the ISAC staff. We depend on your input!*



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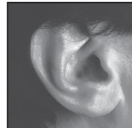
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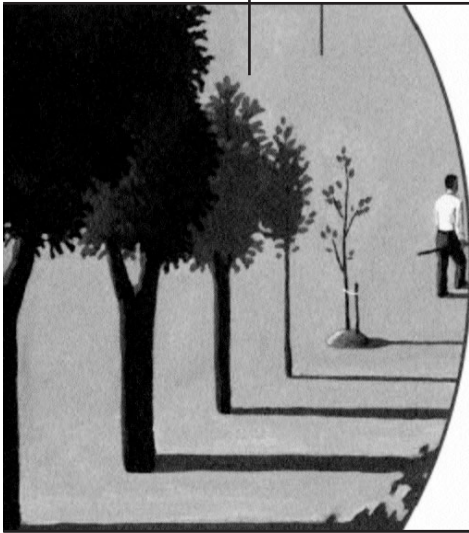
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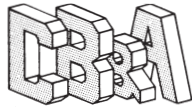
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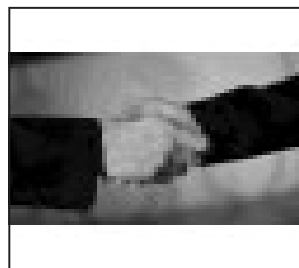
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## AUGUST

- 7-8 Supervisors' Executive Board - Clinton Area
- 7-8 Community Services Board Retreat  
- Country Inn & Suites, DM
- 11 Recorders' Legislative Committee  
- Holiday Inn at Ameristar, Council Bluffs
- 12-13 Recorders' Summer Conference  
- Holiday Inn at Ameristar, Council Bluffs
- 13-15 CCMS Annual Conference  
- Holiday Inn Airport, DM

## SEPTEMBER

- 5 ISAC Steering Committees  
- Holiday Inn Airport, DM
- 10 CCMS Central Support Group  
- Botanical Center, DM
- 14-17 Sheriffs & Deputies Jail School  
- Holiday Inn Airport, DM
- 16 ISAC Alumni - ISAC Office
- 17-18 CCMS Fundamentals - Baymont Hotel, DM
- 18-19 ISAC Board of Directors - Lyon County
- 25 Engineers Executive Board - ISAC Office

## OCTOBER

- 8 CCMS NW Support Group - AEA, Storm Lake

- 10 ISAC Steering Committees  
- Holiday Inn Airport, DM
- 14 CCMS Administrators Meeting  
- Baymont Hotel, DM
- 16-17 CCMS Strengths - Baymont Hotel, DM
- 23-24 ISAC Board of Directors - ISAC Office
- 26-29 Assessors Annual Conference  
- West Des Moines
- 29 CRIS Board - ISAC Office
- 29 Statewide General Assistance Meeting  
- Sheraton Iowa City Hotel, Iowa City

## NOVEMBER

- 6 CCMS Support Staff Training  
- Baymont Hotel, DM
- 19 CCMS Board of Directors  
- Holiday Inn Airport, DM
- 19 ISAC Board of Directors  
- Holiday Inn Airport, DM
- 19-21 ISAC Fall School of Instruction  
- Holiday Inn Airport, DM

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Within only 12 years, PMC has grown into a highly respected organization with over 100 clients, including over 30 GIS consulting projects in Iowa, and over 25 WebGIS projects. Our clients have made us one of the leading GIS consulting companies in the Midwest, with trend-setting accomplishments that outpace those of our competitors. PMC is recognized as setting standards in the GIS industry for *unsurpassed client support, experience, innovation, and solutions.*

### PMC's services include:

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- Simplified Report, Query, and Analysis Tools
  - Onsite Quality Control & Training
- Automatic Agricultural Land Valuation
- Superior GIS Software & Applications
  - WebGIS Creation & Hosting
- Local Government Web Design & Hosting
- Unsurpassed Client & System Support

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