

LWVIA Study

Bringing Economic Justice to the Justice System

2022-2024



Study Co-Chairs: Bonnie Pitz & Jean Dell
Members: Mary Richards, Allen Hays,
E.J. Gallagher, John Klaus, Lettie Prell,
Martha Hurst, & Karen Person

Timeline:

- June 2022: Delegates at LWVIA Council approve study
- Fall, 2022: Study Committee formation
- Winter & Spring, 2022-23: Study Committee explores bail, jail, pretrial alternatives, fines, fees, restitution, and ability-to-pay issues
- June 2023: Convention delegates receive study resources for each local League
- Fall & Winter 2023/24: Local Leagues study economic justice issues & hold concurrence meeting for members
- February 29, 2024: Due date for local Leagues to mail or email Concurrence Form (page 21) to Bonnie Pitz, bonniepitz48@gmail.com, 904 19th Street, Belle Plaine, IA 52208
- March 2024: Co-Chairs present the study results to the LWVIA Board of Directors for approval
- April 2024 Finalized position posted to Website and included as part of LWVIA Program
- April 2024 The new position publicized for League members, media, and the general public
- June 2024: Results of study announced at LWVIA Council

Why does League do studies? When LWV was founded in 1920, Carrie Chapman Catt wanted to ensure that women were not only registered to vote, but also were informed on issues. The process of “Program” was adopted. **Program** is defined as “selected governmental issues that the League has chosen for concerted study and action at the national, state or local level.” League Program is decided at Convention and reviewed and re-adopted biennially. League studies are done by use of either consensus or concurrence. The members of this study committee chose concurrence – discussion among members with agreement or disagreement on a pre-stated position. It is through the consensus or concurrence process that members around the state become educated on the issues being studied. And the good news is that studies can energize our members to act!

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Forward and Acknowledgements from the Co-Chairs

Our introduction to the economic disparities in the Iowa criminal justice system evolved from a presentation to the LWVIA Criminal & Juvenile Justice Committee by Alex Kornya, Litigation Director & General Counsel, Iowa Legal Aid, in 2021. Legal Aid has a chart showing the costs borne by poor defendants and compares them to the costs for a citizen similarly charged but able to pay the cost of defense and bail; the disparity was eye-opening! Our democracy cannot flourish when our poorest citizens are plunged further into poverty by decisions within the Justice system. Fortunately, when League members observe and identify disparities, we can move to correct them.

Our study committee consisted of Bonnie Pitz, Jean Dell, Mary Richards, Allen Hays, E.J. Gallagher, John Klaus, Lettie Prell, Martha Hurst and Karen Person. The committee members were invaluable in shaping our positions through too many zoom meetings to count. The committee believes LWVIA can, through this study, educate our members and our local communities about the inequities in the justice system that have long term negative impacts on the indigent citizens of our state.

The committee researched articles, reports, and books, and conducted interviews with individuals who are part of the justice system. We have been privileged to work with Karen Person, Co-Chair of the 2005 State Study on Sentencing and Corrections; Lettie Prell, a retired researcher with the Department of Corrections; and Mary Richards, retired Story County Attorney, all of whom had special assets to assist with the study. Additionally, we want to thank Alex Kornya for providing much of the Iowa data gathered for this study. We would like to thank Katherine N. Flickinger, an Ames lawyer, who gave us valuable insights into the realities of the justice system for poor Iowans. Additionally, an interview with Rita Bettis Austen, Legal Director, American Civil Liberties Union of Iowa, was constructive to the language used in writing positions. Thank you to all who helped!

From Bonnie Pitz and Jean Dell, LWVIA Study Co-Chairs

Current Study- “Just the Facts, Ma’am”

Just as Sgt. Joe Friday gathered “just the facts” on the television series, Dragnet, the study committee tried to gather the relevant facts toward shaping our LWVIA’s position on economic justice in the justice system. We have highlighted the facts in a different format than a typical League study, hoping to help local League members understand our concerns about the especially harsh consequences for indigent persons in Iowa’s justice system. This format may also help members understand the rationale for our suggested League positions which will follow the facts. The facts presented are based on published articles, books, reports, and interviews, many of which have imbedded links so that League members can read and explore information in depth.

We have divided the study into two areas:

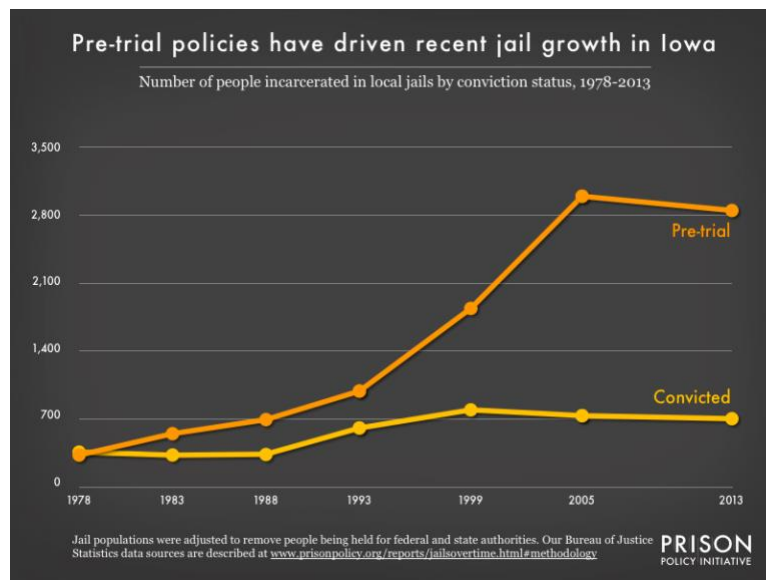
- *Bail and Pretrial Alternatives*
- *Criminal Justice Debt*

Part I-A: Bail and Pretrial Alternatives – The Facts

- **Fact:** At the initial appearance after arrest, a judge decides under what conditions a defendant might be released from jail, i.e., under their own recognizance, electronic monitoring, drug testing, etc. For hundreds of thousands annually in the US, release is after paying “bail,” also called “money bond,” “cash bond,” or a “surety.” Bail is not considered a punishment – a fine or fee; it is considered a guarantee that the defendant will show up for court proceedings later. Bail can be paid by private “bail bondsmen” who typically charge a nonrefundable 10% of the bond amount. But even the lesser amounts can often not be afforded by the indigent person, who will remain in jail until trial, or may agree to plead guilty just to get out of jail. Annually, nearly half a million people in American are in jail pretrial with over half of those spending at least a month in jail. Jails will charge those it detains a daily jail fee, thus exacerbating the burden on indigent persons, who often lose housing, jobs, credit, and other benefits while waiting in jail. (*Punishment Without Crime, How Our Misdemeanor System Traps the Innocent and Makes America More Unequal*, by Alexandra Natapoff, published 2018, pages 62-66)
- **Fact:** A report from the Vera Institute of Justice found that two-thirds of the more than 740,000 people held in local jails in the United States are there awaiting trial. The number of people being held in pretrial detention has more than quadrupled between 1975 and 2015. The growth in the pretrial jail populations is in large part due to the increase in monetary bail because people who cannot afford to post bail remain in jail. There is little evidence to support the efficacy of monetary bail in achieving the intended goals of reducing harm in the community and increasing court appearances. Moreover, various studies have linked pretrial detention with harmful consequences including worse outcomes for the people who are held in jail both in their court cases and in their lives. ([*Justice Denied: The Harmful*](#))

[and Lasting Effects of Pretrial Detention](#), by Leon Digard & Elizabeth Swavola, The Vera Institute of Justice, April 2019)

- **Fact:** A Prison Policy Initiative Report found that one out of every three people behind bars is being held in a local jail. “The 11 million people who go to jail each year are there generally for brief, but life-altering periods of time. . . The key driver in jail growth is not courtroom judges finding more people guilty and sentencing them to jail. The convicted population has actually decreased in the last 20 years. Jail growth has occurred predominately – and in the last 15 years, almost entirely – in the number of people being detained pre-trial.” ([Era of Mass Expansion: Why State Officials Should Fight Jail Growth](#), a Prison Policy Initiative Report, May 31, 2017)
- **Fact:** According to the 6th Amendment of the United States Constitution and our state constitution, criminal defendants have a right to counsel. Iowa has two options to fulfill our constitutional duty to provide criminal defense to those who cannot afford counsel: attorneys employed full time by the state public defender’s office or private attorneys who enter into a contract with the state public defender. We call those “contract attorneys.” However, according to Iowa Supreme Court Chief Justice Susan Christensen, Iowa’s statewide shortage in contract attorneys is “threatening to bring criminal proceedings to a screeching halt” for both juvenile and adult courts. Justice Christensen stated, “We are keenly aware of how the contract attorney shortage delays justice and jeopardizes the constitutional rights of indigent Iowans.” ([Condition of the Judiciary](#), 2023)
- **Fact:** Jail capacity in Iowa nearly quadrupled between 1983 and 2013 (374 percent growth), yet Iowa’s jails are full and on overload. 80% of Iowa’s jail population are there pretrial, many because they cannot afford bail. [See chart below from Report] ([Era of Mass Expansion: Why State Officials Should Fight Jail Growth](#), a Prison Policy Initiative Report, May 31, 2017) See chart:



- **Fact:** A study conducted in 2006-2007 by the Southern District of Iowa (federal court) took a four-point approach to increasing alternatives to detention prior to trial. “The assessment revealed that the Southern District of Iowa was able to substantially increase the utilization of alternatives to detention, resulting in a pretrial release rate increase of 15 percent while assuring court appearance and community safety. In fact, the increased pretrial release rate was accompanied by an increase in court appearance rate by 2.6 percent and decreases in both new alleged criminal activity rate (1.7 percent decrease) and revocations due to technical violations (2.8 percent decrease) for defendants released pending trial.” ([Alternatives to Pretrial Detention: Southern District of Iowa, A Case Study](#), from Federal Probation, A Journal of Correctional Philosophy and Practice, December, 2010)

Part I B: Bail and Pretrial Alternatives – The Proposed League Position

The LWVIA believes justice delayed is justice denied. The LWVIA believes that bail is seldom necessary as most defendants do show up for trial and are not a danger to the public. The LWVIA believes that holding nonviolent defendants in jail pretrial is counterproductive, often compounding poverty for defendants, causing loss of job, car, schooling, and possessions.

The LWVIA supports:

- Funding the courts to provide indigent persons awaiting trial an adequate number of high-quality defense attorneys or contract attorneys to ensure a speedy trial.
- Providing prosecutors, defense attorneys, contract attorneys, and judges with regular training about the alternatives to jail for those awaiting trial, including pretrial diversion, pretrial supervision, and restorative justice programs. Funding for pretrial alternatives should not be assessed to indigent defendants.
- Amending Iowa Code 811.2 (which provides that judges consider the likelihood of a defendant's appearance in court and safety of others when ordering pretrial release) to add consideration of the risk of harm to the defendant and the defendant's family if the defendant were detained.

Part 2-A: Criminal Justice Debt – The Facts

- **Fact:** A recent report found that of the 42 states that allow defendants to be billed for the services of a public defense attorney, Iowa assesses some of the highest fees in the nation. The report, by the National Legal Aid and Defender Association, also found the state’s process to determine defendants’ ability to pay those fees can be inconsistent and cumbersome. The 2022 report found that Iowa recoups very little revenue from fees assessed to indigent defendants but that those unpaid debts can cause lasting consequences for defendants long after their court cases have concluded. ([At What Cost? Findings from an Examination into the Imposition of Public Defense System Fees](#), prepared

by Marea Beeman, Kellianne Elliott, Rosalie Joy, Elizabeth Allen and Michael Mrozinski, National Legal Aid & Defender Association, July 2022)

- **Fact:** In a change of law a few years ago, the state of Iowa went from no presumption that a defendant had ability to pay, to now presuming that an individual has ability to pay. Additionally, it is the individual's burden to request an ability to pay hearing within 30 days of sentencing.
- **Fact:** Under Iowa Code 910, "restitution" is the term to describe pecuniary damages, including "Category A Restitution" and "Category B Restitution." Category A restitution is "fines, penalties, and surcharges" and is not subject to ability to pay determination. Category B restitution primarily covers court costs and public defender fees. With Category B Restitution, an offender is presumed to have the reasonable ability to make restitution payments for the full amount. The court will only hold a Category B Ability to Pay hearing when an offender submits a multiple page form for "Financial Affidavit and Request for Reasonable Ability to Pay Determination for Category B Restitution." This form is intimidating to complete, especially given that mistakes may lead to charges and penalties for perjury. Additionally, defendants have already completed a one-page form for "Financial Affidavit/Application for Appointment of Counsel" which determined if the defendant is eligible for court-appointed public defender or contract attorney. ([Chapter 910, Iowa Code, 2023](#)) and ([Iowa Courts Online](#))
- **Fact:** Between 2014 and 2019 in Iowa, over \$15 million was assessed in criminal cases *where all charges were dismissed*. Often poor people owe *more* for dismissals than if they are convicted, due to defense reimbursement fees. (Alex Kornya, *Litigation Director & General Counsel*, "Ability-to-Pay: Case Law, Analogs, and Calculators" PowerPoint presentation, October 2022)
- **Fact:** Indigent defendants in Iowa have substantial increases in their court debt due to Indigent defense fees and jail fees when compared to defendants who are not indigent. See chart below. Person #1 who is not indigent would be able to post the entire bail amount, which is returned to them following appearance; also they would arrange their own attorney, which would not result in court debt.

Fines/Fees for Example Offense: Theft-3rd degree		
	Person #1	Person #2
	Not Indigent	Indigent
Fine	\$ 855	\$ 855
Victim Restitution	\$ 30	\$ 30
Filing Fees	\$ 100	\$ 100
Indigent Defense Fee		\$ 1,260
Jail Fees (\$70 per day)		\$ 2,100
SUBTOTAL	\$ 985	\$ 4,345
15% Collection Fee	\$ 148	\$ 652
TOTAL OWED	\$ 1,133	\$ 4,997
(341% Increase)		
<i>Theft-3rd degree involves theft of property valued between \$750 and \$1,500.</i>		

However, the amount of debt which is actually collected by the courts for indigent defense is minuscule (collection rate of 2.0% in 2020) when compared with the collection of fines which is collected from all defendants from a broad spectrum of assets (collection rate of 18% in 2020). See chart:

Court Debt Collection Rates in Iowa						
Fiscal Year	Indigent Defense			Fines		
	Outstanding Debt	Debt Collected	Collection Rate	Outstanding Debt	Debt Collected	Collection Rate
2012	\$ 136,108,218	\$ 5,764,811	4.2%	\$ 270,060,943	\$56,155,868	20.8%
2013	\$ 147,884,549	\$ 4,981,250	3.4%	\$ 280,664,807	\$53,851,425	19.2%
2014	\$ 155,878,980	\$ 5,323,917	3.4%	\$ 189,927,347	\$53,719,852	28.3%
2015	\$ 157,048,534	\$ 5,000,235	3.2%	\$ 200,259,873	\$51,250,473	25.6%
2016	\$ 161,664,137	\$ 4,709,153	2.9%	\$ 302,099,758	\$48,646,612	16.1%
2017	\$ 167,598,811	\$ 3,983,668	2.4%	\$ 315,532,760	\$50,513,830	16.0%
2018	\$ 172,887,091	\$ 3,439,272	2.0%	\$ 327,813,205	\$51,029,181	15.6%
2019	\$ 177,555,301	\$ 3,386,888	1.9%	\$ 257,117,408	\$50,257,421	19.5%
2020	\$ 177,934,445	\$ 3,545,155	2.0%	\$ 264,643,905	\$48,335,409	18.3%

Iowa has historically had minimal collection of indigent court debt when compared to the collection rates for court fines. (from Alex Kornya, Litigation Director & General Counsel, Iowa Legal Aid, from "[Fines & Fees: Crippling Hidden Costs to Justice](#)," YouTube Presentation)

- **Fact:** Nearly half of the defense counsel respondents to a 2021 survey felt that their clients did not receive adequate notice of their ability-to-pay rights. (Source: Iowa Legal Aid)

- **Fact:** Revenue from public defense fees does not go to public defenders, but instead is remitted to Iowa's general fund. Fourteen other states do stipulate that those fees will go toward the public defense delivery system.
- **Fact:** A study by the Brennan Center for Justice found that fees and fines are an inefficient source of government revenue. ([The Steep Costs of Criminal Justice Fees and Fines](#), by Matthew Menendez and Lauren-Brooke Eisen, 2019)
- **Fact:** Iowa's district courts do not have guidelines to assist judges in determination of ability to pay. ([At What Cost? Findings from an Examination into the Imposition of Public Defense System Fees](#), prepared by Marea Beeman, Kellianne Elliott, Rosalie Joy, Elizabeth Allen and Michael Mrozinski, National Legal Aid & Defender Association, July, 2022)
- **Fact:** The National Legal Aid & Defender Association suggested that there may be "unfair or heavy-handed practices by judges or county attorneys in assessing or collecting" indigent defense fees. ([At What Cost? Findings from an Examination into the Imposition of Public Defense System Fees](#), by Marea Beeman, Kellianne Elliott, Rosalie Joy, Elizabeth Allen and Michael Mrozinski, 2022)
- **Fact:** Under Iowa Code section 815.9(3), an indigent defendant is required to reimburse the State for the total cost of legal assistance provided. "Legal assistance" includes the expense of the public defender or an appointed attorney, but also the cost for transcripts, witness fee expenses, and any other goods or services required by law to be provided to an indigent person. ([Indigent Defense – Overview and Funding History](#), Issue Review, Legislative Services Agency, 2019)

Part 2 B: Criminal Justice Debt – The Proposed League Position

The LWVIA believes that just as the state has the responsibility to prove a defendant guilty, so does the state have the responsibility of proving that the defendant has the ability to pay fines and fees. The determination should be based on all relevant evidence and sources of information. The burden of proof should be with the state which has greater resources than an indigent defendant. The LWVIA believes that Iowa should institute a sliding scale for assessing fines based on an individual's ability to pay. Ability-to-pay policies must include a presumption that some individuals will not have the ability to pay any fine, fee or other monetary sanction. The LWVIA believes that resources devoted to collecting fines and fees could be better spent on efforts that actually improve public safety.

The LWVIA further believes that after the court determines a person's ability to pay and assesses any fines, fees, or other monetary sanctions, it must allow payment plans as an acceptable payment method. The court should also consider converting the reduced amount to an alternative method of fulfillment such as community service. An individual should not

face incarceration, have probation extended, be denied services, or have a driver's license suspended for missed payments or nonpayment of fines and fees.

The LWVIA supports:

- Providing free legal services of high quality for indigent defendants, and repealing Iowa Code Section 815.9(3) to make this possible.
- Eliminating fees assessed to indigent defendants whose charges are dismissed.
- Mandating use of a guideline for all judges and court clerks to apply in determining reasonable ability to pay.
- Requiring monthly payment amounts that do not exceed 2% of an individual's monthly net income (including wages and excluding any child support or Supplemental Security Income) or \$10-whichever is greater.
- Waiving or reducing fines, fees, or any other monetary sanctions after a court determines an individual's ability-to-pay. Courts should permit individuals to enroll in a payment plan and should offer community service as an alternative form of payment. Courts should be flexible and allow a wide range of activities to qualify as community service.
- Mandating that collected public defense fees be remitted to an indigent defense fund rather than the general fund (should indigent defendants continue to be charged these fees).
- Streamlining and simplifying forms, petitions and processes designed to determine indigency and ability to pay. The "Financial Affidavit and Request for Reasonable Ability to Pay Determination for Category B Restitution" form should be rescinded.

The LWVIA opposes:

- Incarceration, extension of probation, denial of services, or driver's license suspension as punishment for missed payments by an individual on a payment plan.
- Issuance or execution of warrants for any failure to pay.
- The use by some County Attorneys in making Category B restitution a factor in plea negotiations, such as requiring agreement to forgo a Reasonable-Ability-to-Pay determination.

Background for the Study - LWVIA & LWVUS Current Justice Positions

LWVIA has had numerous studies focusing on criminal justice. The following is a summary of the current justice positions from the LWVIA Program as well as the LWVUS position on criminal justice.

The Rehabilitation of Alcoholic and Other Drug Addicted Offenders (1986, 1988, 2003)

LWVIA studied Sentencing and Adult Corrections from 1983 to 1985 with no consensus on the issue. Further study focused on alcoholic offenders and consensus was reached in 1986. The position was modified at the 2003 convention to include drug offenders. The position follows:

The League of Women Voters of Iowa recognizes that there is a difference of opinions as to the definition, cause, and treatment of alcohol and other drug abuse, and success of treatment for addiction is limited, even with a willing client in a supportive environment.

The League of Women Voters of Iowa supports:

- measures which, in addition to protecting the community, seek to rehabilitate addicted offenders;
- separate housing for addicted offenders;
- licensed addiction treatment programs that:
 - recognize uniform definitions of success and a means of measuring it;
 - are monitored and reviewed periodically for positive results and cost effectiveness;
 - are improved whenever new verifiable data are obtained that indicate need for change.

As an immediate step toward the accomplishment of these goals, the League recommends the formation of a task force made up of service providers, corrections professionals, and the public to discuss and reach agreement on methods of treatment, definition of success, means of measuring success, cost accountability, and methods of licensing and monitoring treatment programs for alcohol and other drug offenders.

Capital Punishment (1997)

A study of capital punishment was undertaken in 1995 and led by the Grinnell and Ottumwa Leagues. The following position was adopted:

The League of Women Voters of Iowa opposes capital punishment and its reinstatement in Iowa.

- There is no conclusive evidence that capital punishment is a deterrent – a correlation between the murder rate and the death penalty is not apparent in those states which have it.

- The death penalty has a disproportionate impact on minorities and the poor and is enforced with prejudice.
- The death penalty is irreversible, and innocent people are known to have been executed in the past.
- The costs of execution are higher than those of life imprisonment without parole.
- Life imprisonment without parole is a sufficiently harsh sentence.
- It is morally untenable for the state to take a life. Institutionalized killing is inhumane and contributes to a climate of violence.

In the event that capital punishment becomes law in Iowa,

- There should be a minimum age of 21 which in offender is subject to the death penalty.
- Insanity and mental retardation should be considered mitigating factors.
- Special provisions should be made for the appointment of competent counsel in capital cases.
- There should be no restrictions placed on access to the appeals process.
- Guarantees should be in place to counteract the effects of prejudice, to provide for automatic review of evidence and trial procedure, and to ensure that the penalty is appropriate for the offense.

Juvenile Justice and the Welfare of Juveniles (1975, 1976, 1979, 1983, 1990)

The League of Women Voters of Iowa began a study of Iowa's juvenile justice system in 1973 and over the next 25 years continued to reexamine the issue and update its position, which follows:

The League of Women Voters of Iowa supports a multiple approach to juvenile delinquent behavior including emphasis on prevention programs, juvenile justice system procedures, and an increase in juvenile justice system treatment options, including restorative justice programs and principles.

League supports a community approach to the prevention of juvenile delinquent behavior by advocating the use of public and private resources to:

- Encourage the development of healthy and nurturing families.
- Assure safety for children in their communities.
- Facilitate the positive attachment of children to their families and their schools/education.
- Encourage children in the formation of positive peer relations.
- Reward children's healthy lifestyle choices.

The League of Women Voters of Iowa supports a community response to juvenile delinquent behavior that advocates the use of public and private resources to:

- Establish and adequately fund a wide variety of treatment options to address children's underlying or contributing problems such as alcoholism, drug addiction, suicidal tendency, illiteracy, etc.

- Encourage coordination among treatment agencies.
- Incorporate restorative justice principles whenever possible.

LWVIA supports a juvenile court system that incorporates the following principles:

- Retains juveniles charged with status offenses, but in a category separate from delinquency;
- Maintains the confidentiality of Child-In-Need-of-Assistance petitions and status offense records;
- Includes a requirement for special training for policy and court personnel in handling juvenile matters;
- Permits the establishment of family courts, peer courts, and community courts where feasible;
- Allows offenses other than felony crimes against a person to be expunged;
- Maintains a system of graduated responses to delinquent behavior based on number of prior offenses, severity of offense, and age at time of offense; and
- Incorporates restorative justice principles into every appropriate stage of the juvenile justice system.

Domestic Violence (2001)

The LWVIA began a study of domestic violence in 1999 and adopted the following position in 2001:

The League of Women Voters of Iowa finds the need for several changes in providing legal and social support services for victims of domestic violence, including a review of existing penalties for perpetrators, and working for more consistent enforcement of present laws. The League also supports increased funding for services in counseling shelters and education for victims and their families. In addition, the League encourages businesses to develop programs to educate and support their employees who are involved in domestic violence, and also to assist employees in maintaining continuity in employment when at all possible. Finally, we urge that the Department of Public Safety be required to publish statewide statistics related to domestic violence, a task currently cited only as an option in the Code of Iowa.

In particular, the League of Women Voters supports the following additions or changes in legal processes and penalties:

- Waiver of fees for filing for protective services;
- Increase of penalties for all domestic violence offenses and utilization and enforcement of maximum penalties;
- State-funded periodic training for judicial and enforcement personnel;
- Enforcement of penalties for batterers who do not complete required training programs; and
- Booking of domestic violence arrest as domestic violence, not as assault or disturbing the peace, to facilitate the correct compilation of statistics by the Department of Public safety.

The League of Women Voters also supports continuous and adequate state funding for domestic violence services, including:

- Support of adequate shelter space;
- Educational services;
- Housing subsidies and financial support in the form of rental deposits when victims leave shelter;
- Counseling centering on the welfare of the victim(s) in safe locations, including counseling affected children; and
- Support for local or area legal advocates to assist victims with legal processes as well as advocates to assist with general assistance in safety, protection, and planning for the future.

Sentencing and Corrections Justice Position (2005)

LWVIA did a study on sentencing and corrections 2003- 2005 at least in part as a result of the enormous growth in prison population between 1980 and 2000. The following is the result of that study:

The League of Women Voters of Iowa supports a justice system that is fair and protects the public safety. LWVIA believes that mandatory sentencing has had an adverse impact on Iowa's justice and corrections systems. This adverse impact could be reduced by providing greater flexibility for judges, Iowa Department of Corrections (DOC), and the Iowa Board of Parole to consider unique circumstances in criminal cases while sentencing standards set out in the Iowa Code remain applicable. The sentencing standards consider such factors as the number of offender's prior offenses, age of the offender, and severity of the crime.

The LWVIA supports an indeterminate sentencing structure. An indeterminate sentence is a sentence given by the judge that orders the maximum amount of time that is to be served. It permits the releasing authority such as the Iowa Board of Parole in consultation with the Iowa Department of Corrections to release the offender earlier if it is warranted. The LWVIA supports legislation that considers offenders with special needs. Some examples of offenders with special needs are the mentally retarded, mentally ill, geriatric inmates, and medically needy.

The LWVIA supports Iowa's system of community-based corrections (CBCs) for offenders. CBCs should provide treatment, when appropriate, for offenders in the community while maintaining safeguards for the public. Iowa should maximize community corrections by providing adequate funding.

The LWVIA supports adopting sentencing legislation that is based on valid and reliable research. Such legislation should consider:

- Proportionality of all sentences to crimes committed
- Judicial discretion
- Budget constraints on the Iowa Department of Corrections
- Effectiveness of treatment and other programs for offenders

Voting Rights for Felons:

The LWVIA Board of Directors set the reinstatement of voting rights for felons as a legislative priority and lobbied for it in 2003 and 2004. This advocacy was undertaken under both LWVUS Principles, “The League of Women Voters believes that every citizen should be protected in the right to vote,” and the voting rights position, “The League of Women Voters of the United States believes that voting is a fundamental citizen right that must be guaranteed.” In 2005, a gubernatorial executive order restored the right to vote for people with felony convictions who had completed their sentences. This executive order was rescinded in 2011. From 2015 – 2020 LWVIA again included voting rights restoration as part of their legislative priorities. Members of the LWVIA Criminal & Juvenile Justice Committee participated in a coalition with many Iowa organizations to restore voting rights for individuals with felony convictions both through legislative bills as well as through an amendment to Iowa’s Constitution. In August of 2020, an executive order was again signed that would allow that enfranchisement to most people with felony convictions who had completed their sentence.

Selection of Judges

Historically, Iowa had selected judges through political elections with the most popular candidates winning. In the 1960s, a number of groups, including the League of Women Voters of Iowa, began to look for a better way of selecting judges. In 1962 the people of Iowa were asked to ratify a constitutional amendment to change the judicial selection process. The present system, based on merit selection with periodic retention votes by the voters, was supported by the League and ratified by the voters in 1962. LWVIA continues to support this system.

Current LWVIA Study

At the 2022 LWVIA Council Meeting in Ames, Iowa, delegates voted to approve a new study that would investigate how the justice system economically impacts people, especially indigent people.

LWVUS National Position on Criminal Justice:

At the 50th LWVUS Convention in 2022, delegates voted to adopt the following California Justice Position as a national position:

- A criminal justice system that is just, effective, equitable, transparent, and that fosters public trust at all stages, including policing practices, pre-trial procedures, sentencing, incarceration, and re-entry.
- The elimination of systemic bias, including the disproportionate policing and incarceration of marginalized communities.
- Policing practices that promote safety for both law enforcement officers and the communities they serve.
- Collaboration between government and community throughout every stage of the criminal justice system.
- A focus on humane treatment and rehabilitation with the goal of promoting the successful reentry into communities of those who have been incarcerated.

- Reliance on evidence-based research in decision-making about law enforcement programs and policies (including scheduled, periodic audits of program and policy effectiveness)

Policing Practices — constitutional policies and procedures established by law enforcement with input from the communities they serve

- Ensure that crime prevention and promotion of public safety are the primary roles of state and local law enforcement agencies.
- Build public trust and positive community relationships through police engagement with community members.
- Encourage community participation in the development of policing policy.
- Provide police accountability via independent citizen oversight of law enforcement and publicly available data on officer conduct.
- Disseminate information to the public about policing policies, recruitment, procedures for complaint/ commendation, and the rights and responsibilities of citizens and officers in interactions with each other.
- Provide sufficient psychological services and counseling to meet stress-related needs of police personnel.
- Staff police departments to reflect the diversity of the communities they serve and establish recruitment efforts that reflect this principle.
- Train police to identify individuals with mental health conditions, disabilities, or substance abuse/ addiction, so that officers will request support from appropriate medical and mental health professionals, with the goal of diverting those individuals into treatment instead of jail.
- Require all officers to render first aid to people who have been injured as a result of police action.
- Conduct comprehensive background checks, to include such history as PTSD, domestic violence, sex offenses, and affiliations with domestic terrorist groups, for all applicants to law enforcement positions.
- Establish de-escalation (the use of time, distance, communication, and available resources whenever it is safe to do so) and anti-bias training and ensure that all staff are provided with this training.
- Authorize minimal use of force during police encounters with the public and consider deadly force only when necessary to prevent imminent death or serious bodily injury.

Pre-trial Procedures — actions taken after an individual has been arrested, which embody the constitutional presumption of innocence

- Ensure no person suffers discrimination before the law due to their economic status nor should they be subject to risk assessment tools that can produce biased outcomes.
- Provide adequate numbers of public defenders to defend indigent accused.
- Provide prosecutors, defense attorneys, court counselors, and judges with regular training on alternatives to incarceration, including pre-trial diversion and restorative justice practices.

- Recognize that mental health conditions and substance abuse/addictions are public health issues, not crimes.
- Implement the use of specialty courts, e.g., drug treatment courts and restorative justice programs.
- Consider community-based treatment programs and other alternatives to incarceration when appropriate.

Sentencing — judgment made after an individual has been declared to be guilty

- Consider the individual circumstances of the person charged and nature of the crime, rather than mandatory minimum sentences.
- Consider split sentencing and/or alternatives to incarceration when appropriate.

Incarceration — policies and procedures that apply to employees of and incarcerated individuals in local jails and state prisons

- Ensure that all correctional systems provide humane, dignified, non-discriminatory treatment of incarcerated people and personnel, including appropriate health care and access to community-based rehabilitation programs.
- Eliminate the practice of solitary confinement.
- Ensure that incarcerated people and corrections officers have clear, safe, and accessible ways to report abuse.
- Address recidivism by instituting programs that focus on rehabilitation, education, mental health treatment, substance abuse recovery, and transitional programs.
- Adapt case management services to match education, behavior, job training, work, and mental health programs with the needs of incarcerated individuals.
- Provide sufficient psychological services, including training and evaluation, to meet the needs of corrections officers.
- Encourage family and community visitations and ways to maintain contact.
- Eliminate private prisons. Until space in public prisons is available, ensure that private prisons comply with all of the standards for state-run jails and prisons.

Re-entry — programs in place during and after incarceration to help individuals become successful members of their communities

- Collaborate with community-based organizations to facilitate reintegration of people released from prison.
- Provide pre- and post-release programs, inclusive of probation services, to prepare as well as assess and address the needs of people re-entering the community.
- Remove technical violations of parole as a reason to return an individual to prison.

General — statements that apply to some or all of the above categories

- Standardize data and setting up systems so that information can be easily shared among criminal justice agencies.
- Rely on evidence-based research in decision-making about criminal justice programs and policies.

According to Carolina Goodman & Maxine Anderson, the California League position has been used there to support more funding for indigent defense, and to eliminate fines and fees assessed for this defense. Additionally, the California League has used the position to advocate for bail reform and ability-to-pay legislation.

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**Suggestions for Local Leagues as they Prepare for
Concurrence on the State Study**

1. Coordinate a panel of local people to speak to the Local League. Be sure to include public defenders, contract lawyers serving indigent clients, judges, local sheriffs, and others locally who are part of the justice system.
2. Study a book on the economic impact of the justice system on the poor, such as *Punishment Without Crime, How Our Misdemeanor System Traps the Innocent and Makes America More Unequal*, by Alexandra Natapoff, published 2018.
3. Interview local public officials within the justice system and compile the results of your work. (Currently being done by Ames LWV)
4. Read through the state study and have a conversation with local members. Assign members to read the articles in the resource section.
5. Contact study committee members to arrange zoom meetings for clarification on positions.

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Summary of Proposed Positions to be Added to the LWVIA Program of Positions

Part I: Bail and Pretrial Alternatives – The Proposed League Position

The LWVIA believes justice delayed is justice denied. The LWVIA believes that bail is seldom necessary as most defendants do show up for trial and are not a danger to the public. The LWVIA believes that holding nonviolent defendants in jail pretrial is counterproductive, often compounding poverty for defendants, causing loss of job, car, schooling, and possessions.

The LWVIA supports:

- Funding the courts to provide indigent persons awaiting trial an adequate number of high-quality defense attorneys or contract attorneys to ensure a speedy trial.
- Providing prosecutors, defense attorneys, contract attorneys, and judges with regular training about the alternatives to jail for those awaiting trial, including pretrial diversion, pretrial supervision, and restorative justice programs. Funding for pretrial alternatives should not be assessed to indigent defendants.
- Amending Iowa Code 811.2 (which provides that judges consider the likelihood of a defendant's appearance in court and safety of others when ordering pretrial release) to add consideration of the risk of harm to the defendant and the defendant's family if the defendant were detained.

Part 2: Criminal Justice Debt – The Proposed League Position

The LWVIA believes that just as the state has the responsibility to prove a defendant guilty, so does the state have the responsibility of proving that the defendant has the ability to pay fines and fees. The determination should be based on all relevant evidence and sources of information. The burden of proof should be with the state which has greater resources than an indigent defendant. The LWVIA believes that Iowa should institute a sliding scale for assessing fines based on an individual's ability to pay. Ability-to-pay policies must include a presumption that some individuals will not have the ability to pay any fine, fee or other monetary sanction. The LWVIA believes that resources devoted to collecting fines and fees could be better spent on efforts that actually improve public safety.

The LWVIA further believes that after the court determines a person's ability to pay and assesses any fines, fees, or other monetary sanctions, it must allow payment plans as an acceptable payment method. The court should also consider converting the reduced amount to an alternative method of fulfillment such as community service. An individual should not

face incarceration, have probation extended, be denied services, or have a driver's license suspended for missed payments or nonpayment of fines and fees.

The LWVIA supports:

- Providing free legal services of high quality for indigent defendants, and repealing Iowa Code Section 815.9(3) to make this possible.
- Eliminating fees assessed to indigent defendants whose charges are dismissed.
- Mandating use of a guideline for all judges and court clerks to apply in determining reasonable ability to pay.
- Requiring monthly payment amounts that do not exceed 2% of an individual's monthly net income (including wages and excluding any child support or Supplemental Security Income) or \$10-whichever is greater.
- Waiving or reducing fines, fees, or any other monetary sanctions after a court determines an individual's ability-to-pay. Courts should permit individuals to enroll in a payment plan and should offer community service as an alternative form of payment. Courts should be flexible and allow a wide range of activities to qualify as community service.
- Mandating that collected public defense fees be remitted to an indigent defense fund rather than the general fund (should indigent defendants continue to be charged these fees).
- Streamlining and simplifying forms, petitions and processes designed to determine indigency and ability to pay. The "Financial Affidavit and Request for Reasonable Ability to Pay Determination for Category B Restitution" form should be rescinded.

The LWVIA opposes:

- Incarceration, extension of probation, denial of services, or driver's license suspension as punishment for missed payments by an individual on a payment plan.
- Issuance or execution of warrants for any failure to pay.
- The use by some County Attorneys in making Category B restitution a factor in plea negotiations, such as requiring agreement to forgo a Reasonable-Ability-to-Pay determination.

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Concurrence Form
Return this sheet no later than February 29, 2024

Local League Presidents and Program Chairs:

After your local League has had an opportunity to review and study the issue of economic justice in the justice system, please hold a “Concurrence Study Meeting” when you discuss our proposed positions. The concurrence or lack of concurrence will be for two parts.

Local League Name: _____

Local League President: _____

Part I: Bail and Pretrial Alternatives – The Proposed League Position

Please check one:

Our local League concurs _____

Our local League does not concur _____

Part 2: Criminal Justice Debt – The Proposed League Position

Our local League concurs _____

Our local League does not concur _____

Comments from your local League regarding this study:

Please return this sheet to Bonnie Pitz, bonniepitz48@gmail.com, 904 19th Street, Belle Plaine, IA 52208

Questions? Contact Bonnie Pitz, (641) 275-1712, bonniepitz48@gmail.com, or
Contact Jean Dell, (641) 680-5885, jeandell2021@gmail.com