

July 3, 2018

Commissioners Heiberger, Barth, Bender, Beninga, and Karsky
Minnehaha County Commission
415 N. Dakota Ave.,
Sioux Falls, SD 57104



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Dear Commissioners,

I write today on behalf of the American Civil Liberties Union (ACLU) of South Dakota. The ACLU of South Dakota is a non-profit, non-partisan organization that protects and advances civil rights and civil liberties for everyone in our state. We work across many issue areas, but our highest priority in South Dakota is criminal justice reform.

This letter is in response to the Minnehaha County Commission's consideration of an opt-out of property tax limits. As reported in the Argus Leader,¹ the Commission may undertake this move – which would result in higher property taxes for county residents – due to rising public safety costs which include the upcoming \$46 million jail expansion.

According to the Argus Leader's report, 66 percent of the county's budget goes toward public safety spending, including funds for law enforcement, courts, the State's Attorney's Office, the Public Defender's Office, and more. Though the Commission may not have direct control over the operation of these entities – such as who is charged with a crime and how many people are incarcerated in the county's jail – it certainly has influence. There are myriad reforms that could be made on the local and state level that would keep our communities safe while also cutting costs and thus reducing the burden on taxpayers.

In light of the potential increase in property taxes for county residents and the expansion of jail facilities, the Commission should not wait to consider reforms. Minnehaha County has the opportunity to shift away from "tough-on-crime" policies that have led to more arrests and increased costs and instead embrace a smart justice vision of our criminal justice system.

Smart justice is a way of addressing criminal justice issues that solves the problems of crime rather than simply punishing people and locking them up; it addresses the profound connections of crime to mental health, addiction, employment, education, and housing. A smart justice approach doesn't spend money on ineffective responses to crime. Instead, it clears clogged courtrooms and overcrowded jails and saves taxpayer money.

Examples of smart justice reforms the county should consider include:

- Coordinating with officials at the City of Sioux Falls to encourage a priority shift away from arresting low-level drug users battling addiction;
- Emphasizing pre-arrest and pre-trial diversion programs that allow people to get the help they need without incarceration; and

- Advocating for the state to reduce the crime of ingestion (SDCL 22-42-5.1) from a felony to a misdemeanor.²

We recognize that solving complex criminal justice issues isn't easy or straightforward, and that shifting Minnehaha County away from a culture of incarceration to one that embraces smart justice reforms is a long-term endeavor. Yet the Commission has the opportunity right now to begin thinking of new, innovative solutions to increased public safety costs. There are options that exist outside of building new jails and allocating more funds to cover the costs of increased arrests and prosecutions (and, of course, constitutionally-required funding for the Public Defender's Office).

We encourage you, in the strongest possible terms, to use your power and influence to shift away from funding incarceration and raising property taxes to find new approaches to our current system. Without such an investment now, future tax raises will be inevitable.

Thank you for your consideration, and please know that we would be happy to assist you in identifying policy alternatives that will reduce incarceration and jail populations while also keeping our community safe and helping us all thrive.

Best,

Heather Smith
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¹ <https://www.argusleader.com/story/news/2018/07/03/hefty-public-safety-costs-push-county-consider-property-tax-hike-opt-out/752878002/>

² In 2018, the South Dakota Legislative Research Council estimated that reclassifying ingestion from a felony to a misdemeanor would result in more than \$61 million in decreased state and county costs. <http://sdlegislature.gov/docs/legsession/2018/FiscalImpact/fi685A.pdf>