

**IOWA-NEBRASKA and DES MOINES BRANCH NAACP
LEGAL REDRESS COMMITTEES:
Advocacy & Education, Successes & Setbacks: 2014 – 2025
Submitted March 19, 2026
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The NAACP is America's largest and oldest civil rights organization. Founded in 1909, it is a non-profit corporation chartered by the State of Delaware. From the outset its mission has been to "ensure the political, educational, social, and economic equality of rights of all persons and to eliminate race-based discrimination." With limited resources, the Legal Redress Committee (LRC) is charged by the NAACP with engaging only in matters that can either help to establish a new legal precedent or protect existing precedent, offer a broad remedy promising benefit to the members of the Association and the public, or redress violation of a constitutional or fundamental right. Comprised only of volunteers, the Legal Redress Committee works in various ways to achieve these objectives and fulfill the NAACP's mission. These include litigation and advocacy within the Judicial Branch, proposing and drafting legislation and lobbying the Legislative Branch, and seeking administrative reform and policy goals with the Executive Branch of Iowa Government.

A special strength of the NAACP over the years has been its combination of grass roots advocacy and law reform lawyering. This will be evident throughout this portion of the Report, with the co-chairs of the LRC, Russell Lovell and David Walker, working in tandem with State President Betty Andrews, and in Des Moines cases, the past seven years with Des Moines President Victoria Henderson Weber and during the preceding decade with Des Moines President Arnold Woods. As a result of the Legal Redress Committee's work, the Iowa-Nebraska NAACP and the Des Moines Branch NAACP have had many important successes and have several initiatives currently under way in Iowa and Nebraska.

Legendary Congressman John R. Lewis's wise comments reflect the reality of the NAACP's advocacy experience: "Be hopeful, be optimistic. Our struggle is not the struggle of a day, a week, a month, or a year, it is the struggle of a lifetime. Never, ever be afraid to make some noise and get in good trouble, necessary trouble." The NAACP knows well that civil rights and racial justice advocacy is not always onward and upward, that there will be some setbacks among the successes. Overall, the NAACP Legal Redress Committee believes significant progress has been made in the "decade-plus" of 2014-2025, even though an extremely conservative Iowa State Legislature and Governor and an increasingly conservative Iowa Supreme Court have presented difficult challenges.

I. Legislative Branch Activity and Advocacy

**A. Governor Branstad's Working Group on Criminal Justice Policy Reform (2015)
("Branstad Committee").**

Governor Branstad appointed the Committee in September 2015 following discussions with NAACP leadership to identify proposals for criminal justice reform that could be introduced and considered in the coming legislative session. The NAACP's grass roots advocacy and law reform lawyering were instrumental. NAACP State President Betty Andrews served and took a lead role on the Committee. LRC co-chair Russ Lovell made presentations on behalf of the NAACP and negotiated the Committee Recommendations, which identified aspects of the jury selection process that appeared to be contributing to the lack diversity of Iowa's juries. The Committee made strong recommendations on the need to increase the diversity of jury pools

and panels, to improve data collection as to “the racial composition of” jury pools and panels, and to “improve the response rates to jury summonses.” Most importantly, it emphasized “the responsibility of [the State Judicial Branch and each Judicial District] to take affirmative steps to ensure jury pools that truly reflect a fair cross section of the community [, which necessarily] will require ongoing monitoring and coordination at both the State and District Court levels.” The Report put jury reform front and center on the Judicial Branch’s priorities and set the stage for a comprehensive NAACP litigation, legislative, and administrative advocacy effort that has been ongoing, from 2015 to the present time in 2026.¹ The Committee recommended significant revisions to Iowa Code Chapter 607A [Jury Management] that were enacted in the course of the next two legislative sessions.
<https://comment.iowa.gov/Notice/Details/JusticePolicyReform>.

B. Anti-Racial and Ethnic Profiling Legislation.

The LRC drafted legislation defining and prohibiting racial and ethnic profiling by law enforcement and discriminatory pretextual stops; requiring data collection and analysis regarding stops, including subsequent conduct by law enforcement such as searches, by all law enforcement officers and agencies; providing for compilation and analysis of the data; further providing for the establishment of a community policing advisory board to review such data and analysis and make recommendations to ensure equal treatment of all citizens in law enforcement; and providing remedies. The bill was introduced in consecutive sessions of the Iowa Legislature. Despite concerted NAACP grass roots advocacy and law reform lawyering, it has not been enacted—yet. However, it provided the foundation for negotiations and enactment of Unbiased Policing Ordinances at the local level.

C. Unbiased Policing Ordinances Enacted in University Heights, Des Moines, Coralville, and Iowa City, Iowa.

The anti-racial and ethnic profiling bill that the LRC drafted formed the basis for ordinances Iowa cities could consider. University Heights was the first city in Iowa to enact an ordinance based on the bill. The **University Heights ordinance can be accessed at** <https://www.university-heights.org/DocumentCenter/View/349/Ordinance-Number-235-PDF?bidId=> The City sought the NAACP’s assistance and enacted an ordinance substantially based on the NAACP’s anti-racial and ethnic profiling bill. Next was the City of Des Moines. Working with an alliance comprised of the ACLU of Iowa and CCI and the NAACP, the LRC served as the architect, primary drafter, and negotiation partner with NAACP President Betty Andrews serving as the lead negotiator with the City of Des Moines that led to the City Council’s unanimous approval of an Unbiased Policing Ordinance in June 2020. The **Des Moines ordinance can be accessed at**

¹ See Lovell & Walker, *Achieving Fair Cross-Sections on Iowa’s Juries in the Post-Plain World: The Trilogy of Lilly-Veal-Williams*, 68 Drake L. Rev. 499 (2020).
<https://lawreviewdrake.files.wordpress.com/2021/01/lovell-walker-final.pdf>.
Part II, “It Takes a Village: Collective Engagement, Dialogue, Collaboration, and Progress,” pages 519-529, describes this NAACP grass roots advocacy and law reform lawyering effort that began with the Branstad Committee and has been ongoing, continuing at the present time. See also Lovell & Walker, “A Fair and Impartial Trial Free from Racial Discrimination Will Require an Across-the-Board Approach”: *Systemic Reforms Still Needed in Light of the “Other” Racial Justice Jury Trial Rulings in State v. Veal and State v. Williams*.
<https://lawreviewdrake.files.wordpress.com/2021/06/a-fair-and-impartial-trial-free-from-racial-discrimination-will-require-an-across-the-board-approach22-systemic-reforms-still-needed-in-light-of-the-22ot her22-racial-justice-jury-trial-r.pdf>.

https://library.municode.com/ia/des_moinnes/codes/code_of_ordinances?nodeId=MUCO_CH86PO_ARTIIIUNPO

The Des Moines Ordinance requires unbiased, fair and impartial law enforcement and delivery of police services, prohibits racial and ethnic profiling and discriminatory pretextual stops, requires training of all City employees about the Ordinance, including diversity, cultural and de-escalation training, requires police to intervene where another officer is using unreasonable or excessive force and it is safe to do so, provides for making and filing complaints with internally and with the Des Moines Human Rights Commission, and directs the Human Rights Commission to assist with drafting and filing a complaint with the Iowa Civil Rights Commission if the complainant desires to do so. This was a major grass roots advocacy and law reform lawyering success. In turn, the NAACP was asked to assist the City of Coralville and the City of Iowa City in the consideration of Unbiased Policing Ordinances based on the Des Moines Ordinance.

D. Proposed Legislation Updating and Expanding Jury Pool Source List.

In 2015 the Branstad Committee recommended the use of additional source lists to create jury pools to ensure greater diversity, recommended that jury pool lists be updated annually, and further recommended that the Judicial Branch study ways to revise the jury summons and questionnaire, among other things. LRC Co-Chair Russ Lovell was appointed by then Chief Justice Mark Cady to the Advisory Committee on Jury Selection. In March 2018 the Committee issued its Report which built upon the Branstad Committee's recommendations to expand the jury pool, update juror information, and strengthen jury management practices. The Advisory Committee recommendations document can be accessed at <https://www.iowacourts.gov/collections/41/files/499/embedDocument#:~:text=On%20October%205%2C%202017%2C%20the,cross%2Dsection%20of%20the%20community>

As a follow up, the LRC worked with representatives of the Office of State Court Administration, the Judicial Branch, the Attorney General's Office, and the Department of Revenue to draft a bill that, among other improvements, would authorize the Department of Revenue to share name and address information of taxpayers whose names and addresses it had on file, but no financial or other information (except for the last four number of the Social Security Number, which are needed in order to detect and prevent duplication). The bill would update the dated information OSCA receives from the Department of Transportation and the Office of the Secretary of State and thereby reduce the number of "undeliverable" jury summons. In so doing, the bill would reduce the number of summonses needing to be issued and likely expand the jury pool source list. The reduction in the number of persons called to jury duty furthers the goal of efficient use of juror time and helps the court system's budget by reducing the amount paid in juror pay and expenses. In the 2021 General Assembly the bill was HF455. **HF 455 can be accessed at** <https://www.legis.iowa.gov/legislation/BillBook?ga=89&ba=HF455> The bill enjoyed wide support, including strong support from the Judicial Branch and the Attorney General's Office, but it did not advance. Unfortunately, this LRC initiative remains unfulfilled but is still on the NAACP's legislative agenda.

E. Lobbying Activity and Declarations on Bills Introduced in General Assembly.

Each year numerous bills are introduced in the Iowa General Assembly which are of interest to the NAACP. These are considered by the Legal Redress Committee and positions for the NAACP to take considered. The co-chairs of the LRC, together with the State President, register as lobbyists for the NAACP, speak to legislators about the bills, attend legislative

subcommittees in which the bills are considered for recommendation to full committees, and publicly “declare” and communicate the NAACP’s position on the bills and reasons supporting the NAACP’s position.

II. Judicial Branch Advocacy: 9 NAACP Amicus Curiae Briefs in Iowa and 1 in Nebraska

A. Amicus Curiae Brief on behalf of the NAACP re “Ban the Box”—Fair Chance for Employment

In *ABI v. City of Waterloo*, 961 N.W.2d 465 (Iowa 2021), **opinion accessible at** <https://www.iowacourts.gov/courtcases/11920/embed/SupremeCourtOpinion>, the Iowa Supreme Court upheld a Waterloo Ordinance that prohibits employers from inquiring about or having a “box” on their application forms asking about an applicant’s criminal history or record until a job interview or conditional offer. The Court concluded that, contrary to the argument of the Association of Business and Industry, an Iowa Code provision that precluded local governments from regulating terms of employment contracts—like setting a minimum wage—did not purport to restrict local governments from regulating pre-employment conduct. This issue was only raised and argued by NAACP LRC co-chairs in an *amicus curiae* brief filed on behalf of the NAACP. **Amicus** Brief accessible at <https://www.iowacourts.gov/courtcases/11920/briefs/3669/embedBrief>

The Court acknowledged that it was unusual to decide the case on an issue only raised by *amicus curiae* and not by the parties, but it pointed out that “ABI has had an opportunity to respond, [and] it would be the better course of action not to strike down an entire ordinance on state-law preemption if, in fact, it isn’t preempted.” This NAACP litigation victory preserved Iowa local governments’ legislative authority to enact “ban the box” or fair employment legislation. The NAACP has long identified as a major policy goal requiring employers to eliminate “the box” and otherwise delay until the job interview or the making of a conditional offer an inquiry into a job applicant’s criminal history or record, if any. Too often the disclosure results in denial of any interview notwithstanding that there may have been no conviction, only an arrest, or that the conviction occurred long in the past, or that the crime for which the applicant was convicted has no relation to the qualifications for the job for which the person was applying. It is estimated that some 80 million Americans have a criminal history or record, and in any event, it is documented that African Americans and Blacks are disproportionately subject to arrests, traffic stops and searches, and other criminal and juvenile justice disparities.

B. NAACP Amicus Curiae in State v. Lilly Established a Landmark Jury Fair Cross-Section Precedent on Prongs 2 and 3 of the Duren Analysis

The right to an “impartial jury” is guaranteed by the Sixth Amendment to the U.S. Constitution and Article I, Section 10 of the Iowa Constitution as well as section 607A.1 of the Iowa Code. It requires that the trial jury be drawn from a fair cross-section of the community and that a distinctive group like African Americans not be significantly underrepresented in the jury pool and jury panel from which the trial jury is selected as a result of systematic exclusion by the State. Studies show that trial juries drawn from jury panels that include even one African American, and a fortiori juries themselves, convict African Americans 15% less than all-white juries, while mixed jury panels result in convictions of white defendants equal to that of all-white juries. Since 2014 the NAACP has been extensively involved in advocacy to secure this

right in Iowa; we have been engaged in such advocacy in Nebraska since early 2023. LRC co-chairs Lovell and Walker have filed NAACP Amicus Briefs in the Iowa Supreme Court on behalf of the defendants in four cases raising major fair cross-section issues.

Because of the systemic nature of the NAACP arguments made, the NAACP Brief filed in *State v. Veal* was also relied upon by the Court in a fifth case, *State v. Lilly*. The NAACP Amicus Brief in *State v. Veal* is accessible at <https://www.iowacourts.gov/courtcases/3191/briefs/1512/embedBrief> *State v. Veal*, 930 N.W.2d 319 (Iowa 2019) (Veal I), was a companion case to *State v. Lilly*, 930 N.W.2d 293 (Iowa 2019) (Lilly I). As a result, the NAACP Amicus Brief filed in *Veal* had equal application to the issues in *State v. Lilly*, 930 N.W.2d 293 (Iowa 2019) [opinion accessible at https://www.iowacourts.gov/courtcases/3194/embed/SupremeCourtOpinion](https://www.iowacourts.gov/courtcases/3194/embed/SupremeCourtOpinion) (Lilly I).

Citing the NAACP Amicus Brief nine times, *Lilly I* is a pathbreaking decision in which the Iowa Supreme Court, as urged by the NAACP, twice invoked its independent authority under the Iowa Constitution to construe its Impartial Jury Clause to provide greater protection than the comparable provision of the U.S. Constitution has been construed by the U.S. Supreme Court. This authority goes back to 1868, when the Iowa Supreme Court construed the Iowa Constitution's Equality Clause to bar racial segregation in Iowa's public schools—86 years before the U.S. Supreme Court decided *Brown v. Board of Education* in 1954.

In *Lilly I*, Justice Mansfield writing for the Court, held, 4 – 3, that underrepresentation of African Americans on jury pools and panels should be measured by Standard Deviation analysis rather than Absolute Disparity or Comparative Disparity standards, and that underrepresentation at the 1 standard deviation level should be sufficient to make out a fair cross-section claim under the Iowa Constitution (rather than 2 standard deviations under the Federal Constitution). In the Equal Justice Initiative (“EJI”), *Race and The Jury: Illegal Discrimination in Jury Selection*, Ch. 6, What Needs to Happen, “Examples[of Progressive Reforms] from Across the Country,” p. 108, Bryan Stevenson’s EJI gave a shout-out to the *Lilly* decision and the NAACP’s successful advocacy for the “less burdensome test for evaluating underrepresentation:” “Last year, at the urging of the NAACP, Iowa adopted a standard deviation calculation to assess race-based exclusion from jury pools.” <https://eji.org/report/race-and-the-jury/what-needs-to-happen/>

The *Lilly* Court also exercised its independent constitutional authority to hold that the Court System was responsible not only for express written policies that caused the underrepresentation of people of color but also for its failure to utilize effective jury management practices that contributed to the statistically significant underrepresentation. Negligent jury management practices, therefore, such as failing to use the Postal Service’s National Change of Address (“NCOA”) system to ensure the most recent address of prospective jurors or failing to enforce juror summons, could constitute systematic exclusion under the Iowa Constitution. The Court quoted Paula Hannaford-Agor, Director of the Center for Jury Studies of the National Center for State Courts:

“Although the socioeconomic factors that contribute to minority underrepresentation in the jury pool do not systematically exclude distinctive groups, the failure of courts to mitigate the underrepresentation through effective jury system practices is itself a form of systematic exclusion.”

It is fair to say that the *Lilly I* decision is the most progressive Court ruling on fair cross-section rights in the nation. In *State v. Veal*, 930 N.W.2d 319 (Iowa 2019), [opinion available at](#)

<https://www.iowacourts.gov/courtcases/3191/embed/SupremeCourtOpinion> the factual record was sufficient that the Court could make a preliminary application of its *Lilly I* holdings, giving lower courts and counsel guidance.

C. *NAACP Amicus Briefs Filed in Three Subsequent Fair Cross-Section Cases Were Unsuccessful in the Iowa Supreme Court Due to Factual Shortcomings*

As it had in *State v. Plain*, 898 N.W.2d 801 (Iowa 2017), the Iowa Supreme Court conditionally affirmed convictions of defendants in *State v. Lilly* and *State v. Veal* but remanded the cases to the district court for application of principles refined and announced in *State v. Lilly*. The District Court in *Plain* ruled that the Court Rules only allow Amicus Curiae participation at the appellate level, and therefore the NAACP could not participate in the rehearings on remand. Nevertheless, the NAACP did provide extensive assistance/guidance to the state public defender. In each case the District Court denied defendant's fair cross-section claim and upheld the conviction on remand.

Each case was appealed, and the NAACP filed *amicus curiae* briefs in all three cases, *State v. Lilly II*, *State v. Plain II*, and *State v. Veal II*:

Lilly II NAACP Amicus brief at:

<https://www.iowacourts.gov/courtcases/12319/briefs/3702/embedBrief>,

Plain II NAACP Amicus brief at:

<https://www.iowacourts.gov/courtcases/12974/briefs/3937/embedBrief>,

Veal II NAACP Amicus brief at:

<https://www.iowacourts.gov/courtcases/14384/briefs/4078/embedBrief>

NAACP counsel Lovell and Walker participated in the oral arguments in *Lilly II* and *Plain II* on October 20, 2021.

The Iowa Supreme Court upheld the District Court's denial of the fair cross-section claims in *Plain II*, *Lilly II*, and *Veal II*. *State v. Lilly*, 969 N.W.2d 794 (Iowa 2022) (*Lilly II*), *State v. Plain*, 969 N.W.2d 293 (Iowa 2022) (*Plain II*), and *State v. Veal*, 972 N.W.2d 728 (Iowa 2022) (*Veal II*).

Lilly II opinion at

<https://www.iowacourts.gov/courtcases/12319/embed/SupremeCourtOpinion>, full citation to opinion is *State v. Lilly*, 969 N.W.2d 794 (Iowa 2022),

Plain II opinion at

<https://www.iowacourts.gov/courtcases/12974/embed/SupremeCourtOpinion>, full citation to opinion is *State v. Plain*, 969 N.W.2d 293 (Iowa 2022),

Veal II opinion <https://www.iowacourts.gov/courtcases/14384/embed/SupremeCourtOpinion>, full citation to opinion is *State v. Veal*, 972 N.W.2d 728 (Iowa 2022)

All three rulings—*Plain II*, *Lilly II*, and *Veal II*—were very disappointing. The best that can be said is that each was decided on narrow factual grounds and thus have limited precedential impact. The three dissenters in *Lilly I* wrote a concurring opinion in *Lilly II* which indicated

they would ask the Court to reconsider *Lilly I* and perhaps overrule it;² but in years since that has not occurred, and the NAACP has been able to address head-on most of their concerns.

The NAACP continues to believe that these cases were wrongly decided, and Lovell and Walker will write a law review article explaining our reasoning. Thus, we will hold our “fire” for our law review article.

Veal II is also problematic in that the Court’s characterization of a fair cross-section claim involving “two steps” has likely confused many defense counsel into believing they can wait until they can observe the racial composition of a defendant’s own jury panel on the first day of trial and then decide whether to research and raise a fair cross-section claim.³ Because of the complexity, research, and discovery required to obtain and analyze the required aggregate jury data and, when underrepresentation is found, to identify what has caused the underrepresentation, fair cross-section claims require a major pre-trial effort and hearing on the aggregate jury data long before a defendant will observe his own jury panel. This is the procedure followed under the Federal Jury Selection and Service Act in federal court, which we have brought to the attention of the Iowa Supreme Court. At the Court’s invitation, the NAACP will submit in April 2026 proposed Court Rules for the Court’s consideration that provide a pre-trial litigation structure for such challenges.

D. *Amicus Curiae Brief on behalf of the NAACP re Challenging Constitutionality of Pretextual Traffic Stops*

The LRC filed a joint ACLU of Iowa/NAACP/LULAC Amicus Brief in *Scottize Danyelle Brown v. State of Iowa* **Amicus Brief available at** <https://www.iowacourts.gov/courtcases/3197/briefs/997/embedBrief> challenging the

² “I would revisit this area of law in the appropriate case. The court’s recent fair-cross-section jurisprudence under the Iowa Constitution is undermining the administration of justice, rendering it incredibly difficult simply to have a jury trial without months of discovery, expensive motion practice, expensive expert witness testimony, and days of hearings. And to what end? None that have been evidenced to date.” J. McDonald, Conc. Op.

The NAACP strongly disagrees. Major improvements in the Iowa Court System’s jury management practices and procedures have resulted in efficiencies and jury pools that are representative through at least the jury pool stage of the process. The Iowa jury pool data for calendar years 2022 through 2025 in the 8 Iowa Counties with the largest Black populations have been fully representative, that is, the Black % of the jury pools has been at least equal to the “Blacks alone” % of the Census jury-eligible population (those 18 years of age and older and U.S. Citizens) for each of the 8 Counties. There have been statistically significant declines in the percentage of Blacks at the jury panel stage, and that remains an NAACP concern that we have brought to the attention of the State Court Administrator and Chief Justice.

³ In proving *Duren* prong 2 Underrepresentation, *Veal II* states that Defendant must “first establish” constitutional injury or standing. Standing may be the first step analytically, but, from a litigation chronology standpoint, it is the last step because the racial composition of Defendant’s own jury panel cannot be determined until the day of trial. *Veal II* thus has created a trap for the unwary. Defense counsel must begin her fair cross-section research and discovery months before the day of trial, gathering the historical data and establishing the Court system’s 6-month aggregate data that shows underrepresentation at the 1 standard deviation level for the Iowa Constitution. If the aggregate jury pool or jury panel data shows statistically significant underrepresentation, Defense counsel should request approval for funding from the Indigent Defense Fund for an expert on jury management practices. *Lilly II* made clear defendants cannot prove systematic exclusion without expert testimony. Defendant should alert the trial court when underrepresentation in the historical aggregate panel data is evident through a Pre-trial Notice of Anticipated Fair Cross-Section Challenge and Request for Appointment of an Expert. See generally

Lovell & Walker, *Achieving Fair Cross-Sections on Iowa’s Juries*, 68 Drake Law Review, pages 532-543.

constitutionality of pretextual traffic stops as a violation of the Iowa Constitution. Ms. Brown's OWI conviction resulted when her auto was stopped ostensibly for a traffic violation, but the officer acknowledged that the reason he made the stop was that he wanted to investigate because his computer search indicated the car had been designated as "connected with gang activity." That alone wouldn't constitute "reasonable suspicion" or "probable cause," as the law requires. Our Amicus Brief argued that pretextual traffic stops are an abuse of police power and serve as the justification for racial profiling.

The Iowa Supreme Court, in a 4-3 decision [opinion at https://www.iowacourts.gov/courtcases/3197/embed/SupremeCourtOpinion](#); *State v. Brown*, 930 N.W.2d 840 (Iowa 2019), declined to hold the search and seizure protections under the Iowa Constitution would be greater than the limited privacy caselaw protection provided by the U.S. Supreme Court. The case came close to a breakthrough. Three justices, including then Chief Justice Cady, would have placed limits on police authority to make such pretextual traffic stops.

D. *Amicus Curiae Brief on behalf of NAACP Challenging State Government Hiring Practices as Disparate Impact Violation of Civil Rights Law*

In *Pippen v. State of Iowa*, 854 N.W.2d 1 (Iowa 2014), the NAACP filed an Amicus Brief in support of a class of African Americans alleging class-wide systemic racially disparate impact discrimination in State Government employment. The NAACP Brief contended that an employer who delegates unstructured discretion to those with the power to hire, fire, and promote, and fails to monitor the subjective decision-making it has authorized for its possible racial impact on people of color, should be held liable for the discrimination that it has allowed to flourish unchecked—whether conscious or unconscious—because it has failed its responsibility under federal and state antidiscrimination laws to eliminate criteria and practices that have an adverse racial impact. The NAACP also argued that the evidence showed significant adverse racial impact in the hiring by eight state government departments that employ 58% of the state employees, including the departments of human services and transportation, and that the Court should find liability as to those departments even if it concluded that there was no adverse racial impact in each State department.

The NAACP Amicus brief in *Pippen v. State of Iowa* (2014) is linked from the Des Moines NAACP website at https://www.naacpdeshmoines.org/files/ugd/5e5827_06ab9c32856b4e838363e79f577bd9eo.pdf (The Iowa Supreme Court did not start posting briefs on their website until 2017. Prior to that, they only posted opinions <https://www.iowacourts.gov/iowa-courts/supreme-court/supreme-court-opinions/opinions-archive>)

Pippen v. State of Iowa, 854 N.W.2d 1 (Iowa 2014), [opinion at https://www.iowacourts.gov/moduledocuments/embed/4642/120913_9E49CF9869AC6.pdf](#). The Iowa Supreme Court, in a narrow ruling, concluded there was sufficient evidence to affirm the trial judge's fact finding that the plaintiffs failed to prove that it was not possible for them to identify specific components of the State's hiring processes that were causing the adverse impact on African American applicants, as required by Federal civil rights law. Thus, the Court affirmed the trial court's dismissal of this class action.

Justice Waterman's Concurring Opinion (joined by Justices Mansfield and Zager) cited and complimented the NAACP's "well-argued amicus brief" and observed that "the NAACP's brief raises serious questions as to whether the State committed unlawful discrimination." Hindsight is always 20-20, but it appears that had plaintiffs narrowed their challenge to specific offending state departments rather than a frontal challenge to all State Executive Branch hiring, their lawsuit might have been successful.

F. Amicus Curiae Brief on behalf of the NAACP in Support of the Authority of the Iowa Civil Rights Commission

Alleging sex or gender-based discrimination in violation of the Iowa Civil Rights Act, an employee filed a complaint with the Iowa Civil Rights Commission, seeking relief; but the employer countered that the employee had agreed to arbitrate any all claims for violation of federal or state law, a provision widely used by employers in employment agreements which as a practical matter serve as a condition of employment. That meant that the Commission had no jurisdiction or authority to decide the case alleging sex discrimination. The Iowa District Court agreed with Rent-a-Center, the employer, and disallowed the Commission from proceeding.

The Commission appealed, and it also asked the Iowa-Nebraska NAACP if it would consider appearing as *amicus curiae* and writing a brief on its behalf. The NAACP agreed and, in its brief, contended that the Iowa Civil Rights Commission ("ICRC"), as the governmental enforcement authority for the Iowa Civil Rights Act, could not be bound by a pre-employment contract provision requiring arbitration of employment disputes, as the ICRC was not a party to the contract. The NAACP Amicus brief is linked from the NAACP website at https://www.naacpdesmoines.org/files/ugd/5e5827_28a98888cece43cfaa1ea7a8334814f6.pdf (The Iowa Supreme Court did not start posting briefs on their website until 2017. Prior to that, they only posted opinions <https://www.iowacourts.gov/iowa-courts/supreme-court/supreme-court-opinions/opinions-archive/>.)

The Iowa Supreme Court agreed and, in a unanimous opinion, reversed the District Court decision. In *Iowa Civil Rights Commission v. Rent-a-Center*, 843 N.W.2d 727 (Iowa 2014), [opinion at https://www.iowacourts.gov/moduledocuments/embed/4462/130412_89BEC05A495CB.pdf](https://www.iowacourts.gov/moduledocuments/embed/4462/130412_89BEC05A495CB.pdf), the Iowa Supreme Court held that the ICRC could proceed independently with its enforcement proceedings even though the named plaintiff it represented had signed a pre-employment agreement that required arbitration of her employment discrimination claim.

The decision received national coverage because there has been widespread concern that pre-employment contract arbitration provisions, although viewed as unfair to prospective employees because as a practical matter they have no ability to bargain on this issue, have generally been upheld by the courts—and the Iowa Court went against that trend and did so in an unanimous decision. It was a win for the "little guy" against the big corporation. [Article available at: http://www.washingtontimes.com/news/2014/feb/28/court-bias-case-against-rent-a-center-can-proceed/](http://www.washingtontimes.com/news/2014/feb/28/court-bias-case-against-rent-a-center-can-proceed/).

G. Amicus Curiae Brief on behalf of the Iowa-Nebraska NAACP/ACLU re Challenging Constitutionality of Denying a Jury Trial in an Omaha Eviction Case

The landlord's FED eviction action was brought under the Nebraska Uniform Residential Landlord Tenant Act (URLTA). Historically, the FED summary procedures severely restricted the issues for the court's consideration in eviction proceedings. However, a fundamental change of law was made by the URLTA when it ended the common law doctrine of independent covenants. That doctrine had restricted the issue in FED possession proceedings brought by landlords to whether the tenant was current on his or her rental payments. A claim by the tenant for breach of an implied warranty of habitability—failure by the landlord to comply with city codes or to provide safe and sanitary premises—was regarded as involving a covenant independent of the tenant's promise to pay and requiring a separate action by the tenant against the landlord. That changed with adoption of the URLTA, and the landlord's responsibility to maintain the premises in a habitable condition is now interdependent with the tenant's obligation to pay rent. Thus, Nebraska Revised Statute §76-1428 expressly provides that the landlord's noncompliance with its responsibilities under the URLTA *can* be a defense to a landlord's action for possession.

As a result, possession actions under the URLTA regularly have significant factual issues to be resolved; they are not the simple pre-URLTA proceedings that were limited to whether the tenant was current on his rent (and refused to consider the tenant's defense that the landlord had not met its responsibilities to the tenant). Because of this systemic URLTA reform, a jury trial should properly be viewed as a primary way to accomplish the resolution of these factual issues.

The factual issue at the trial in the instant case was whether tenant Holcomb, by making a brief oral "threat" ("I'll kick your f***ing ass") while moving towards her apartment, had engaged in a "violent criminal act" and violated a clause in the lease. Even though no criminal charges were ever filed, the landlord invoked the clause and sought to evict her without providing the tenant with a jury trial on the key factual issue. Because of the disparate racial impact of such clauses, the NAACP has advocated that such clauses should be abolished. While this lawsuit/appeal would not abolish such clauses, it would provide a highly visible platform for NAACP advocacy on this issue.

This was a case where the facts as to whether the tenant represented a clear and present danger were disputed as no arrest was made or criminal charges filed or report even made against the tenant. A jury trial would have ensured a fair hearing for the tenant on that critical issue. The tenant's main argument was based on the original intent and text of the 1875 Nebraska Constitution; original intent and textualism have usually been the position of conservative advocates. Our NAACP amicus brief in the Holcomb case also emphasized the very significant racially disparate impact evictions have on African American women and their children. The LRC filed a joint ACLU of Nebraska/NAACP Amicus Brief. This was the first time that the NAACP had filed an Amicus Brief in the Nebraska Supreme Court.

In *NP Dodge Management Company v. Holcomb*, 993 N.W.2d 105, 115-116 (Neb. 2023), **the opinion is also accessible at:** <https://law.justia.com/cases/nebraska/supreme-court/2023/s-22-272.html>, the Nebraska Supreme Court held that the case was moot because the tenant had vacated the premises, and thus the Court did not reach the tenant's constitutional argument; however, three of the justices, including new Chief Justice Funke, wrote a Concurring Opinion in which they strongly indicated that they would find a State constitutional right to a jury trial in future evictions cases where there are disputed facts:

Because the Seventh Amendment's jury trial guarantee does not apply to suits in state courts, see, e.g., [*Monterey v. Del Monte Dunes at Monterey, Ltd.*, 526 U.S. 687, 119 S. Ct. 1624, 143 L. Ed. 2d 882 \(1999\)](#), the U.S. Supreme Court's decision in [*Pernell, supra*](#), is not binding in this or other state courts. Even so, most state courts to consider the issue have followed the analytical path laid out in [*Pernell*](#) and have concluded that, under jury trial guarantees similar to ours, statutory actions by a landlord to recover possession of real property from a tenant are legal in nature and are thus triable to a jury. See, [*Ex Parte Moore*, 880 So. 2d 1131 \(Ala. 2003\)](#); [*Hill v. Levenson*, 259 Ga. 395, 383 S.E.2d 110 \(1989\)](#); [*N. Sch. Congregate Housing v. Merrithew*, 558 A.2d 1189 \(Me. 1989\)](#); [*Criss v. Salvation Army Residences*, 173 W. Va. 634, 319 S.E.2d 403 \(1984\)](#); [*Baldwin Sod Farms, Inc. v. Corrigan*, 746 So. 2d 1198 \(Fla. App. 1999\)](#). But see [*Vinson v. Hamilton*, 854 P.2d 733 \(Alaska 1993\)](#) (holding that action for possession brought under forcible entry and detainer statute was equitable in nature and that thus, parties did not have state constitutional right to jury trial).

The longstanding precedent of this court and the weight of authority from other jurisdictions thus appears to support Holcomb's argument that actions for possession under the NURLTA are legal in nature. And because the constitutional right to a jury trial extends to actions that are legal in nature, [article I, § 6](#), would seem to afford litigants the right to a jury trial for actions brought under [§ 76-1446](#).

NP Dodge Management Company v. Holcomb, 993 N.W.2d 105, 115-116 (Neb. 2023). The Court's disposition of the case left open to the Legislature to avoid a constitutional ruling by amending the statute to provide for a jury trial when an eviction presents a bona fide factual issue. Although the Nebraska Legislature considered legislation in its 2024 and 2025 Sessions that would have provided a right to jury trial in eviction cases, none has been enacted yet. We have been advised by the Nebraska public interest organizations with whom we collaborated on the Holcomb appeal that landlords have been settling eviction cases when tenants have requested jury trial to avoid an appeal reaching the Nebraska Supreme Court which, based on Chief Justice Funke's concurring opinion, appears likely to rule in favor of the jury trial right.

H. *Following the Iowa Supreme Court's Opinion Holding that Fair Cross-Section Principles Do Not Extend to the Jury Panel Stage, the NAACP Assisted Defense Counsel on a Petition for Rehearing Contending Otherwise and Urging Reversal.*

The Iowa Supreme Court held that the fair cross section requirement of the 6th amendment does not apply to the jury panel stage of the jury selection process.

State v. Mong, 988 N.W.2d 305 (Iowa 2023), reh'g denied (Apr. 26, 2023). Without any meaningful explanation of its rationale, the Court in *Mong* held: "Our cases recognize the fair-cross-section right extends only "to the jury pool" and not to the jury panel or the petit jury," citing *State v. Wilson*, 941 N.W.2d 579, 593 (Iowa 2020).

The opinion can be accessed via the Iowa Supreme Court website at <https://www.iowacourts.gov/courtcases/13502/embed/SupremeCourtOpinion>

The NAACP was unaware that the applicability of the Sixth Amendment fair cross-section protection was an issue in either *Wilson* or *Mong*, and thus did not have an opportunity to seek leave to appear as *amicus curiae* and file an Amicus Brief. Lovell and Walker did assist Mong's counsel on a Petition for Rehearing; but such Petitions are rarely granted, and it was no surprise that the Iowa Supreme Court denied the petition.

The NAACP plans to file an Amicus Brief in a future Iowa Supreme Court case where the district court has denied a fair cross-section claim based on underrepresentation at the jury

panel stage. The NAACP maintains and will assert that the *Mong* holding is contrary to the U.S. Supreme Court precedent, beginning with *Duren v. Missouri*, 439 U.S. 357, 363 (1979), which reaffirmed *Taylor v. Louisiana*'s holding that the Sixth Amendment fair cross-section right applies to "jury wheels, pools of names, *panels*, or *venires from which juries are drawn*." *Id.* at 363 (emphasis added).

I. NAACP Advocacy in Federal Court: Fighting for Inmate Due Process Rights: United States Court of Appeals, 8th Circuit (St. Louis, Missouri): *Roberts et al v. Sheriff Tony Thompson and Black Hawk County*

Instead of going to court to try to recover "lodging fees" as directed by the Iowa Code, the Sheriff had people being released sign a "Confession of Judgment" which he used to coerce payments without having to go to court. The sheriff wanted to avoid a court hearing because judges listen to the circumstances and frequently "waive the so-called lodging fees"; that might well have been result in this case since plaintiffs' incomes were well below the federal poverty line and they had dependents.

The Sheriff's manner of collecting—showing up at their doors in uniform and bringing up the Confession of Judgment—was a violation of Due Process according to plaintiffs. The Northern District Federal Court dismissed their suit, but plaintiffs appealed to the U.S. Court of Appeals for the 8th Circuit

Our NAACP Brief brought out the huge racial disparities that exist in Black Hawk County and in the Iowa Criminal justice system. The NAACP Iowa-Nebraska, in conjunction with pro bono Minneapolis lawyers, filed an Amicus Brief in support of a lawsuit brought by the ACLU of Iowa against the Black Hawk County Sheriff and Black Hawk County on behalf of inmates being released from jail in Waterloo.

<https://www.aclu-ia.org/app/uploads/2025/10/7.15.25.NAACP-Amicus-Filed.pdf>

Oral Argument of the case was held on January 15, 2026, and a decision from the Appeals Court should be issued by early July.

III. Judicial Branch Advocacy: Dialogue, Administrative Rulemaking

A. *Ongoing Dialogue between the Iowa-Nebraska NAACP and the Iowa and Nebraska Court Systems Has Continued the Progress: An Overview*

At least since Governor Branstad's first administration and perhaps longer the Iowa-Nebraska NAACP has met with Iowa Governors, Republican and Democrat, once or twice a year. It was Governor Branstad who recommended to Chief Justice Mark Cady in fall of 2015 for the Chief Justice and his leadership team to do the same. As a result, there has been ongoing dialogue between the NAACP and former Chief Justice Cady and the present Chief Justice Susan Christensen, with typically one or two meetings per year, and with typically two or three meetings per year with former State Court Administrators David Boyd and Todd Nuccio, and now with Bob Gast. *State v. Plain* recognized that defendants in criminal cases had a constitutional right to jury data, and jury data has routinely been made available by the Office of State Court Administration ("OSCA") upon the NAACP's request based on Iowa's strong Public Records Act.

The meetings with State Court Administrator and OSCA staff have discussed ways to improve jury management practices statewide to address problems, especially underrepresentation of African Americans and Blacks, and achieve jury pools and panels representing a fair cross-section of the community. Examples included failure to update the jury pool, failure to utilize the U.S. Postal Service's National Change of Address (NCOA) system to address the problem of summons that are "undeliverable" because people have moved, changes in the jury summons and questionnaire to enhance the likelihood and number of juror responses, and lack of enforcement of jury summons and weak responses to failures to appear. One of the first results was issuance by OSCA in December of 2018 of a Jury Management Policy, effective January 1, 2019. Evidence shows it is reducing the number of prospective jurors needing to be summoned and improving both the rate of juror questionnaire responses and the number reporting for jury service.

This ongoing dialogue continues to the present day, with continued focus on effective implementation of the Criminal Procedure reform that allows most persons previously convicted of a felony to serve on juries once they have served their time. See III.C below. The NAACP has pressed the Court to take steps that will provide this group, so long denied citizenship rights because of their felony conviction, with the assurance that they are not only restored the right to vote and welcomed back into society but also made eligible for jury service and with the understanding that, with citizenship, comes the obligation to serve if summoned. The NAACP also has pressed the Court to post Iowa courts' jury data online, making it publicly accessible. As reported below, the jury pool data for the 8 Counties with the largest Black populations has shown full representation of African Americans and Blacks at the jury pool stage, and this is an important benchmark. However, as developed below, the pool's Black percentages have not been sustained in all 8 Counties at the critical *jury panel* stage—critical because that is the stage at which the trial jury is selected.

LRC Co-Chair Lovell, who is licensed not only in Iowa but also in Nebraska, wrote Michael Heavican, the Nebraska Supreme Court Chief Justice, in April 2023 and suggested that a similar dialogue between the Nebraska Court System and the Iowa-Nebraska NAACP could be beneficial. Lovell suggested the need for review of the Nebraska jury selection process, citing the progress that has been made in Iowa in achieving juries that reflect a fair cross-section of the community because of ongoing dialogue with the Iowa Supreme Court, state court administrator, and the judicial branch generally. He also pointed to the Conference of Chief Justice-Conference of State Court Administrators Resolution 1, In Support of Racial Equality and Justice for All, which applauded State court systems that, "with the encouragement, support, and guidance of CCJ and COSCA, have initiated efforts . . . to engage in conversations with communities of color, so that, in the words of Bryan Stevenson, our courts 'get proximate' to the challenges faced by such communities."⁴ Resolution 1 is available at https://ccj.ncsc.org/data/assets/pdf_file/0029/42869/07302020-Racial-Equality-and-Justice-for-All.pdf

Chief Justice Heavican agreed, and he, Justice Stacy (who chairs the Court's Access to Justice Committee), State Court Administrator Corey Steel, and Deputy State Court

⁴ Chief Justice Cady had been elected the "Chief of the Chiefs" for the year 2019-2020 but tragically passed away in November 2019. The CCJ-COSCA Resolution 1 was adopted in 2020, and the NAACP believes that the Iowa Court System-NAACP dialogue was the precedent for the Resolution's embrace of court system-community dialogue.

Administrator Amy Prenda met with the Iowa-Nebraska NAACP leadership and the leadership of the Omaha and Lincoln NAACP Branches in June 2023. That meeting last nearly two hours. Continuation of that engagement served as the catalyst for the Access to Justice (“AJC”) Committee’s February 2024 proposed revision of the Juror Qualification Form and amendment of Court Rules in

The NAACP prepared and filed extensive and comprehensive Public Comments on June 1, 2024, that applauded the intent of the AJC’s proposed revision and amendments as positive steps forward. At the same time, they critically analyzed the AJC proposals as not going far enough, made several recommendations essential to rectifying serious problems in then-existing Nebraska law, and set the stage for the Court rule-making process that brought about dramatic jury demographic data collection and disclosure reforms that were adopted by the Nebraska Supreme Court in October 2024, effective January 1, 2026. The NAACP Public Comments are available at https://www.iowanebraskanaacp.org/files/ugd/5914b7_74bd345f095140ea9f4cabceeb5a5395.pdf

New Jury Qualification Form and Court Rules in Nebraska became EFFECTIVE January 1, 2026. The NAACP was the catalyst and principal architect of the Jury Data reforms. Our NAACP jury reform advocacy in Nebraska was modeled on the successful jury reform advocacy the Iowa-Nebraska NAACP has done in Iowa since 2014. The Nebraska Reforms will (1) streamline the collection of jury data by requiring statewide uniform electronic collection and compilation; (2) reorganize the Juror Qualification Form so that the race-ethnicity-gender questions (“demographic questions”) are no longer segregated on a separate detachable page but instead are now included with all other questions; (3) revise the Questionnaire text so that it explains that answering the demographic questions “is necessary to assist in ensuring that the jury pool represents a fair cross-section of the community;” (4) upon request, make available to defense counsel without precondition the anonymized, aggregate demographic jury data, typically of the preceding six to twelve months, enabling the essential determination of whether a meritorious fair cross-section challenge could be brought; and (5) clarify that defendants need not show “good cause” to access jury data unless the disclosure involves juror names or personal identifying information. Additional detail regarding the reform of the Nebraska Court Rules is discussed in III.C below.

The publication date is April 2026 for the Nebraska Law Review article researched and written by Professors Emeritus Lovell and Walker: *Restoring the Fair Cross-Section Guarantee of the Constitutional Right to an “Impartial Jury”: A Critical Examination of the Nebraska Court System’s Systemic Default and the Supreme Court’s October 2024 Reform of the Juror Questionnaire and Jury Data Rules*. The Lovell-Walker article discusses the extensive law reforms and explains the important role played by the NAACP dialogue with the Nebraska Supreme Court and Court Administration; it will be posted on the NAACP Iowa-Nebraska web page.

For the first time in 20 years, since 2005, defendants and their counsel will now have a right to access the Court System’s aggregate demographic jury data, which is essential to proving a fair cross-section challenge. We anticipate there will still be litigation over defense counsel’s access to the jury data and that the NAACP will participate in an Amicus Brief to the Nebraska Supreme Court.

B. Iowa: Achieving Representative Juries Through Ongoing Dialogue

1. *Criminal Justice Reform in Iowa: NAACP Public Comments on Proposed Amendments to the Iowa Rules of Criminal Procedure and Executive Order No. 7*

In June 2020 the Legal Redress Committee submitted extensive comments on behalf of the NAACP on the Iowa Supreme Court's Proposed Amendments to the Iowa Rules of Criminal Procedure, which it supplemented in 2021. NAACP comments and proposals focused on (1) the need to address peremptory challenges, which too often result in striking African Americans from the jury panel, resulting in underrepresentation⁵; (2) the need to address and change the procedure and test approved in *Batson v Kentucky* for challenging peremptory strikes; (3) the need to liberalize the rule for changing the venue of a criminal trial if in the interests of justice; (4) the need to transcribe the voir dire process in both felony and misdemeanor cases to ensure and protect grounds for appeal when a *Batson* challenge has been rejected; (5) the need to authorize the trial judge to hold an individualized voir dire of a prospective juror when a "sensitive subject" such as racial bias becomes an issue; and (6) the need to revise Rule 2.18(5)(a) of the Rules of Criminal Procedure to make eligible for jury service persons previously convicted of a felony if the person has had his or her citizenship rights restored. All Public Comments submitted, including those of the NAACP, are accessible at <https://www.iowacourts.gov/collections/483/files/1148/embedDocument> (NAACP Public Comments start on p. 30).

The process for securing amendments to the Iowa Rules of Criminal Procedure, first proposed by the Supreme Court in March of 2020, was lengthy and complicated; it entailed more than three years, in which some of the subjects that were earlier proposals for change were addressed separately or in legislation. Ultimately the process came to involve solicitation by the Court of further Public Comments, two public meetings of the Court's Criminal Rules Review Committee, submission of Court proposals to the Iowa Legislature and return of the proposals by the Legislature to the Court, further deliberation by the Court, enactment of legislation apart from the proposed rules which addressed some of the same subjects, and eventually approval by the Legislature of amendments as revised to the Rules of Criminal Procedure. The amendments required transcription of voir dire in felony cases (but not misdemeanors), which ensured a record of the proceedings crucial to defendants' appeals when the trial court denied a defendant's *Batson* challenge. The amendments also liberalized the rules for change of venue in criminal cases, with indication of a willingness to view more largely the cases in which change of venue should be considered and authorized; it is hoped this change will enable change of venue to a more urban and diverse county for Black defendants arrested in rural counties. Review of fairness in jury selection was viewed as separate and meriting further consideration by the Court warranting a special committee. That committee was in fact appointed in August 2025, and at the time of this writing the committee's work is ongoing, with a committee recommendation requested by May of 2026. As a result of input by the NAACP Iowa-Nebraska David Walker was appointed to the committee.

The Court addressed felony exclusion from eligibility for jury service separately. From the beginning of Statehood in 1846, it was grounds to dismiss a prospective juror for cause if the person had previously been convicted of a felony *regardless* of restoration of citizenship rights

⁵ The NAACP LRC co-chair Lovell and State President Andrews began the NAACP's jury diversity advocacy in the fall of 2014 with a formal presentation on the ineffectiveness of the *Batson* procedures at the Annual Iowa Judges Conference; in October 2021 LRC co-chairs Lovell and Walker and State President Andrews gave an updated presentation at the Annual Iowa Judges Conference on the continuing need to address fairness in jury selection and reform *Batson* procedures.

allowing such persons to vote in state and federal elections. First, it was necessary to address restoration of the right to vote in state and federal elections—citizenship rights. On August 5, 2020, following sustained and strong advocacy from the Iowa-Nebraska NAACP and the ACLU of Iowa, Governor Reynolds issued Executive Order No. 7 restoring the citizenship rights of the vast majority of persons previously convicted of a felony if they had “discharged” or completed their sentences.⁶ State President Andrews was invited to speak on the occasion, and LRC leadership attended the ceremony in which the Governor announced her Executive Order.

2. *NAACP Advocacy Led to Iowa Supreme Court Amendment of I.R.Cr.Proc. 2.18(5)(a) to Allow Persons Whose Citizenship Rights Have Been Restored to Serve on Juries, But the Court’s Implementation Has Been Slow and Disappointing Thus Far*

Together, by Executive Orders, Governors Tom Vilsack and Chet Culver had restored the citizenship rights of approximately 115,000 persons, but none was eligible to serve on a jury in state court—their restored citizenship rights were limited to voting. A different rule has prevailed in the federal courts since 1968; federal legislation that year authorized jury service by those whose citizenship rights have been restored. It’s estimated that Governor Reynolds’ Executive Order restored the citizenship rights of 45,000 persons, making a total of more than 160,000 people newly eligible to be jurors. A disproportionate number of such persons, the NAACP determined, are African American or Black, so the NAACP applauded the Governor’s Order as having a significant, positive racial justice impact.

Executive Order No. 7 was a transformative change of law, benefitting almost every person convicted of a felony who had served his or her time. However, the NAACP was aware that this law reform allowing this group to vote also had the potential for improving the racial diversity on Iowa’s juries if the reform could be extended to include service as jurors. The Iowa-Nebraska NAACP’s considerable involvement in the advocacy that brought about Iowa Governor Reynolds’ issuance of Executive Order Number Seven prompted the question, “If such persons can vote, shouldn’t they also be qualified and eligible for jury service?” Following issuance of the Executive Order restoring the citizenship rights (with limited exceptions) of those previously convicted of a felony who had discharged their sentences, NAACP leadership and the LRC renewed their earlier proposal and requested that the Iowa Supreme Court amend the Rules of Criminal Procedure to make persons whose rights have been restored eligible for jury service.

The Supreme Court did so on February 19, 2021.

Amendments available at

<https://www.iowacourts.gov/collections/600/files/1317/embedDocument>; order at <https://www.iowacourts.gov/collections/600/files/1314/embedDocument>

The NAACP anticipated that amendment of Court Rule 2.18(5)(a) that ended automatic exclusion of persons with felony convictions from serving as jurors would not be enough to overcome the vestiges of 175-years of exclusion from juror service. An affirmative campaign on the part of the Court System to welcome and encourage this group’s participation would be critical to implementation; indeed, the outreach effort would need to instruct them that restoration of citizenship rights carried with it a civic duty to serve if called. In candor, the Court System’s implementation of this new right has been disappointing in the five years since the

⁶ Governor Reynolds’ **Executive Order No. 7** is available at <https://www.legis.iowa.gov/docs/publications/EO/1139928.pdf>

change went into effect. Most notably, it failed to modify its Juror Questionnaire to include a box that allowed such persons to indicate their citizenship rights have been restored and its outreach response has been ineffectual in our opinion.

The NAACP leadership and LRC continues to dialogue with OSCA and with the Chief Justice to ensure that those affected will have notice of their new right and responsibility to serve as a juror. In October 2024 State Court Administration distributed a Notice, “Jury Service for Citizens Previously Convicted of a Felony,” which the NAACP reviewed, helped revise, and approved. The Notice was posted at every Court House across the State setting forth the new citizenship and jury service rights and encouraging participation.

As of the time of writing this Report, in March 2026, the NAACP has proposed amendments to the Jury Questionnaire that, immediately following the Question on conviction of a felony, would add a box (modeled on the Federal Court Juror Questionnaire) that a person could check stating his or her rights have been restored. We have also recommended that there be hot links on the E-Juror Questionnaire to the Judicial Branch web pages on jury service with new text explaining qualification for jury service, encouraging this group to participate, and advising them of their responsibility to respond to summons and participate as citizens. Those recommendations are pending before State Court Administrator Bob Gast as of March 19, 2026, and, following Gast’s review, will go before the Chief Justice and then to the full Supreme Court.

3. *The Iowa Court System’s Jury Data Collection and Disclosure, Both to Defendants and to the Public under the Open Records Act, Have Immeasurably Improved and Now Are Among the Best in the Nation.*

As a practical matter, there is no fair cross-section right if defendants and their counsel, and the public at large, do not have ready access to the Court System’s demographic jury data, for counsel will be unable to make the essential showing of underrepresentation. Ready access to demographic jury data was not the case in Iowa when the NAACP began its jury reform efforts in 2014, and the data that was collected was spotty and unreliable due to a high nonresponse rate to the demographic questions. As a result of the NAACP’s persistent monitoring and dialogue, that has all changed, and Iowa is now among the national leaders.

Both the United States and the Iowa Constitution guarantee to a criminally accused the right to an “impartial jury,” which requires that the jury be drawn from a jury pool and jury panel that represent a fair cross-section of the community. That requires record-keeping, data collection and analysis, and publicly available reporting in order for defense counsel—and for that matter, the prosecutor and the trial judge—to determine whether a valid claim for violation of that guarantee can be made and proven. Prior to *State v. Plain* in 2017, the Judicial Branch was not gathering data on jury composition regularly or uniformly, in a consistent and complete manner, nor was it regularly available, nor even, when obtained, comprehensible without inquiry into definition of terms.

Following the Iowa Supreme Court’s holding in *State v. Plain*, 898 N.W.2d 801 (Iowa 2017), that “the constitutional fair cross-section purpose alone is sufficient to require access to the information necessary to prove a prima facie case,” the NAACP LRC promptly began working with the Judicial Branch and its Office of State Court Administration (OSCA) to secure the needed data collection, record-keeping, monitoring, and reporting. Meetings and discussions with the State Court Administrator and OSCA’s IT Director, often together with then Chief Justice Mark Cady, were numerous and have continued with subsequent State Court Administrators for more than a decade and are still ongoing. The OSCA has routinely and

regularly provided the NAACP with the demographic jury data it has requested per the Iowa Open Records Act; in recent years, OSCA has provided us the data on Excel Spreadsheets. The Iowa Jury Management Policy expressly recognizes both the defendant's unconditional Sixth Amendment right of access to jury data and the public's Iowa Open Record's right of access to demographic jury data.

The NAACP's dialogue with the Iowa and Nebraska Court Systems is best understood as a combination of NAACP grass roots advocacy and NAACP law reform lawyering. Especially in these times when the U.S. Supreme Court and the Iowa and Nebraska Supreme Courts are conservative bodies, it is important to recognize the continuing reform opportunities that are available through dialogue, utilizing the National Center for State Courts experience that good jury management practices enhance efficiency and representativeness of juries. The Iowa-Nebraska NAACP envisions that its successful Court System dialogue experience is replicable and transportable to NAACP efforts in States across the Nation and are in the process of developing a webinar program to do so that we hope to roll out in early 2027. See generally III.D below for the national survey research showing that State courts across the nation lack far behind in terms of demographic jury data.

4. The Iowa Data Shows Demonstrable Progress in Black Representation at the Jury Pool Stage but Statistically Significant Declines in 2024 at the Jury Panel Stage.

The OSCA jury data reports for the post-COVID years (2022 – 2024) show that Blacks were fully represented at the Jury Pool⁷ stage of the jury selection process in the 8 Iowa Counties with the largest Black populations, and in 7 of the 8 Counties in 2025 (with Woodbury at .034 compared to .04, only .006 below representation). Thus, Iowa has had four consecutive years of good news at the front end of the jury selection process.

However, in contrast to the Jury Pool Stage, in 2024 and 2025, at the *Jury Panel Stage*⁸ six of the same eight counties had Black Jury Panel percentages below the Black Census jury-eligible population percentage that was statistically significant. In both years, four of the counties with the largest Black populations—Black Hawk, Johnson, Polk, and Scott—the Black percentage at the Jury Panel Stage showed declines of 2 – 3% from its Jury Pool Black percentage.

Underrepresentation is statistically significant under federal law if it equals or exceeds two standard deviations, while under *Iowa* Constitutional Law, it is statistically significant if it equals or exceeds one standard deviation.⁹ In sum, for each of the past two years at the Jury

⁷ The Jury Pool is the sum total of prospective jurors *who have been summoned, have responded to the juror questionnaire, and have been determined by the court to be qualified for service.*

⁸ The Jury Panel is comprised of those prospective jurors *who called to report for service and were randomly drawn or assigned for service to a courtroom, judge, or trial.*

⁹ As explained by the Court in *State v. Lilly*: “[W]e conclude the threshold should be one standard deviation—in other words, the percentage of the group in the jury pool [or panel] must be one standard deviation or more below its percentage in the overall population of eligible jurors. ... [W]hen the variance is one standard deviation, there remains a [16]% probability that we are seeing a random event.” 930 N.W.2d at 304. At 2 standard deviations there is only a 2.5% probability that the result is a random event. In sum, If the binomial distribution standard deviation calculation is .16 or less, it is statistically significant at the 1 standard deviation level; if the binomial distribution standard deviation calculation is .025 or less, the result is statistically significant at the 2 standard deviation level.

Panel stage underrepresentation of Blacks has been statistically significant at or approaching 2 Standard Deviations in 6 of 8 Counties.¹⁰

Sixth Amendment Fair Cross Section principles do not apply at the stage of the trial jury. Nevertheless, we know that juries reflecting some diversity, that is, juries that are not “all-white,” have been found to have longer and higher quality deliberations, to be more likely to challenge any implicit bias, and to improve the appearance of fairness for members of distinctive groups—just what we would expect from an “impartial jury” as required by the U.S. and Iowa Constitutions. So, it’s valuable to know the extent to which Iowa juries are diverse and representative. The presence or absence of diverse representation on the trial jury enables tracking jury management selection practices at the bottom line. Happily, OSCA is collecting the trial juror data, enabling it to be monitored.

In calendar years 2022 and 2023, the Black percentage on Trial Juries in each year was representative in four Counties *despite being unrepresentative at the Jury Panel stage*. In effect, the improved showing at the Trial Jury Stage made up for underrepresentation at the Jury Panel Stage in 4 of the 8 Counties—something like coming from behind to win in the bottom of the 9th inning. That was not the case in 2024 and 2025. Only in Johnson County in 2024 and only in Black Hawk and Johnson Counties in 2025 did the Black percentage of the Trial Jury meet or exceed the Black jury-eligible Census population. The underrepresentation on the Jury Panels carried over to the 12-person Trial Jury stage in both years, which underscores why it is so important to strive for jury panels that comply with fair cross-section standard.

5. *At the Urging of the NAACP the Iowa State Data Center Updates and Annually Posts Jury-Eligible Demographic Population Data for Each Iowa County, an Essential Statistical Fact in Fair Cross-Section Cases.*

The Iowa Nebraska NAACP has spent considerable time discussing the key role that the Court System’s demographic jury data plays in the enforcement of the fair cross-section right., and rightly so, but the U.S. Census Bureau’s demographic data plays an important role too, and accessing it can be challenging for judges, court personnel, and lawyers, too. Essential to a defendant’s Constitutional claim that a jury pool or panel doesn’t represent a fair cross-section of the community is evidence that the representation of a distinctive group, for example, African Americans or women, in the aggregate jury pool or panel data over time is unfairly or unreasonably less than the percentage of the group in the county’s Census jury-eligible population.

For example, let’s assume that the court system data shows that African Americans constitute 6% of the jury pool and 4% of the jury panel in Scott County. To determine whether Africans Americans are underrepresented, you must know the African American percentage of Scott County’s “jury eligible population” based on recent Census data for Scott County. That can be done using U.S. Census’s American Community Survey (“ACS”) B05003 Reports. Prior to the 2020 Census, locating these ACS reports required carefully following a complicated set of 27

¹⁰ In 2024, four Counties had Black underrepresentation at the Jury Panel stage that was at least 2 Standard Deviations below that expected in a random selection: Black Hawk (.005 < .025); Dubuque (.007 < .025); Polk (.000005 < .025); and Scott (.008 < .025) and two counties—Linn (.038 < .16) and Woodbury (.048 < .16)—Black underrepresentation closely approached 2 Standard Deviation. In 2025, six Counties had Black underrepresentation at the Jury Panel Stage that was at least 2 Standard Deviations below that expected in a random selection: Black Hawk (.018 < .025); Des Moines County (.018 < .025); Dubuque (.02 < .025); Linn (.006 < .025); Polk (.006 < .025); and Scott (.0001 < .025).

“clicks” through the digital Census Bureau charts. One wrong click and one was lost in cyberspace. LRC Co-Chair Russ Lovell realized that lawyers and judges would quickly become frustrated trying to locate the needed ACS data.

Lovell’s Census research brought him to the office of the State Data Center in the State Capitol’s library. Lovell explained the fair cross-section analysis and the need to compare court system demographic data to recent Census data for the same county to State of Iowa Data Center (SDC) Director Gary Krob. Lovell inquired whether the SDC might be able to create a web page that would summarize the relevant Census data and be more user-friendly than the U.S. Census reports? Could it do so for each Iowa County, publish the results, and update them annually when the Census Bureau published the most recent annual survey data?

Director Krob was able to do so and agreed to do so once he learned how valuable the Census data would be to the entire Iowa Court System and lawyers and parties operating in that system. Krob annually publishes and updates the data online, typically in January after the American Community Survey has issued its annual report in mid-December. His user-friendly, publicly available web page has a drop-down menu that provides the jury-eligible population—those who are 18 years of age and older and are U.S. Citizens— for each of the 99 counties in Iowa, broken down by race, gender, and ethnicity. **The SDC webpage is available at <https://www.iowadatacenter.org/index.php/data-by-source/american-community-survey/native-and-citizenship-status-race-and-ethnicity>**

This Iowa Census data web page has greatly facilitated the necessary Census research that must be undertaken by jury managers, counsel, and judges so that the proper comparison between, for example, the Black percentage of the jury pool or panel, in the aggregate, or over time, to the specific County’s Census “Blacks alone” population that is jury-eligible (that is, 18 years of age and older and a U.S. Citizen). Such a statistical comparison is central to implementation of the Constitutional right to an “impartial jury” and determination as to whether underrepresentation can be demonstrated that, in the language of the U.S. Supreme Court’s opinion in *Duren v. Missouri*, 439 U.S. 357, 364 (1979), “is not fair and reasonable in relation to the number of such persons in the community.”

In April of 2021 the Director of the Iowa Office of State Court Administration reported as part of its Jury Composition Monitoring Plan, “Given the rather involved process of accessing these (U.S. Census Bureau) tables directly from The US Census Bureau, we intend to share links to the much more easily accessible and user-friendly presentation of the data available from Iowa’s State Data Center.” The NAACP and LRC had been recommending this step and is pleased that the SDC webpage with jury-eligible demographic population data is readily available to the entire Iowa court system, lawyers and parties, and the public generally. As we discuss below, the SDC webpage served as the prototype that we recommended to the Nebraska State Data Center at the University of Nebraska Omaha.

6. A Jury Composition Monitoring Policy Adopted by the Iowa Office of State Court Administration Would Be an Important Next Step.

In April 2021 the State Court Administrator notified LRC Co-Chairs that OSCA had developed a Judicial Composition Monitoring Policy under which it “will direct jury managers to monitor the racial and ethnic composition of their jury pools in relation to the estimated racial and ethnic composition of their jurisdiction” and, if anomalies are revealed, OSCA will

investigate to determine and identify the causes. Further, on an annual basis OSCA will conduct a review independent of the monitoring conducted by the jury managers.

Unfortunately, the Monitoring Policy was put on hold when there was a transition in the leadership of OSCA and during the pandemic. The NAACP has continued to press for such a policy and has regularly provided OSCA with the fair cross-section analyses the NAACP has done of the Iowa jury data, comparing the percentage of African Americans at the key stages of the jury selection process—jury pool, jury panel, and 12-person trial jury—with the Census “Blacks alone” jury eligible percentage in Iowa counties.

In 2020 the OSCA contacted Iowa State University and sought ISU’s assistance in development of “an analytical tool that can be applied in a uniform fashion to jury pools drawn from each county each year. It was hoped this tool would include: 1) a feature that displays the range of observed values of representation from distinctive groups that would fall within one, two, and three standard deviations, 2) functionality to calculate the difference between observed and expected jury pool composition, and 3) the calculated standard deviation of observed values of representation from a distinctive group.” OSCA advised that the ISU research project failed in developing an analytical tool that could be used for monitoring purposes.

In sum, considerable progress has been made toward achieving three of the four recommendations of the 2015 Governor’s Working Group on Criminal Justice Policy Reform that 1) “The Judicial Branch should begin collecting and maintaining statistics regarding the racial composition of jury pools [and] 2) that “Oversight and accountability should be restored to the jury selection process . . . [with] ongoing monitoring and coordination at both the State and District Court levels.” The Iowa Court System’s collection and compilation of demographic jury data is excellent, and the coordination between OSCA and local jury managers, through OSCA-sponsored training and the Iowa Jury Management Policy, is much improved. It is unclear as to what extent OSCA monitors the demographic jury data of each county and what measures OSCA takes when that data shows significant underrepresentation.

7. Juvenile Justice Task Force Report: Progress on Paper and On the Ground.

At the 2021 Summit on Justice and Disparities, at the urging of Iowa-Nebraska NAACP President Betty Andrews and the Iowa-Nebraska NAACP, Iowa Supreme Court Chief Justice declared and created a Juvenile Justice Task Force. The NAACP request for an inquiry like this was prompted by a November 2020 Report by the Iowa Criminal and Juvenile Justice Division detailing racial disparities in (1) detention of juveniles rather than diversion (which does not create a juvenile record), (2) revocation of probation, and (3) direct filing in adult criminal court rather than using the Juvenile Justice System. President Andrews was a member. The Task Force issued its report in early February 2023. The report can be accessed at https://www.iowacourts.gov/static/media/cms/JJTaskForceFinalReport_E3DC3C8E6F53_07E564927CoB4.pdf

The first bullet of the Executive Summary acknowledged that “Youth of color are disproportionately overrepresented throughout Iowa’s juvenile justice system.” Andrews, Lovell, and Walker proposed one important amendment, and it was adopted: “Improved data collection and analysis, including measurements of race, ethnicity, and gender, at each stage of the juvenile justice process, is needed to assess the full extent of overrepresentation in the juvenile justice process.” We know from our path-breaking work on achieving fair cross-section on Iowa’s juries that the commitment to data collection at each stage of the juvenile justice process and to analysis of the data is a huge step forward.

C. Nebraska: *Achieving Representative Juries Through Ongoing Dialogue*

1. *The New Commitment to Jury Data Collection and Disclosure in Nebraska's Revised Juror Qualification Form and Amended Court Rules Are Important First Steps to Reinvigorating the Fundamental Fair Cross-section Right Enshrined in the State and Federal Constitutions and the Nebraska Jury Selection Act.*

The NAACP filed Public Comments on June 1, 2024, contending that Court System concerns that may have existed when the current Questionnaire was adopted in 2008—that jury data collection is burdensome and that disclosure of jury data to defense counsel could put juror privacy at risk—have been made obsolete by advances in technology. https://www.iowanembraskanaacp.org/_files/ugd/5914b7_74bd345f095140ea9f4cabceeb5a5395.pdf Concerns about burdening court administrators have been addressed and substantially overcome with today's computers, software, and digital data collection; likewise, concerns about juror privacy are of no moment as only anonymous, aggregate digitized juror data will be disclosed to defense counsel—no personal identifying juror data is needed to make fair cross-section determinations.

The final revised Questionnaire and amended Rules adopted by the Nebraska Supreme Court on October 16, 2024, incorporated the core of the NAACP Recommendations and embraced digitized statewide juror data collection that will greatly facilitate data collection, data analysis, and data disclosure. The important changes made:

- Amended Rule §6-1002 requires that all district courts and county courts collect jury data using the Revised Questionnaire and that jurors' responses be digitized through the E-Jury system or "independent jury management software that has been approved by the Supreme Court . . . to ensure the information gathered from potential jurors on the form is electronically collected and maintained."
- The Revised Questionnaire no longer segregates the demographic questions from the other questions and eliminates former Part VII 's sweeping confidentiality assurance that has barred disclosure of all demographic juror data to defendants and their counsel, including the anonymous, aggregate jury data necessary to proving a fair cross-section claim.
- Amended Rule §6-1003 clarifies that Neb. Rev. Stat. §25-1673 only comes into play in the exceptional circumstance when a defendant seeks disclosure of *personal identifying* juror information, in which case the defendant must demonstrate "good cause" and obtain a Court Order to access the juror's data.
- Rule §6-1003 makes clear that "appropriately designated court staff shall not be prohibited from releasing aggregate information gathered from potential jurors in a manner that protects all names and personally identifying information," thereby assuring defense counsel's access to the anonymous, aggregated jury data that is essential to evaluating whether a fair cross-section violation may exist.

The revised Juror Qualification Form and amended Rules **can be found at:** https://supremecourt.nebraska.gov/sites/default/files/rule_amendments/6-1002-1003-1004A_mds.pdf See generally the Court's Press Release for additional information on implementation: <https://supremecourt.nebraska.gov/administration/news/new-juror-qualification-form-and-supreme-court-rules>

It was NAACP research and advocacy that caused the Court to revisit its implementation of the fair cross-section right in the Nebraska Court System and to acknowledge both that it had failed to collect, analyze, and monitor jury data for at least a dozen years and had failed to make available anonymized, aggregate demographic jury data to defendants and their counsel for twenty years. Such aggregate demographic juror data is the only way to determine whether the jury pools and jury panels of each of Nebraska's ninety-three counties are in compliance with the Sixth Amendment and NJSA statutory fair cross-section guarantees that have long been central to the jury trial protection afforded defendants in our democracy.

The disarray of the Court System's jury data operation—its processes and procedures—for a dozen years and the systemic twenty-year denial of defendants' and their counsel's access to anonymized, aggregate demographic jury data have meant that the constitutional and NJSA statutory guarantee of an "impartial jury" drawn from a fair cross section of the community has been unenforceable. Indeed, Nebraska defendants and their attorneys stopped making such claims, knowing it was futile to do so without the data. The Court was persuaded by the NAACP that Court Rule § 6-1003 revision needed to clarify that defendants are entitled to access anonymized, aggregate jury data without precondition, and that *State v. Sanders* should be viewed as an exception requiring a showing of good cause only when juror names or personal identifying information is sought.

In sum, while the fair cross-section right has lain dormant in Nebraska for a generation, a proverbial dead letter, the January 2026 Reforms are changing that. Defendants and their counsel will now have ready access to the Court System's aggregate jury data, and there is good reason to be optimistic that the Jury Data Reforms will reinvigorate the fair cross-section guarantee not only in Douglas County but in counties all across the State as compliance is based on the geographic demographics of the jury-eligible population of the jurisdiction of each trial court. Thus, based on the State Data Center's Census research, there are at least twenty-five Nebraska counties in which persons of color reside in numbers that make fair cross-section challenges feasible. While the Jury Data reforms are rooted in electronic data and contemporary technology, the constitutional right they protect and implement trace their lineage to the Magna Carta and the Declaration of Independence; and they continue to be of vital importance in 21st-century America.

Iowa-Nebraska NAACP President Betty Andrews praised the Nebraska Supreme Court for "having engaged in ongoing dialogue with the NAACP since June 2023 over concerns that the Sixth Amendment right to a jury drawn from a fair cross-section of the community has been dormant in Nebraska for nearly two decades." Andrews "applauded the Revised Questionnaire and amended Rules as important first steps to reinvigorating the fundamental fair cross-section right enshrined in both the U.S. and Nebraska Constitutions and the Nebraska Jury Selection Act. The new Questionnaire and explanatory Rules are game changers!"

Russell Lovell, the NAACP counsel who co-authored the NAACP Public Comments, explained the significance of the Court's action: "Nebraska Criminal defense lawyers stopped making challenges that juries were not representative of their communities nearly two decades ago because such efforts were futile. They knew that the fair cross-section right was a dead letter in Nebraska since the Court System, based on the sweeping and overbroad confidentiality assurance in the Questionnaire, totally denied them access to the aggregate jury data required to prove a fair cross-section challenge. Without aggregate jury data it was impossible for defendants to demonstrate that there had been significant underrepresentation of African Americans or other minorities in a County's jury pools or panels. The now-authorized release of

aggregate jury data will in no way compromise any juror's privacy as aggregate data is, by definition, anonymous data."¹¹

2. NAACP persuades University of Nebraska Omaha to create an American Community Survey webpage summarizing the demographic data for all 93 Nebraska Counties

In 2024, as part of the Iowa-Nebraska NAACP collaboration with Douglas County, Nebraska (Omaha) Public Defender Thomas Riley, Lovell and Riley met with Professor Josie Schafer, Director of the University of Nebraska Omaha Center for Public Affairs Research, to discuss the Court System jury data reforms the NAACP was working on in Nebraska. He explained the importance of Census demographic data to the key determinations of whether underrepresentation exists in the jury data in any of Nebraska's 93 counties.

Lovell demonstrated the web page Gary Krob had created for the Iowa Court System and explained how the Census data was directly relevant to the Court System's implementation of the fair cross-section right. Schafer explained that the UNO Center for Public Affairs Research is the Census partner in Nebraska. The NAACP and Public Defender encouraged UNO to develop a web page like that Krob developed in Iowa: one that would report the racial and ethnic breakdown of the population that is 18 years of age and older and U.S. Citizens.

Professor Schafer agreed to do so, and, in the Spring of 2025, UNO rolled out its online Nebraska population data for Nebraska County Jury Pools dashboard:
<https://public.tableau.com/app/profile/unocpar/viz/PopulationDataforNebraskaCountyJuryPools/Dashboard1>

- D. The NAACP's Grass Roots Advocacy and Law Reform Lawyering Have Pushed the Iowa Court System's Demographic Jury Data Operation to Become One of the Nation's Best, and We Believe that the NAACP-Iowa Court Systemic Reform Effort is Transportable to NAACP Advocacy All Across the Nation.

¹¹ The NAACP has two, continuing major concerns, which it brought to the attention of Chief Justice Funke in a November 27 letter. First, the decision to make the demographic questions optional risks a continuation of the high, 40 – 48% nonresponse rate that the Court System has experienced in the past, a rate so high that it rendered the data collected statistically unreliable. Like all other questions, answers to the demographic questions should be required. A major education and outreach effort will also be critical to encouraging potential jurors to answer the demographic questions. Second, the NAACP contended that the decision to "phase in" the effective date for these changes to January 1, 2026, overlooked that the Sixth Amendment right is a fundamental *individual* right within the Sixth Amendment's impartial jury" right. Delay in implementation essentially constituted continued denial of the right. At least for those Counties with 21st Century electronic data collection systems already in place, such as Douglas, Lancaster, and Sarpy Counties, the NAACP urged that those Counties be offered the option of putting the Revised Questionnaire and the amended Rules into effect on March 1, 2025, so that all defendants who had upcoming trials would have access to the aggregate juror data to determine whether they had a viable claim. In mid-February the Douglas County Clerk of Court, Crystal Rhoades, and the Douglas County Public Defender Tom Riley wrote the Chief Justice and proposed that Douglas County be allowed to implement the new Rules in May or June as a pilot project. However, the Court denied their request.

A nationwide study¹² published in February 2024 by the University of California-Berkeley Death Penalty Clinic (“Berkeley Report”) provides a good barometer to measure the Iowa Court System’s jury data collection and disclosure policies. The Report’s subtitle speaks volumes about the importance of jury data to enforcement of the fair cross-section right: “How the Failure to Collect Juror Demographic Data Contributes to Whitewashing the Jury Box.” The Berkeley Report reveals that the majority of the nation’s State Court systems do not engage in statewide juror demographic data collection, analysis, and disclosure. These are the core jury management practices and procedure that are essential to meeting the Constitution’s commitment to a jury drawn from a fair cross-section of the community served by the trial court.

We note that the Berkeley Report did not do a deeper dive by inquiring into practices and procedures of metropolitan counties that may have been collecting, analyzing, and disclosing demographic jury data on their own volition, but not as part of a statewide system.¹³ We wonder if the states that do not collect juror data statewide may believe that it would be a waste of time and money to do data collection in counties where the Black or Hispanic population is single digits if, as a practical matter, courts have created a safe harbor from fair cross-section law when the minority population is small? See generally Paula Hannaford-Agor and Nicole Waters, *Safe Harbors from Fair-Cross-Section Challenges? The Practical Limitations of Measuring Representation in the Jury Pool*, William & Mary L. Rev.¹⁴

We know that the Iowa Supreme Court’s decision in *State v. Jones*, 490 N.W.2d 797 (1992), was not alone in requiring that Blacks had to demonstrate underrepresentation of at least a 10% absolute disparity in a county’s jury data to make out a prima facie case. Clearly, *Jones* provided a safe harbor from fair cross-section challenges by Blacks in Iowa when there

¹² Elisabeth Semel and the California-Berkeley Law School Death Penalty Clinic, Guess Who’s Coming to Jury Duty?, How the Failure to Collect Juror Demographic Data Contributes to Whitewashing the Jury Box (Feb. 2024) (“Berkeley Legal Clinic”), available at https://www.law.berkeley.edu/wp-content/uploads/2024/02/Guess-Whos-Coming-to-Jury-Duty_2-14-24.pdf

¹³ “Determining that a state does not collect race/ethnicity data was similarly challenging. We did not identify any state that has an explicit policy or rule prohibiting collection or advising against it. We therefore looked beyond statutes and judicial rules to jury plans and management guidelines, if available, and, of course, to juror questionnaires. In states with a uniform statewide qualification questionnaire, we could determine that the form does not request race/ethnicity, and the relevant statutes and rules give no indication the information is otherwise required. However, many states apparently leave the contents of juror qualification questionnaires to the discretion of each judicial district or to individual trial judges. As our objective was to determine federal and statewide practices, *we did not attempt to ascertain the number of local judicial districts whose juror questionnaires inquire about race/ethnicity.*” Id. at vii (italics added).

¹⁴ “[T]he potential impact of a bright line 10% absolute disparity rule in terms of the number of county jurisdictions and their respective populations that would become functionally immune from a jury challenge based on underrepresentation of each distinctive racial and ethnic group in the community [will be explained]. For example, a jury challenge based on underrepresentation of Blacks/African Americans would only be theoretically possible in 773 counties in the United States; in the remaining 2,368 counties, which reflect more than half (57%) of the total U.S. population, Blacks/African Americans comprise less than 10% of the local jury-eligible population. Even if Blacks/African Americans were completely excluded from the jury pool in those communities, the absolute disparity would not rise to the requisite 10% threshold. Safe harbors of similar or greater magnitude would be created in those counties in which other racial and ethnic groups comprise less than 10% of the jury-eligible population. In nearly two-thirds (65%) of counties, no racial or ethnic group individually makes up a sufficient portion of the jury-eligible population to satisfy a 10% absolute disparity rule. These counties reflect nearly half (45%) of the total U.S. population.”

was no county in which Blacks comprised 10% of the jury-eligible population. *Jones* tragically was the governing law in Iowa for 25 years. It was the NAACP that brought the racial roadblock created by the *Jones* decision to Chief Justice Cady's attention during our meetings. Soon thereafter, in 2017, *State v. Plain* overruled *Jones* and, in 2019, *State v. Lilly* rejected a minimum 3% absolute disparity threshold for fair cross-section claim:

The State asks us to adopt an initial screen of a 3% absolute disparity before resorting to accepted statistical methods. The State says this will screen out cases that do not involve “substantial underrepresentation” and “allow judges to dispose of meritless cross-section challenges more efficiently, with minimal math.” We decline to do so. Any absolute 303 disparity test has the same defect we noted in *Plain*, namely, that it gives a free pass to systematic underrepresentation so long as the absolute underrepresentation that the system produces falls below a certain threshold.

930 N.W.2d 293, 302-303 (2019) (footnote omitted). The U.S. Supreme Court has also declined to require proof that the absolute disparity exceeds 10% to make out a prima facie fair-cross-section violation in *Berghuis v. Smith*, 559 U.S. 304 (2010). The Court recognized that if a 10% absolute disparity were adopted, “the Sixth Amendment offers no remedy for complete exclusion of distinct groups in communities where the population of the distinct group falls below the 10 percent threshold.” *Id.* at 330.

The Berkeley Report confirms the absence of statewide jury demographic data in a majority of states—and without data, there is no enforceable fair cross-section right. In the current era of electronic data collection, compilation, analysis, and dissemination, past concerns about administrative burden and privacy have been made technologically obsolete—a thing of the past. When combined with the NCSC experience that good jury management practices not only produce efficiency and cost savings but also result in jury pools and panels that are representative, the opportunity for data and jury practice reform appears obvious.

Based on the Berkeley Legal Clinic Survey's findings, the NAACP concludes:

- (1) 60%. There are 30 state court systems that collect no statewide juror demographic data at all¹⁵—including 8 of the 11 states with the largest Black populations: Florida (#3), California (#5), North Carolina (#6), Maryland (#7), Illinois (#8), Virginia (#9), Ohio (#10), and Louisiana (#11). On a positive note, five of the 30 states, including 3 of the 11 states with the largest Black populations, do have pilot projects underway allowing one or more counties to collect demographic data.¹⁶ If we assume that each of the pilot projects in California, Illinois, Louisiana, Mississippi, and Utah will result in implementation of statewide data collection, analysis, and disclosure reforms in the near future, there would still be 26 State Court systems—52%, including 5 of the 11 States with the largest Black populations—that collect no statewide juror demographic data.

¹⁵ Alaska, Arkansas, California, Colorado, Florida, Hawaii, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Michigan, Mississippi, Montana, New Hampshire, North Carolina, Ohio, Oklahoma, Oregon, Rhode Island, South Dakota, Tennessee, Utah, Vermont, Virginia, Washington, Wyoming. As discussed in Part III.C, Nebraska has just started doing so, on January 1, 2026, making it 30 state court systems that fail to collect, compile, and make available statewide jury demographic data. That represents 60% of States failing to do so.

¹⁶ (a) California will have a pilot project with the Superior Courts of 6 counties: Alameda, El Dorado, Fresno, Imperial, Monterey, San Bernardino, and Shasta.

(b) Illinois (Kankakee), Louisiana (East Baton Rouge), Mississippi (Monroe), and Utah (San Juan) authorize data collection in “at least one judicial district.”

- (2) 30%. 15 states¹⁷ collect *individual* juror demographic data¹⁸ and are either required to disclose it to the trial judge and the parties, or do so upon request.¹⁹ However, each of the 15 appears to fall short of constitutional compliance because they do not collect *aggregate historical* juror data, *e.g.*, the six months or one year prior to the defendant's trial, which is the principal jury data required by the Supreme Court for examining the jury selection *process* and determining compliance with the fair cross-section right.²⁰ For example, if the aggregate historical data revealed that African Americans and Blacks comprised 6% of the aggregate jury pool and 4% of the aggregate jury *panel* data, while African Americans and Blacks constituted 6% of the community's Census jury eligible African American and Black population, there would be *no* underrepresentation at the jury pool stage but there *would* be underrepresentation at the jury panel stage (where Blacks constituted only 4%), from which of course the trial jury is drawn. With that showing, it would have to be and could readily be determined if that extent of underrepresentation was significant in relation to the community's Census jury-eligible population,²¹ or as characterized in *Duren v. Missouri*, "not fair and reasonable in relation to the number of such persons in the community."²²
- (3) Only two states, Massachusetts and New York, make publicly accessible online their *statewide* aggregate, historical demographic juror data. New York reports demographic jury data at the county level for each of its counties. However, Massachusetts reports statewide jury data but does not report on each individual county, which of course is the community from which the trial jury will be drawn. The online jury data approach of Massachusetts falls short of constitutional requirements.
- (4) States that not only make publicly accessible their statewide aggregate, historical demographic juror data *and also* do so at the county level for every county are few. The Berkeley Report found that only New Jersey engaged in statewide jury data collection and made the jury data available to counsel upon request. However, the Berkeley Report apparently did not have the data or did not appreciate the Iowa Court System's aggregated data collection, compilation, and disclosure practices and procedures. It may be that OSCA did not provide a full explanation of the scope of its data processes and procedures which we believe are equal or surpass New Jersey's practices. There are other improvements that we have encouraged the Iowa Court to take, most notably, posting its

¹⁷ Access as of right: Arizona, Connecticut, Nevada, New Mexico, Pennsylvania, and Texas. Upon request: Alabama, Delaware, Georgia, Iowa, Minnesota, Missouri, North Dakota, South Carolina, West Virginia, and Wisconsin

¹⁸ "Individual juror race/ethnicity data," as used in the Berkeley Study, refers to jury demographic data at the various stages in the selection of a defendant's own jury, viewed in isolation from the operation of the State's jury selection process generally.

¹⁹ The Berkeley Study unfortunately did not ask whether these State Courts require a threshold or "good cause" showing by defendants or parties to obtain access to the juror data, individualized or aggregate. Professor Chernoff's 2016 study found only 11 states disclosed juror demographic data without a preliminary threshold showing.

²⁰ *Taylor v. Louisiana*, 419 U.S. 522 (1975); *Duren v. Missouri*, 439 U.S. 357 (1979). A summary of demographic jury data over a set period, compiled without any personally identifiable information and typically over a period of 6 months or one year, is referred to as "aggregate" historical data.

²¹ The "jury eligible population" of a distinctive group can be determined from the most recent Census Data coupled with data revealed in the Census Bureau's Annual Community Survey. By virtue of the State Data Center's webpage, the process of identifying the relevant Census or ACS demographic data can be, and in Iowa has been, considerably simplified through technology and modern computing.

²² *Duren v. Missouri*, 439 U.S. at 364.

jury data online as Massachusetts and New York have done; but Iowa has a strong Open Records Law, and the information is available upon request. Further, important purposes would be served by making its “empanelment” jury data capable of disaggregation based on the race of the defendant, for example, identifying the kind of cases in which peremptory challenges are made and correlating the frequency of challenges with the defendant’s race; but OSCA has under consideration our recommendation.

The Federal and State Constitutions set the minimum floor as to individual rights; however, court officials have much discretion in the administration of the jury selection process, and that’s where ongoing communication and dialogue—the “long game” as NACDL Director of Public Defense and Training Bonnie Hoffman observed—between the NAACP and OSCA has paid dividends over time. The OSCA Jury Management Policy (December 2018, last revised February 2024) acknowledges that jury data, including juror questionnaires (with certain privacy limitations), are public records and may be obtained by non-parties, such as the NAACP. OSCA has always been responsive to Iowa-Nebraska NAACP requests for jury data. Overall, the NAACP’s efforts to persuade OSCA to gather better jury data and to provide responsive reporting of the data have been successful—not only in securing the data needed to monitor the Court System’s progress and achieving jury pools that have been representative the past four calendar years, but also in meeting with the NAACP regularly when questions or opportunities for improvement have arisen. We believe NAACP Iowa-Nebraska grass roots advocacy and law reform lawyering is replicable and transportable to NAACP advocacy across the Nation.

IV. Executive Branch Activity and Advocacy

A. Felon Enfranchisement and Executive Order Number Seven. available at <https://www.legis.iowa.gov/docs/publications/EO/1139928.pdf>

It has long been the position of the NAACP that persons convicted of a felony should have their citizenship rights, including their right to vote, restored when they have discharged their sentences. That was not the law in Iowa, and Iowa stood as one of the last States in the Nation to permanently take away from persons convicted of a felony their right to vote and participate in the democratic process. “Iowa becomes the last state to end lifetime felony disenfranchisement.” <https://www.jurist.org/news/2020/08/iowa-becomes-last-state-to-end-lifetime-felony-disenfranchisement/>. By Executive Order Governors Vilsack and Culver restored their right to vote upon discharge of sentence, but immediately upon assuming office in January 2011, Governor Branstad revoked those Executive Orders. In the ensuing six years until becoming Ambassador to China, Governor Branstad granted the individual petitions for restoration of very, very few persons, despite meetings with NAACP leadership and action by the Governor simplifying the process for seeking restoration.

The NAACP urged succeeding Governor Reynolds, formerly Lt. Governor, to restore the franchise of persons previously convicted of a felony by Executive Order if the Legislature did not do so by legislation; and in collaboration with the ACLU of Iowa the Iowa Nebraska NAACP drafted, proposed, and advocated language of an Executive Order for the Governor to consider and sign. The Governor did so on August 5, 2020. In a special signing ceremony to which, apart from longtime State Representative Ako Abdul Samad, she had exclusively invited the NAACP State President Betty Andrews to speak, Governor Reynolds commended the NAACP for its work on the issue. A press release quoting Iowa-Nebraska NAACP President Betty C. Andrews is

available at

<https://governor.iowa.gov/press-release/2020-08-05/gov-reynolds-signs-executive-order-resto-re-voting-rights-felons-who-have> Executive Order No. 7 also committed the Governor to continue to renew the Executive Order on a daily basis restoring citizenship rights for those who complete their sentence in the future.

B. Changes and Additions to the Website of the Iowa Secretary of State to Reflect Executive Order Number Seven to Publicize the Order

The automatic restoration of the right to vote for most persons previously convicted of a felony who had discharged their sentences made it imperative to publicize the dramatic change made by the Order to the estimated 45,000 persons affected. The website of the Secretary of State is a primary vehicle for communicating to Iowans the qualifications for voting and the need to register to vote and the process and form for doing so; but its website was now out-of-date, wrong and unhelpful to the tens of thousands affected. The NAACP and LRC leadership promptly contacted the Office of the Secretary of State, identified changes in substance and approach that needed to be taken, proposed deletions and additions to the SOS webpage, and met with the relevant staff in the Secretary of State's Office. Numerous changes and additions were made as a result, including the addition of a short video to guide persons through the process and answer questions. Accessible at <https://restoreyourvote.iowa.gov/>

The NAACP also met with the committee in charge of the Voter Registration Form and suggested and secured changes in language on the form that had become misleading and inconsistent with the Executive Order. The NAACP continues work on this issue, including speaking with the Governor and making recommendations.

C. Participation on and Recommendations to Governor Reynolds' FOCUS Committee on Criminal Justice Reform

At the urging of the NAACP, at the 2019 Summit on Justice and Disparities sponsored by the NAACP State Conference, Governor Reynolds announced the formation of a FOCUS Committee on Criminal Justice Reform. See [Announcement at https://comment.iowa.gov/Notice/Details/CriminalJusticeReform](https://comment.iowa.gov/Notice/Details/CriminalJusticeReform). State President Betty Andrews was appointed as a member, and LRC co-chairs appeared before and made presentations on the need to reform occupational licensing laws in Iowa, the need for "fair chance for employment" (also known as "Ban the Box") legislation, and the adoption of anti-racial and ethnic profiling legislation that would prohibit such profiling by law enforcement, prohibit discriminatory pretextual stops, require data collection, and provide a means for broad publication of such data and consideration of best practices in law enforcement. The Committee met over two years' time and LRC co-chairs, following LRC discussions, continued their participation.

As a result the FOCUS Committee recommended adoption of (1) legislation to make Iowa's occupational licensing laws consistent, cohesive, and fair; (2) legislation ensuring fair chance for public employment—reaching not only state agencies and departments but all political subdivisions, including counties and municipalities—that would prohibit inquiry into criminal record or history until the job interview or a conditional offer; and (3) unbiased policing legislation prohibiting profiling and discriminatory pretextual stops, requiring data collection, compilation, and analysis, and providing a forum for review and consideration of the data and its implications. Occupational licensing reforms were enacted into law. In January

2021 the Governor's office drafted an anti-racial profiling bill that included most of the FOCUS Committee's recommendations but pressure and rejection by Republican legislators resulted in the "fair chance for public employment ("Ban the Box"), anti-racial profiling, and prohibition of pretextual stop provisions in the bill being removed from it. Recommendations available at <https://comment.iowa.gov/Notice/DownloadNoticeAttachment?SystemName=a068b92e-7af2-4536-927f-205ef1309c01>; anti-profiling bill at <https://www.legis.iowa.gov/legislation/BillBook?ga=89&ba=SF188>

D. Iowa Civil Rights Commission Due Process Reforms ("ICRC"): U.S. Advisory Committee's Recommendations Were Stonewalled by ICRC Director

In February 2022 the Iowa Advisory Committee ("IAC") to the United States Commission on Civil Rights undertook to examine the rules, procedures and practices of the ICRC surrounding "administrative closures" of complaints, which terminate on average 60% of the complaints filed with the ICRC—three-quarters of which are usually employment discrimination. These closures cut off and close out complainants' cases without a personal interview or investigation, solely on documents submitted, even denying the complainant the opportunity to examine and reply to what the respondent (the employer) submitted and the opportunity for mediation before a neutral professional. Moreover, while the complainant must verify his or her complaint, the respondent does not have to do so; and while the complainant is almost invariably *not* represented by legal counsel, the respondent almost invariably is so represented.

The IAC held meetings in May, June, and November of 2022, and NAACP State President Andrews and Co-Chairs Lovell and Walker made formal statements and submitted extensive materials to the IAC. The IAC issued its final Report in mid-February 2023, [accessible at https://www.usccr.gov/files/2023-02/iowa-report-on-examining-employment-discrimination-and-administrative-closures.pdf](https://www.usccr.gov/files/2023-02/iowa-report-on-examining-employment-discrimination-and-administrative-closures.pdf). The Report was very favorable to the NAACP positions. The Report faulted procedures and practices of the ICRC along the lines advocated by the NAACP and recommended review and changes.

Disappointingly, the newly-appointed Director of the ICRC expressed opposition to the IAC Report Recommendations in May of 2023 and advised the NAACP she would not even consider the Recommendations unless enacted by the Legislature, along with other reforms of the Civil Rights Act. The Legislature did not do so; and the IAC recommendations have not been adopted.

E. Catch Des Moines Greater Des Moines Civil Rights Tour: Up and Running in Time for March 2025 National Bar Association Celebration of 100th Anniversary of the Founding of the NBA in Des Moines in 1925

Russ Lovell's article in the June 2023 Iowa Lawyer proposed that the Des Moines metro area and the Iowa State Bar Association, in conjunction with the NAACP, publicize online highlights of Iowa's racial justice history through the many monuments, memorials, and museums that tell this story: Lovell article is [accessible at https://www.iowabar.org/?pg=IowaLawyerMagazine&pubAction=viewIssue&pubIssueID=28725&pubIssueItemID=152947](https://www.iowabar.org/?pg=IowaLawyerMagazine&pubAction=viewIssue&pubIssueID=28725&pubIssueItemID=152947).

With a major assist from former ISBA President Henry Hamilton, the CatchDesMoines Greater Des Moines Civil Rights Tour was based on Lovell's article and was posted online on March 1, 2025, in time for the National Bar Association's Mid-year 100th Anniversary Celebration of the founding of NBA in Des Moines. The Des Moines Civil Rights Tour tells the story of 18 Civil Rights Memorials, Monuments, or historical sites: <https://www.catchdesmoines.com/civil-rights-tour/> The Greater Des Moines Civil Rights Tour provides a chronological Iowa civil rights history and an interactive map of the 18 historical sites listed, complete with addresses, photographs of the site, and URL links that, with a click, provide more detailed information on each site. The Greater Des Moines Civil Right Tour is available at <https://www.catchdesmoines.com/civil-rights-tour/>.

The webpage, in its own words, extended the following invitation to all who visit its webpage:

Greater Des Moines Civil Rights Tour. Come take a tour of the many civil rights events that have helped shape Greater Des Moines! Iowa's capital city has made an important impact on America's civil rights history, and this tour will spotlight the milestones and Iowans who played an integral role in moving civil rights forward in our nation. Celebrate diverse Des Moines with this unique look back on a history of progress!

At a time when there are intensive efforts, at the National, State, and Local levels, to "erase" Black history, the Greater Des Moines Civil Rights Tour is especially timely. The Catch Des Moines website closed with the following acknowledgement: "Catch Des Moines would like to recognize and extend thanks to Drake University Law Professor, Russell Lovell, for inspiring this map and conducting vital research to make it happen."