TO ALL BUSINESSES/PERSONS UTILIZING THE BAD CHECK PROCEDURE

Attached are forms, samples, and instructions for utilizing the bad check procedure employed by the Madison County Attorney's Office. It is important that you read the instructions and follow them exactly, including keeping copies of the form letter for your files and the Madison County Attorney's Office. When the information is received in this office, it must be complete, as required by the instructions. If the information is not complete, it will be returned to you with a request that you obtain the necessary information for criminal prosecution.

Once a criminal charge is filed by the Madison County Attorney's Office, you do not have the authority to dismiss the criminal charge. This can only be done by the Court through the County Attorney's office. Do not tell the person involved that payment of the check will automatically result in criminal charges being dismissed. This office will assume at the time of the filing of the charge that restitution has not been made to you. If restitution has been made and it is later determined that there is not a viable criminal charge, court costs and costs of service will be charged to you.

This office cannot prosecute a bad check which was based on a credit sale, on an installment payment, that was post-dated, that was held by agreement, that is a two-party check, which was accepted outside of Madison County, or other similar transaction, or is more than six (6) months old. In order to meet the definition of criminal theft statutes in Iowa, there must be a simultaneous exchange of property, merchandise, cash, etc., in exchange for the check. Due to the cost of prosecution and difficulty of extradition, we will only prosecute checks written on out-of-state banks if they are written for amounts in excess of $1,000.00.

The County Attorney's office does not prosecute alleged bad checks written for amounts less than $50.00. The number of complaints concerning these checks grew to the extent that the court felt the criminal process was being used as a collection agency when a more appropriate remedy would be in civil court. Forgeries do not fall within this $50.00 floor amount and should still be turned over to law enforcement for prosecution.

Identification of the person giving or passing the check is critical, either by proper identification verified at the time the check was accepted or by personal identification by the person who took the check. If someone cannot testify in court that the Defendant is the individual who negotiated the check, we can't prosecute.

If you have questions with regard to the forms or the procedure, please contact this office.

112 N. John Wayne Dr., PO Box 152, Winterset, IA 50273 I Office: (515) 462-5034 I Fax: (515) 462-4887

INSTRUCTIONS FOR INSTITUTING CRIMINAL CHARGES ON BAD CHECKS

1. Fill in the appropriate lines on the **Form Letter** *PROVIDED BELOW* that informs the person that he has ten days to make the check good.

2. Be sure to keep an exact copy of that letter for your files for later use and also a copy for the Madison County Attorney's Office.

3. Mail the letter to the person by Certified Mail, Return Receipt request, and Deliver to Addressee Only. You need to stress to the Post Office that the letter must be delivered to, and signed for by, the person indicated and no one else.

4. If the check has not been paid within ten days from the person's receipt of the letter, fill out the following **Information on Bad Check** form and contact the County Attorney's office to obtain a complaint and affidavit form and to set up a time to discuss the case with a member of the County Attorney Staff.

This is a sample letter that you may use to notify the person of the returned check. You will need to put this letter on your own paper or letterhead, filling in the appropriate blanks. This letter is to be mailed by Certified Mail, Return Receipt Requested, and Deliver to Addressee Only.

You will need to send the original to the person who signed the check. Be sure to keep one copy for your files and one copy for the County Attorney's Office.

FORM LETTER

Date: _____

Name: _____
Address: _____
_____
_____

Dear _____:

You are hereby notified that the check listed below has been returned to us from your bank and that they have refused payment for following reasons:_____
_____
_____

The check involved was dated _____ and was made payable to _____.

The bank upon which this check was written was _____.

Since you have received goods and/or services in return for this check, there is a possibility that you may be guilty of Theft under Section 714.1 of the Code of Iowa. That section of the Code further states that if you do not pay this amount within ten days after the receipt of this notice, it may be inferred by the court or jury that you knew the instrument would not be paid by the bank when presented.

You are hereby notified to make this check good within ten days.

Sincerely,

_____
_____

INFORMATION ON BAD CHECK

Name of person who signed check: _____

Birthdate: _____ SS#: _____

License #: _____ Form of ID: _____

Address: _____

Presented to: _____ Phone #: _____

Address: _____

Received for check (cash, goods, etc.): _____

Date goods delivered: _____

Bank upon which check was drawn and the account number:
_____

Date check presented: _____

Name of person who took check: _____

Address: _____ Phone #: _____

Can this person identify the person who gave the check? _____

Name of person who deposited the check: _____

Address: _____ Position: _____

Reason check was returned: _____

What efforts have been made to collect this check? _____

I ask that criminal prosecution be made on this check if possible and do state that the person who signed the check has not made restitution on the check and that the information provided herein is true and correct to the best of my knowledge.

_____
Signature

PLEASE ATTACH ORIGINAL CHECK HERE AND ANY ADDITIONAL INFORMATION

IF THIS SHEET IS NOT FILLED OUT AND SIGNED THERE WILL BE NO PROSECUTION.