

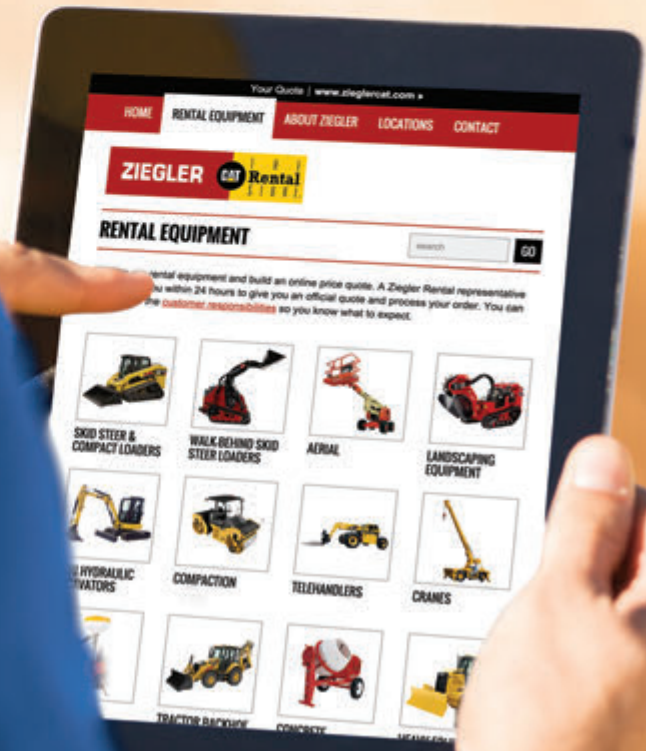


# The Iowa County

February 2016  
Jail Diversion in Iowa



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# The Iowa County

February 2016 \* Volume 45, Number 2

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5500 Westown Parkway, Suite 190  
West Des Moines, IA 50266  
515.244.7181 FAX 515.244.6397  
[www.iowacounties.org](http://www.iowacounties.org)  
Rachel Bennett, EDITOR

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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.

# feature - jail diversion

## Jail Diversion in Iowa

By: Jessica Peckover, LISW, CCDP-D

Johnson County Jail Alternatives Coordinator

*"I know we have implemented a lot of good things at our office in the last several years but I would rank the CIT program [Crisis Intervention Team] at the top of the list."*

-Captain Gary Kramer, Johnson County Sheriff's Office

People look to law enforcement officers to be first responders in a variety of situations: violence, theft, accidents, injuries, and even behavioral health crises. Mental health-related calls for service have become commonplace for law enforcement officers. "Not a day goes by without a mental health call and most days it's many calls" say Des Moines Senior Police Officer Kelly Drane. Drane goes on to say, "Law enforcement officers are no longer just required to handle criminal incidents...people look to law enforcement officers for so many different situations. We can't know enough about mental health."

The national GAINS Center recommends that every community has at least the following three major responses to justice-involved individuals with mental health and co-occurring substance use disorders:

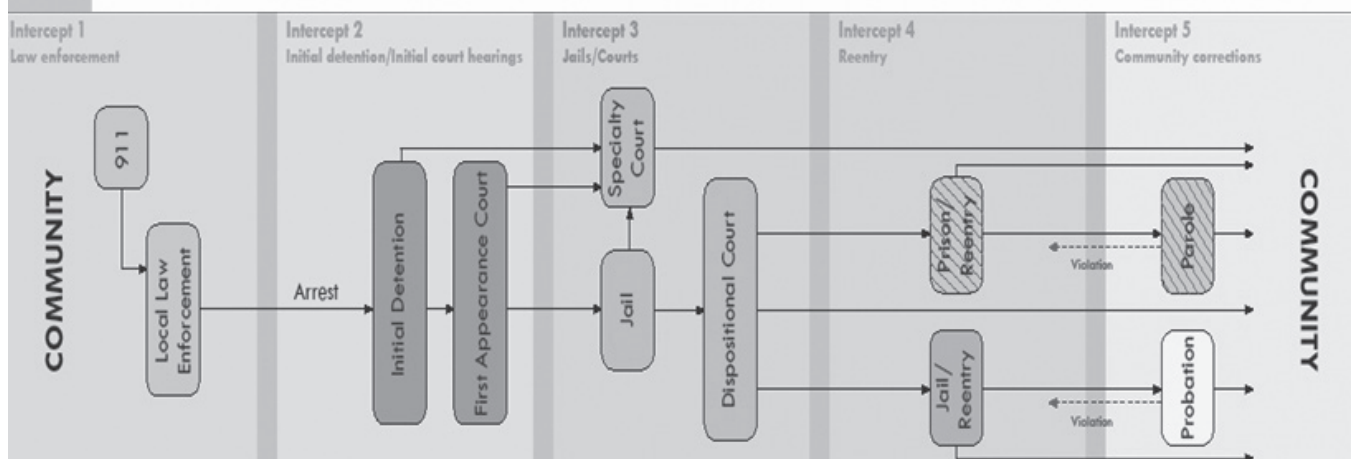
1. **Pre-booking jail diversion** – to keep individuals with mental illness and co-occurring disorders in the community rather than in the criminal justice system

2. **Institutional Services** – to provide constitutionally adequate services in correctional facilities for people with mental illness and co-occurring disorders who need to be in the criminal justice system due to the severity of their crime
3. **Reentry Transition** – to link people with mental illness and co-occurring disorders to community-based services upon discharge

Some interpret the term "jail diversion" to signify interventions that occur after an individual has been arrested and booked into jail. In actuality, jail diversion is an umbrella term for opportunities to intercept and intervene with individuals who are experiencing mental health and co-occurring substance use disorders at various points in the criminal justice system. To capture this broader definition, many in Iowa refer to jail diversion as "therapeutic alternatives to incarceration" or merely "alternatives to incarceration." The Sequential Intercept Model (below) illustrates the various points at which individuals can be intercepted and directed to the behavioral health system rather than the criminal justice system. The funnel image (next page) demonstrates the objective of intervening as early in the process as possible, to promote the most favorable

Continues on next page.

## Sequential Intercept Model



# feature - jail diversion

outcomes and to prevent individuals from further penetrating the criminal justice system. In order to achieve that goal, communities must have robust crisis response services available and a comprehensive behavioral health system to which the individuals can be diverted. The focus of this article is to further explore Intercept 1 pre-booking jail diversion options, or front-end alternatives to incarceration.

Front-end crisis response services that support alternatives to incarceration include, but are not limited to, Crisis Intervention Team (CIT) training for law enforcement, mobile crisis outreach teams, and law enforcement-friendly crisis stabilization centers.

## Crisis Intervention Team

A Crisis Intervention Team (CIT) program is 40 hours of specialized instruction that provides education and training to law enforcement officers to assist them in responding more effectively to situations that involve individuals with mental illness, developmental disabilities, and substance use disorders. It also provides officers with information about community resources that they can access to re-direct individuals into the behavioral health system rather than the criminal justice system. CIT is a community-based partnership that includes behavioral health and human service providers, individuals who access services and their families, and law enforcement coming together to provide interventions that are safer for officers as well as community members. Effective CIT implementation “relies on a crisis system that is vibrant, easily accessible and responsive to the needs of law enforcement.” (CIT International, INC. [http://www.citinternational.org/images/PDF/One\\_Page\\_Overview\\_Cit.pdf](http://www.citinternational.org/images/PDF/One_Page_Overview_Cit.pdf))

CIT International outlines the following benefits of CIT:

- Immediacy of response;
- Increased officer safety;
- Reduced officer/citizen injuries;
- Increased jail diversion;
- Increased chance for the individual to connect to treatment services;
- Increased officer confidence in skills;
- Reduced liability;

- Reduced unnecessary arrests or use of force;
- Avoidance of costs to criminal justice system;
- Positive perception of program; and
- Linkages to long-term services promoting recovery for the individual.

The following entities in Iowa have officers who have received CIT training. This list may not be exhaustive as there is no repository that tracks which officers in Iowa have received CIT training.

- Des Moines Police Department includes a modified CIT in their academy
- Iowa Medical and Classification Center (16-hour modified CIT)

- Johnson County: Sheriff’s Office and Coralville Police Department
- Pottawattamie County
- Story County: Huxley, Story City, and Iowa State University Police Departments
- Worth County Sheriff’s Office

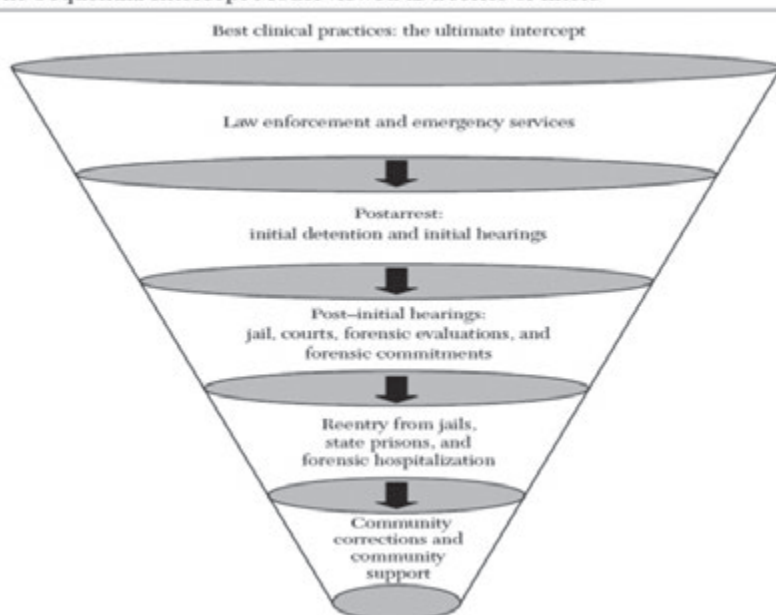
## Mobile Crisis Outreach Teams (MCOT)

Mobile crisis outreach teams travel to individuals in need of crisis support to provide rapid-response crisis intervention. These

teams consist of behavioral health professionals, often in partnership with specially trained peer specialist partners. Law enforcement can call upon mobile crisis outreach teams when responding to individuals experiencing a behavioral health crisis as an alternative to taking them to the hospital emergency room or to jail. The MCOT staff provides on-site assessment and intervention. They work to de-escalate the situation and also connect the individuals to follow-up community-based services and supports. Potential outcomes include avoiding arrest, avoiding ER visits, and avoiding future calls for service to law enforcement as the individual gets connected to ongoing community supports.

In Iowa, there are several versions of mobile crisis outreach. Not all originated as alternatives to incarceration strategies but frequently still include some level of partnership with law

The Sequential Intercept Model viewed as a series of filters



Continues on page 6.

# feature - jail diversion

Continued from page 5.

enforcement. The following communities have identified having a form of mobile crisis outreach. As noted above with CIT, this may not be an exhaustive list.

- Heart of Iowa Community Services Region (Audubon, Dallas, Greene, Guthrie Counties)
- MHDS of the East Central Region (Benton, Bremer, Buchanan, Delaware, Dubuque, Linn, Johnson, Jones, Linn Counties)
- Polk County
- Pottawattamie County
- Warren County

## Crisis Stabilization Centers

The role of a crisis stabilization center is to provide stabilization and treatment services to individuals in behavioral health crisis. It is believed that many of these individuals can be treated in stabilization centers and returned to the community without an ER visit or admission to psychiatric hospital. Services provided in crisis stabilization centers include assessment, triage, de-escalation, stabilization, peer support, and discharge planning.

When law enforcement officers respond to an individual in crisis, they have historically had 3 options: leave them where they are, take them to the ER, or take them to jail. Many communities around the country that started their jail diversion efforts with CIT training for officers quickly realized they needed a place for officers to divert individuals TO. These communities responded by developing 24-hour, easily accessible drop-off centers where law enforcement can take individuals in crisis and know that there will be staff and services available to assess and address the presenting needs.

In Iowa, several communities and mental health regions are exploring ways to implement crisis stabilization centers or units.

- County Social Services Region: Adult Crisis Stabilization Center in Black Hawk County
- MHDS of the East Central Region: 8 crisis stabilization beds through the 9-county region
- Polk County: 23 hour observation and crisis stabilization unit
- South Central Behavioral Health Region: Crisis Stabilization House in Appanoose County
- Southeast Iowa Link Region: Crisis stabilization beds in Des Moines and Lee counties

Many law enforcement officers welcome the various alternative-to-incarceration strategies that have developed in Iowa over the years. While officers may not have gone into law enforcement to become frontline behavioral health specialists,

many find themselves in that situation and therefore welcome the additional training made available through programs such as CIT. Perhaps even more importantly, they appreciate the partnership and collaboration from behavioral health and support services providers. Officer Drane noted, "Officers in general don't know resources. That is why we are thankful to have Mobile Crisis."

To develop effective partnerships between law enforcement and the behavioral health system, creativity, relationships, and collaboration are required. While these key concepts are important in all communities, they are often even more imperative in rural Iowa where formal crisis services and centers may not be available or geographically accessible. A recent example in northern Iowa demonstrates this very thing. The mental health region's staff partnered with the county sheriff's office to address the needs of a community member in ongoing, episodic crisis which frequently resulted in the individual being placed in the county jail. In an attempt to keep the individual in her home in the community, regional staff offered to make one of their residential care facilities available when the individual started to escalate. When regional staff asked if the sheriff's office would be willing to transport to the facility, the sheriff responded with an emphatic yes. His goal is to keep his officers safe, keep the community safe, and meet the needs of individuals they are asked to respond to in the community.

While the path to getting there may vary, the criminal justice system and the behavioral health system ultimately share overlapping goals. To achieve those goals it is necessary that as a state, as regions, as communities, and as professionals we come together to build a system that serves our vulnerable community members, ensures public safety and best mobilizes our resources.



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## Iowa Counties are “Stepping Up” to Reduce Mental Illness in Jails

By: *Nastassia Walsh*

NACo Program Manager

Nationally, more than two million adults with serious mental illnesses, such as bipolar disorder and schizophrenia, are booked into county jails every year. Almost three quarters of these individuals have a co-occurring substance use disorder. The prevalence of people with mental illnesses in jails is three to six times higher than for the general population. Once incarcerated, these individuals tend to stay longer in jail, and upon release are at a higher risk of returning than individuals without these disorders. Despite the tremendous efforts of individual counties to address this problem, they are often thwarted by significant obstacles, such as coordinating multiple systems and operating with minimal resources, especially in more rural counties. In recognition of this critical issue, the National Association of Counties (NACo), the Council of State Governments Justice Center, and the American Psychiatric Association Foundation have come together to lead a national initiative to help advance county efforts to reduce the number of adults with mental illnesses in jails. With support from the U.S. Justice Department’s Bureau of Justice Assistance, the Stepping Up initiative builds on the many innovative and proven practices being implemented in counties across the country.

As part of this initiative, county elected officials are being asked to pass a resolution or proclamation pledging to work with behavioral health and law enforcement leaders, people with mental illnesses and their advocates, and other stakeholders to establish their own initiatives to reduce the number of people with mental illnesses in their jails. Nearly 200 counties across the country have passed resolutions or proclamations to participate in the initiative, including 12 counties in Iowa.<sup>1</sup>

NACo is grateful to Black Hawk, Clinton, Jasper, Jefferson, Johnson, Lee, Linn, Marshall, Polk, Pottawattamie, Story and Warren counties for participating in this important initiative.

Iowa counties have really “stepped up” to take on this important issue. In addition to passing resolutions to participate in the national initiative, many counties have developed their own local initiatives to address mental illness in their jails.

- Story County has been operating a jail diversion program for people with mental illnesses since 2006. Working with their regional behavioral health system, they are training law enforcement officers in Mental Health First Aid and are starting to implement telepsychiatry in their jail. Story County passed a resolution to participate in Stepping Up and hopes to develop additional services for people with mental illnesses before they enter the jail and while they are transitioning back to their community.

- Johnson County has been working on this issue for nearly a decade through their Jail Alternatives Program and has seen their jail population drop by 15%. The county passed a resolution to participate in the Stepping Up initiative and has since been engaged in technical assistance resources and opportunities through the initiative. One of their next steps is to develop a plan for working with residents who are the most frequent users of their services.

- In early 2015, Pottawattamie County developed a regional mental health court to serve individuals with mental illnesses who come in contact with the justice system. Since passing their Stepping Up resolution, they have furthered their cross-systems collaboration and are planning on creating a case manager position inside their jail to help provide reentry services for individuals with mental illnesses who are leaving the jail.

These are just a few examples of the significant work that is happening in Iowa counties to address this challenge. We know that many more counties are starting or enhancing their efforts to reduce the number of people with mental illnesses in their jails. We would love to hear from you!

Want to get started in your county? Through Stepping Up, resources such as webinars, planning exercises, case studies and research are available to help guide counties of all sizes through this process. All of these resources are available on the Stepping Up website at [www.StepUpTogether.org/Toolkit](http://www.StepUpTogether.org/Toolkit) and more are being added regularly to assist county efforts.

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“The services we’re providing in Pottawattamie County for people with mental illnesses are helping to ensure that the right people are being given the right services to keep them out of our jails,” said Chairman Scott Belt. “They’re saving the taxpayers money and helping our community members to get back on their feet.”

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We hope you will join us! To learn more about the Stepping Up initiative or to join the Call to Action, go to [www.StepUpTogether.org](http://www.StepUpTogether.org) or contact Nastassia Walsh, Program Manager at the National Association of Counties, with any questions at [nwalsh@naco.org](mailto:nwalsh@naco.org) or 202.942.4289.

<sup>1</sup> Includes county resolutions received by NACo as of December 31, 2015. If you passed a resolution and are not included on this list, please send a copy of the resolution to Nastassia Walsh at [nwalsh@naco.org](mailto:nwalsh@naco.org).

## Regional Perspective of Jail Diversion in Iowa

### Southeast Iowa Link (SEIL)

The SEIL region has jail diversion services in all eight of its counties. Jefferson, Keokuk, and Van Buren Counties have contracted with Optima Life Services to provide coordination services for individuals with mental health symptomology in the jails and to assist with the transition to a community-based service array.

Des Moines, Henry, Lee, Louisa, and Washington Counties have collaborated to expand the Des Moines and Lee County project with a Community Transition Coordinator and a Community Transition Technician employed by Southeast Iowa Regional Planning (COG) to facilitate the identification of offenders with mental health difficulties upon booking, and to facilitate care coordination and transition planning back to the community.

Both programs are utilizing the Sequential Intercept Model and are beginning to acquire data related to presenting diagnosis, recidivism, criminogenic factors, and successful acquisition of necessary clinical and support services ongoing.

### South Central Behavioral Health Region (SCBHR)

On July 1, 2014, the SCBHR Region launched the Jail Alternatives Program funded by the SCBHR. The Program's mission is to provide an opportunity for treatment and services to individuals with mental health and co-occurring mental health and substance use disorders who have come into contact with the criminal justice system. The program works to connect individuals to the appropriate level of community-based treatment for their mental health and co-occurring needs in hopes of improving their overall quality of life and reducing their involvement in the criminal justice system.

The Jail Alternatives Coordinator is the centralized point of contact keeping county and defense attorneys, probation/parole office and jail staff updated. Their day to day activities can range from: emergency based responses; meeting clients and helping coordinate medications; scheduling assessment with outside providers while in jail; helping inmates de-escalate and begin to process rationale; and the coordination of care back into the community to include referrals to vocational rehabilitation, Integrated Health Homes, substance abuse agencies, and the community services office, etc. Part of the Jail Alternatives Program has allowed for the Wapello County Jail to begin tele-psych services for inmates.

**By: Andrea Jansen**

Program Support Coordinator



The outcome of the Jail Alternatives Program is far reaching into the community to include community safety, service and developing treatment planning for inmates while in jail, and treatment and ongoing care upon discharge, to list only a few.

### Rolling Hills Community Services

In July 2015, a task force was formed to explore the options for the implementation of a pilot Jail Diversion Program within the seven-county region. The program in Dallas County has been very effective in terms of wrap-around supports that are felt would be a model that could be replicated in rural areas with some adjustments. Although there is a disparate climate between the two regions in terms of available resources and population, they were able to gain insight into components that would potentially be successful within the region.

The task force researched pre- and post-booking programs and selected the North Carolina Jail Diversion Model of Post Booking by which they were able to develop policies and procedures as well as forms and a brochure. Due to having two judicial districts within the region and the multiple key stakeholders that would need to be educated about the model and processes, they chose to begin with Crawford County in which the program was initiated on July 1, 2015. Outcomes will be tracked and the information will be utilized when expanding Jail Diversion Services throughout the entire region in FY 2016.

During the month of December, Jail Diversion was implemented in Sac and Calhoun Counties as well. Their goal is to have Jail Diversion offered within all of the counties within the region by July of this year.

### Jail Diversion Outcomes – Crawford County (July 1, 2015 – November 3, 2015)

- Number of identified individuals: 13
- Number of individuals screened: 5 (all MI diagnosis)
- Number of individuals released prior to screening: 8
- Number of cases open (as of 11.1.15): 2 (both MI)
- Number of individuals “graduated” from program: 2 (both MI)
- Number of closed cases (or refusals): 2 (both MI)
- Number of individuals not screened but visited: 1 (substance abuse case)
- Number of individuals assessed by PAMHC: 3

Continues on next page.



- Number of hospitalizations:
  - 3 at Cherokee MHI (1 prior to 7.1.15)
  - 1 at Jenny Edmundson
- Number of re-confinement: 2
- Number of individuals placed:
  - 1 at Genesis Habilitation Home in Storm Lake
  - 1 at Partnership for Progress two months of stabilization (prior to 7.1.15)

## Polk County Health Services

The Polk County Jail Diversion Program is based on the Sequential Intercept Model ideas and values and consistent with the Polk County MH/ID/DD plan by which eligible individuals with a severe and persistent mental illness have an opportunity to be diverted from the jail environment to follow a case plan as designed and agreed upon by a diversion plan team.

Upon release, jail diversion staff work to connect individuals with services essential to avoid repeat incarceration. Services may be medical, behavioral or social in nature. The Jail Diversion Program seeks to address people incarcerated in the county jail who may be treated more effectively through collaboration between law enforcement, jails, community corrections, criminal courts and community mental health services.

Each person participating in the program will receive individualized attention from a case manager who will assist in accessing services that will be essential for the individual to readjust to the community and avoid further incarceration.

## Heart of Iowa

The Heart of Iowa Community Services Region recently expanded jail diversion to the entire region. Prior to the expansion, jail diversion began in Dallas County in 2010. Since that time, they have also offered mobile crisis which assist law enforcement in not bringing individuals into jail unnecessarily.

The jail diversion program enables the region to offer assessments (as needed/on call) to assist jail staff in determining if someone is appropriate for speech synthesis interface protocol (SSIP) or to be moved from isolation or detox to general population. They bring mental health professionals into the jail to assist with getting individuals properly medicated and provide follow up. They also offer individual therapy on a weekly basis with a licensed independent social worker (LISW). The region coordinates substance abuse and mental health evaluations so individuals receive those prior to leaving the jails to assist with their treatment or make referrals for inpatient. They also collaborate with our county attorneys to determine where an individual with mental health issues may go post jail to continue their treatment. If an individual is sentenced to under 365 days in the county jail, IPR may begin in the jail if the individual agrees to it.

Once the individual is released, the region works to set up community services with follow-along by the county service coordinator. If the individual has Medicaid, a referral is made to the IHH. The region recently opened the Hope Wellness Center which has transitional housing. If an individual is appropriate for transitional housing, they may be referred there where they have access to IPR, mental health, substance abuse treatment, vocational and SCL services.



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# feature - criminal justice

## Legislative Perspective on Criminal Justice Reform

By: **Jamie Cashman**

ISAC Government Relations  
Manager



One of the early themes emerging in the 2016 Iowa General Assembly is addressing criminal justice reform. As we have seen Iowa's prisoner population decline in recent years, a new report from the Iowa Department of Human Rights states that Iowa's prison population is projected to increase 23% by 2025 if serious reform measures are not enacted. As a result, many Iowa policymakers are giving serious talk to reverse this potential trend by passing meaningful legislation.

Governor Branstad, in his 2016 Condition of the State Address, highlighted the working group he convened in the fall of 2015 to address criminal justice reform. The working group made several recommendations that call for all three branches of government to:

- Increase the racial diversity of Iowa jury pools;
- Ensure the survival of drug and mental health courts across the state;
- Decrease the cost for inmate phone calls from prisons and jails; and
- Reverse the presumption in juvenile delinquency records so that they remain confidential upon adjudication unless a judge deems otherwise.


Further, Governor Branstad called on the Iowa Legislature to take action to address the following areas:

- Protecting our children and family members from human trafficking.
- Combating domestic violence.
- Examining the funding model for drug and mental health courts.
- Addressing juvenile delinquency record confidentiality.

Chief Justice Mark Cady of the Iowa Supreme Court in his Condition of the Judiciary Address also focused on the need for justice reform. Iowa's pretrial release system was one area that he committed the judicial branch to work with local prosecutors and defense attorneys at improving. This would allow Iowans to be released from county jails prior to trial if certain conditions are met. Justice Cady emphasized the need to find balance between public safety and the increased risk of those staying in jail being incarcerated again by losing their jobs and other adverse effects.

Another important tool in providing justice, Chief Justice Cady stressed, was the need to properly fund drug courts in Iowa. These specialized courts enhance jail diversion efforts by helping drug addicted defendants find employment and treatment all aimed at keeping them out of jail. These courts have been severely impacted by the lack of sufficient funding in recent years which has created the potential danger of closing some of the courts.

As showcased by other articles in this edition of the magazine, many Iowa counties are already hard at work in criminal justice reform efforts all aimed at providing public safety while reducing the financial burden local taxpayers face to fund the justice system. To enhance those local efforts, ISAC will continue to be actively involved as legislative proposals as brought forward. With education and other budget battles already looming for the 2016 session, it was good to see criminal justice reform featured early on by all branches of state government.

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## NACo Board Meeting Report

**By: Melvyn Houser**

NACo Representative,  
ISAC Past President,  
Pottawattamie County Supervisor



“No Smokey”

- Chad Graeve, Pottawattamie County Natural Resource Specialist

If you read Bill Peterson’s executive director comments in ISAC’s Annual Report, and I’m sure you did, you know how he turned a disappointing flight delay into a productive time by working on his comments for the report. Well, a similar thing happened to me on my way to NACo’s Safe and Secure Counties Symposium and board meeting in El Paso County Colorado last December. My flight from Omaha to Denver was delayed several times before it was finally cancelled. So they booked me on a flight to Salt Lake City that would connect me to my final leg to Colorado Springs. Unfortunately, one of Eppley’s de-icing trucks broke down, and we sat on the tarmac for an hour and a half waiting to get hosed down. I’m really feeling sad by that time! After eventually reaching Salt Lake City, I discover there were no more flights from SLC to COS at that time of night. So, they comped me a room at a nearby motel and booked me on the next flight at three the next afternoon. The only productive thing I could garner out of this disappointing situation was to discover that they have some really good craft breweries in Utah.

If you saw the cover of the October issue of the Iowa County magazine, and I’m sure you did, you’ll notice that Chad Graeve is walking away from a spectacular blaze, not toward it as if to extinguish it. The picture was taken during a controlled burn. When I first met Chad, he explained to me the purpose of prescribed fire. On his shirt was sewn a Smokey the Bear emblem with a red circle and diagonal over it. “No Smokey,” he said. All of our fire suppression has led to an abundance of dried fuel on the forest floor. As a result, our forest fires have become raging infernos. Not only is the forest then completely destroyed, but any subsequent rains also become raging torrents. On our mobile workshop to Waldo Canyon, Colorado we saw the efforts to repair the damage caused by a fire and flood. Millions of dollars were spent fighting the fire and millions more were spent rebuilding the roads and trying to heal the gutted mountainside. Maybe Smokey’s PSA’s and social norming efforts weren’t so good after all.

The remainder of the symposium’s workshops and speakers were very informative. One in particular. Randall Hyer from the Center for Risk Communication explained to us the need for good communication during a crisis. He wasn’t talking about 800 MHz multi-channel radios for responders, but the need for leaders to effectively communicate with a fearful public dur-

ing a crisis. What you say and how you say it is very important during a dramatic event. Things are bad enough without someone saying the wrong thing and adding fuel to the fire. By the way, one of our educational seminars at Spring School will be addressing that same issue of crisis communication. Anyone who may have to deal with a critical situation should consider attending.

Another session addressed the issue of the mentally ill in our jails. Although it may not be as dramatic as a flood, fire, or terrorist attack, it is becoming a hidden crisis. More than two million people with a mental illness are being admitted to county jails every year when they should be admitted to a more appropriate facility. Speakers included a judge, a jail administrator, a county supervisor, and a director of mental health programs. This problem will need to be addressed by leaders throughout our counties, not just one department or office. Elsewhere in this issue you can read what other counties are doing to take part in NACo’s Stepping Up Initiative. This is a difficult and important issue that really needs attention. As Nike, the Greek goddess of Victory, once said, “Just do it!”

Committee reports at the board meeting were unanimously approved. Membership retention is still good and the budget looks to be sound with a good fund balance. Construction of the new office and conference center is progressing nicely down the hill from The Hill. Here, NACo will be sharing space with the National League of Cities and other affiliates. Legislative updates were given with particular attention to the newly passed FAST Act. Tax exempt municipal bonds, Waters of the U.S., and mentally ill in jails, among others, continue to be NACo’s legislative priorities. According to Director Matt Chase, counties are becoming more relevant at the national level. And we should be. As I said before, we are about people (mentally ill in jails) and parcels (wild fires, floods and infrastructure.). And, what we do at the local level depends on policies enacted at the federal level.

The next board meeting will take place in Washington, D.C. during NACo’s Legislative Conference. I hope to see some of you there.

## Why You Should Invest in Your HIPAA Compliance Program!

By: **Beth Manley**

ISAC Compliance Officer



You may have heard about a law called the Health Insurance Portability and Accountability Act (HIPAA). It was enacted in 1996 to protect the privacy and security of protected health information (PHI) and was later amended in 2009 with the enactment of the Health Information Technology for Economic and Clinical Health Act (HITECH Act). PHI is any “individually identifiable health information.” 45 CFR §160.103. HIPAA has certain standards that covered entities must meet in order to be compliant. A covered entity is defined as a health plan, health care clearinghouse, or “health care provider who transmits any health information in electronic form in connection with a transaction covered by this subchapter.” It makes no difference whether the entity is public or private, both are required to comply with HIPAA. The definition of covered entity includes most local governments (all counties and MH/DS regions) because they often house PHI and provide health services, such as those for mental health.

The Office of Civil Rights (OCR) has been tasked with enforcing compliance with the HIPAA privacy and security standards. OCR primarily investigates possible HIPAA noncompliance in response to complaints. Not only does OCR respond to breach reports, but they also conduct audits as part of a mandatory audit program that could target any covered entity or business associate. The pilot phase of the audit program took place between January 2012 and March 2012. Twenty entities were chosen, and a list of those entities range from hospitals to health plans. You can find a complete list of the selected entities at the following website: <http://www.hhs.gov/hipaa/for-professionals/compliance-enforcement/audit/initial-20-entities-selected/index.html>. OCR will soon begin Phase 2 of the audit program, as described later in this article.

The Office of Inspector General (OIG) evaluated a sample of OCR investigations that happened between September 2009 and March 2011 and published a report about its findings in September of 2015: <http://oig.hhs.gov/oei/reports/oei-09-10-00510.pdf>. OCR performs most of its investigations in response to complaints, tips, or media reports. OCR determines how to investigate privacy cases and its process often involves interviews, document reviews, and onsite visits. A covered entity may be required to take corrective action, enter into a resolution agreement with OCR, and/or pay a civil monetary penalty (CMP) if OCR finds they are noncompliant with one or more privacy standards. A resolution agreement usually requires the covered entity to take corrective action in order

to become compliant with the privacy standards. OCR has the discretion to impose CMPs on covered entities in more serious cases of noncompliance. CMPs could range between \$100 and \$1.5 million for violations of an identical requirement or prohibition, depending on the level of neglect. 42 USC §1320d-5. However, this does not mean a covered entity can only be liable for a maximum CMP of \$1.5 million. On February 4, 2011, OCR imposed a CMP of \$4.3 million on Cignet Health of Prince George’s County, Maryland for various HIPAA privacy standard violations. <http://www.hhs.gov/sites/default/files/ocr/privacy/hipaa/enforcement/compliancereport2011-2012.pdf>.

In OIG’s report, a random sample of 150 out of 7,080 Medicare B provider OCR audits were evaluated. OIG’s analysis focused on cases that had been closed. Over half of those cases were found to be noncompliant with at least one privacy standard. Of those cases, “the two most common types of noncompliance were related to the standard on restricting uses and disclosures of PHI and the standard on implementing safeguards.” Further, 85% of the noncompliant covered entities were requested to take corrective action. Corrective actions included training, developing and revising policies, and sanctioning employees who were not compliant with the organization’s policies.

As a result of OIG’s analysis, OIG determined that OCR’s investigative process could be improved, but more importantly, OIG recommended OCR implement a permanent audit program to proactively audit covered entity and business associate HIPAA compliance with privacy standards. OCR responded, in a letter attached to OIG’s report, by concurring the need to implement a permanent audit program. A permanent audit program will begin with Phase 2, scheduled to launch sometime in early 2016. Phase 2 will “test the efficacy of the combination of desk reviews of policies as well as on-site reviews; it will target specific common areas of noncompliance; and it will include HIPAA business associates.”

Continues on next page.

# legal briefs - HIPAA

Covered entities were required to be in compliance with the Privacy Rule standards by April 14, 2003. There has been talk that Phase 2 will also take into account when a covered entity or business associate became compliant with the HIPAA regulations. It is unclear whether this is true but it is best to become compliant as soon as possible to prevent any breaches from occurring that would warrant an OCR audit or the chance of being selected for Phase 2 of the HIPAA audit program. The alternative could be costly!

On March 31, 2014, Linda Sanches from OCR gave a presentation at a Health Care Compliance Association Compliance Institute and explained Phase 2 of the HIPAA audit program. Phase 2 audits will target any covered entity and any business associate of a selected covered entity. OCR expects to contact 550-800 covered entities with an initial survey and then select 350 to audit. [http://www.hcca-info.org/Portals/0/PDFs/Resources/Conference\\_Handouts/Compliance\\_Institute/2014/tue/710print2.pdf](http://www.hcca-info.org/Portals/0/PDFs/Resources/Conference_Handouts/Compliance_Institute/2014/tue/710print2.pdf). The audit protocol and start date have been updated since Linda Sanches gave her presentation in 2014. The audits are now scheduled to launch sometime in 2016, and the audits will involve more on-site, comprehensive audits than the slides suggest. The number of covered entities and business associates selected to be audited are subject to be changed as well.

Some think that county government is immune from being found liable for HIPAA compliance violations. This is not true. In 2014 Skagit County, Washington, was investigated by OCR after receiving a breach report that PHI was accessed by unknown parties. OCR found that Skagit County was in violation with the HIPAA Privacy, Security, and Breach Notification Rules. Skagit County agreed to a monetary settlement of \$215,000. <http://www.hhs.gov/hipaa/for-professionals/compliance-enforcement/examples/skagit-county/index.html>.

## ISAC HIPAA Program

ISAC offers a HIPAA Program to its members that includes many benefits including annual trainings and up to five hours of consultation on HIPAA questions. HIPAA can be difficult to understand, especially when it comes to its application to different offices within a county, and the HIPAA Program can help answer your questions. There is a yearly fee to be a part of the ISAC HIPAA Program and returning members receive a discounted price. Please contact Beth Manley at 515.244.7181 or [bmanley@iowacounties.org](mailto:bmanley@iowacounties.org) if you have any questions or want to join the program.

## ISAC Spring School of Instruction Presentation

Please join us on March 11 at 10:00 am at the ISAC Spring School of Instruction where Kristi Harshbarger and I will be presenting to the Supervisors Affiliate on HIPAA and the importance of investing in your program. Please keep an eye on the conference schedule in case any changes are made.

## Helpful Websites

- HIPAA Administrative Simplification (complete HIPAA regulation text): <http://www.hhs.gov/sites/default/files/ocr/privacy/hipaa/administrative/combined/hipaa-simplification-201303.pdf>
- Current OCR Audit Protocol: <http://www.hhs.gov/hipaa/for-professionals/compliance-enforcement/audit/protocol-current/index.html>

Please let me know if you have any questions. I'd be happy to talk with you. My email is [bmanley@iowacounties.org](mailto:bmanley@iowacounties.org).

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# meetings

## Spring School Educational Seminars

ISAC will be holding three concurrent educational seminars during the Spring School on Thursday, March 10 in the Iowa Ballroom Salons on the second floor of the Marriott. They are detailed below and included in the price of your regular registration. All spring school information and the link to register are available at <http://www.iowacounties.org/meetings-and-events/spring-school-of-instruction/>.

### Crisis Management: Be Prepared for Who Knows What

A crisis is called a crisis for a reason. By its very definition, you don't know exactly when it will strike. The only thing you can really do is be prepared for a variety of circumstances. Claire will teach you how to brainstorm crisis scenarios and show you how to create a two-page crisis checklist for your organization.

Speaker: Claire Celsi, The Public Relations Project

### The Richest Man in Town

This talk is based on the life of 'Marty', a memorable man who ran a cash register at Wal-Mart. He was considered rich because he was loved and respected, but most of all, he was content with every aspect of his life, no regrets. Marty's simple philosophies show what happens when you take the time to be kind and compassionate. All that you give in business and personal relationships, you get back, and more. Audience members will go on an emotional roller coaster ride...guaranteed.

Speaker: V.J. Smith, Speaker/Author

By: **Kelsey Sebern**

ISAC Meeting/Event Administrator



### Fiscal Trends and Situation of Iowa Counties: Introduction to a new ISUEO Initiative

This presentation will introduce a new ISU Extension and Outreach program in the area of local government finance. A recently published report from ISU that tracks trends of select financial indicators for Iowa Counties will be used to share details of the initiative. The presentation will also include a discussion about the fiscal health of Iowa counties by using a fiscal health index that has been developed for Iowa counties.

Speaker: Biswa Das, PhD, Assistant Professor and Extension Specialist, Community and Regional Planning, ISU Extension and Outreach



# employment

## HR Administrator

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## **ISAC Board Meeting Summary - December 16, 2015**

ISAC President Melvyn Houser called the meeting to order and led the Board in the Pledge of Allegiance. Introductions were given.

The following minutes were reviewed and accepted unanimously as written: October 15-16, 2015 ISAC Board of Directors meeting; November 5, 2015 ISAC Litigation Committee conference call; November 13, 2015 ISAC Executive Board conference call; and November 18-19, 2015 ISAC General Sessions.

The ISAC Board of Directors meeting was recessed. It was reconvened following the conclusion of the Iowa Counties Technology Services Board meeting.

Lucas Beenken, ISAC Public Policy Specialist, provided the Board with information on the County Financial Overview and the move in the last couple of years to put out new information as it comes in during the year and to make that information more interactive using Tableau. The Board asked questions about how data was collected and processed.

Bill Peterson, ISAC Executive Director, introduced Burt Burrows and Matt Ring, Nationwide Retirement Solutions. ISAC endorses the NACo Deferred Compensation program, which is managed by Nationwide.

Nationwide Retirement Solutions is a subsidiary of Nationwide, but it is not the property/casualty arm of the company. Nationwide, through a bid process, has had a contract for the last 30 years with NACo for the retirement plan program. A county does not have to be a member of NACo to participate in the plan. Burt presented the quarterly report for the Iowa counties that are in the program. These are 457 plans, which are the public version of 401(k) that work as a supplement for retirement. Matt also discussed the Nationwide Freedom Pro+ option to eliminate fees if your county has more than 100 employees or \$1 million in plan assets.

Bill introduced Amy Gould and Lacie Litton with Wellmark Blue Cross Blue Shield of Iowa. Lacie gave an overview of the items that impacted rate setting for this year. Claims per member increased in the last year by 12.1%. Pharmacy claims increased per member by 9.7%, largely due to insulin which has increased substantially across the industry.

Bill reviewed the statistics and projections for the ISAC health plan. Bill explained that the Board would need to approve the following recommendations: base rates (recommended increase 10.39% overall revenue); addition of two plans (11C and 12D to assist with Cadillac tax); discount proposal with loss of discount limited to 5% per year; proposal to pay PCORI and Transitional Reinsurance Fees through FY 2017; and 2016 Wellness Program funding.

The Board asked questions and discussed the value of the wellness plan and the difficulty in measuring its benefits. Amy presented a few of the results of the Wellness Program over time. Average premium reduction from wellness plan participation is 5% for 2016. Twenty counties received the benefit in 2016. Changes include additional ways to capture preventative exams and to cap the rewards at \$200 (it was \$250 last year).

The recommendations as presented for the 2017 ISAC Group Health Program were adopted unanimously.

Jamie Cashman, ISAC Government Relations Manager, updated the Board on the work ISAC has been doing related to the ISAC Objectives and Priorities. Jamie shared that the revenue estimating committee released state estimates last week that showed lower state revenue increases of only 4%. The downturn in the agricultural economy and the avian flu has had some impact. Education and managed care will likely be big debates in the next session.

The Board unanimously approved a resolution honing the longevity of Governor Brandstad's service as Governor to Iowa.

President Houser reported that Grant Veeder, Linda Langston, Bill Peterson and he attended the NACo Safe & Secure Counties Symposium and NACo Board of Directors meeting in Colorado Springs, CO, and they shared highlights of the meeting.

Brad Holtan, ISAC Administration and Finance Manager, presented the financial report dated November 30, 2015. He highlighted fall school registrations, exhibit booth revenue, and total fall school revenue. The report was approved unanimously as presented.

Continues on next page.

# ISAC brief

Continued from page 15.

Kristi Harshbarger, ISAC General Counsel, gave an update on legal matters.

Brad presented the audit proposal from McGowen Hurst Clark & Smith for the next four years. The audit proposal was unanimously accepted.

Cara Marker-Morgan was unanimously appointed as the ISAC representative on the CM&MHDS Board.

Kelsey Sebern, ISAC Meeting/Event Administrator, shared the post-fall school survey. The most prominent complaint was the food and beverage. Double Tree is offering a partial refund based on quality. The shuttle service was also a concern. Trivia night, the app and the keynote speakers were popular. The app had 461 users, 80% which were active users. The app was accessed 33,000 times.

Kristin Comstock, ISAC Financial Administrative Assistant, reported that Trivia Night raised around \$5,500 for the ISAC Education Foundation.

Kelsey shared the ISAC University agenda, and presented the proposed agenda for ISAC Spring School. The 2016 ISAC Spring School of Instruction agenda was unanimously approved.

Wayne Walter and Russell Wood were recognized for their service to the Board, and President Houser was honored for his service as 2015 ISAC President.

President Houser adjourned the Board following board members sharing issues, concerns, ideas, achievements, etc. with other board members.



## 2016 ISAC Board of Directors

### Front Row (L to R):

#### **1st Vice President:**

Peggy Rice, Humboldt County Auditor

#### **President:**

Joan McCalmant, Linn County Recorder

#### **2nd Vice President:**

Lonny Pulkrabek, Johnson County Sheriff

#### **3rd Vice President:**

Eric Stierman, Dubuque County Treasurer

### Middle Row (L to R):

Emergency Management: AJ Mumm, Polk County

Conservation: Matt Cosgrove, Webster County

Public Health: Kathy Babcock, Chickasaw County

Veterans Affairs: Elizabeth Ledvina, Tama County

Assessor: Deb McWhirter, Butler County

Supervisor: Burlin Matthews, Clay County

Supervisor: Cara Marker-Morgan, Fremont County

Community Services: Shane Walter, Sioux County

Engineer: Danny Waid, Hamilton County

### Back Row (L to R):

Past President and NACo Representative: Melvyn Houser,  
Pottawattamie County Supervisor

NACo Board Member: Grant Veeder, Black Hawk County Auditor

Environmental Health: Joe Neary, Palo Alto County

Supervisor: Wayne Clinton, Story County

Past President: Darin Raymond, Plymouth County Attorney

Planning and Zoning: Tim Huey, Scott County

Information Technology: Joel Rohne, Worth County

Not pictured:

NACo Past President: Linda Langston, Linn County Supervisor





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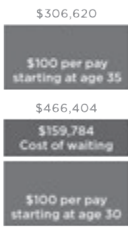


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# 2016 calendar

## **February 2016**

- 11 Supervisors Statewide Meeting  
(Embassy Suites Des Moines Downtown)
- 12 ISAC Board of Directors Meeting  
(ISAC Office)
- 20-24 NACo Legislative Conference  
(Washington, D.C.)

## **March 2016**

- 9 County Day at the Capitol  
(Iowa State Capitol, Des Moines)
- 10-11 ISAC Spring School of Instruction  
(Des Moines Marriott Downtown)

## **April 2016**

- 14 ISAC HIPAA Program Training  
(Courtyard by Marriott - Ankeny)
- 17-20 ISSDA Civil School  
(Holiday Inn Airport)
- 28 Smart Connection Conference  
(Airport Holiday Inn, Des Moines)
- 29 ISAC Board of Directors Meeting  
(ISAC Office)

## **June 2016**

- 15-17 ICIT Midyear Conference  
(West Des Moines Marriott)
- 21-23 Records Summer School  
(Honey Creek Resort, Moravia)

## **July 2016**

- 7 ISAC Board of Directors Meeting  
(ISAC Office)
- 13-15 ISACA Summer School Conference  
(West Des Moines Sheraton)
- 22-25 NACo Annual Conference  
(Long Beach, CA)

## **August 2016**

- 25-26 ISAC LPC Retreat  
(Hotel Renovo, Urbandale)
- 31 ISAC Scholarship Golf Fundraiser  
(Toad Valley Golf Course, Pleasant Hill)

## **September 2016**

- 18-21 ISSDA Jail School  
(Holiday Inn Airport)
- 21-23 ISAC Board of Directors Retreat  
(Linn County)
- 29 ISAC LPC Meeting  
(ISAC Office)

## **October 2016**

- 27-28 ISAC Board of Directors Meeting  
(ISAC Office)

## **November 2016**

- 30-2 ISAC Fall School of Instruction  
(Veteran's Memorial Community Choice  
Credit Union Convention Center, Des  
Moines)

## **December 2016**

- 4-7 ISSDA Winter School  
(Holiday Inn Airport)
- 6-8 ICEA Annual Conference  
(Scheman Building, Ames)
- 14 ISAC Board of Directors Meeting  
(ISAC Office)

If you have any questions about the meetings listed above or would like to add an affiliate meeting to the ISAC calendar, please contact Kelsey Sebern at [ksebern@iowacounties.org](mailto:ksebern@iowacounties.org).

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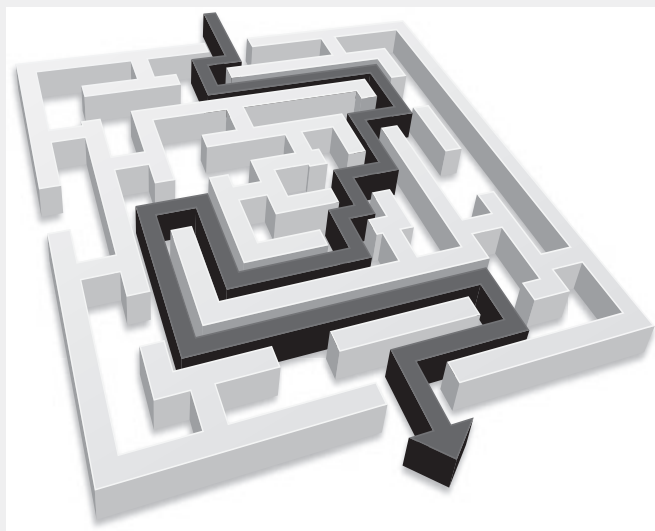
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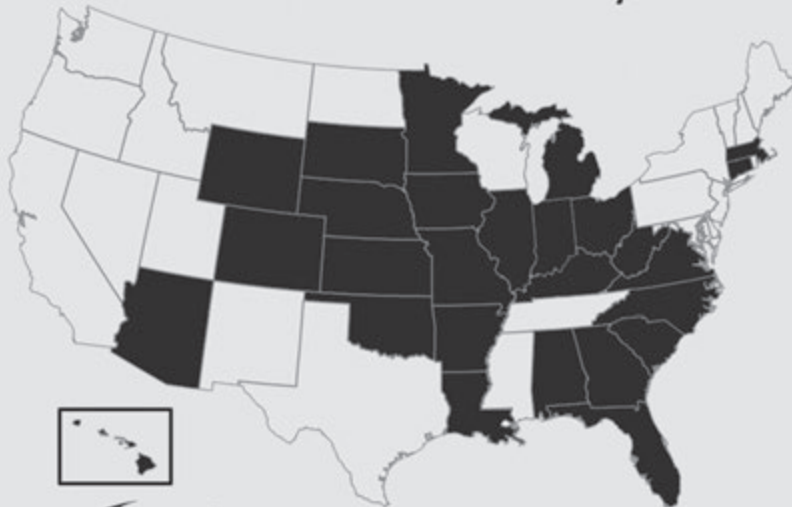
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**NJPA**  
National Joint Powers Alliance®  
PURCHASE WITH NO-BID



## HERE ARE JUST A FEW OF DIAMOND'S INNOVATIVE, VERSATILE AND DURABLE PRODUCTS:

- Boom Mowers
- Excavator Attachments
- Flail Mowers
- Forestry Heads
- Rotary Mowers
- Skid-Steer Attachments

**DIAMOND MOWERS**  
350 East 60th Street N.  
Sioux Falls, SD 57104

**100% SATISFACTION  
GUARANTEE**

★ GET IT, LOVE IT *or* LEAVE IT! ★

**FOR MORE INFO, CONTACT:**  
Brad Block | 319.231.6392  
bblock@diamondmowers.com  
diamondmowers.com