

CORRECTIONS DEPARTMENT[201]

Notice of Intended Action

Proposing rule making related to policies and procedures and providing an opportunity for public comment

The Corrections Department hereby proposes to amend Chapter 1, “Departmental Organization and Procedures,” Chapter 5, “Public Records and Fair Information Practices,” Chapter 10, “Rule Making,” Chapter 11, “Declaratory Rulings,” Chapter 20, “Institutions Administration,” Chapter 38, “Sex Offender Management and Treatment,” Chapter 40, “Community-Based Corrections Administration,” Chapter 41, “Preconviction Service,” Chapter 42, “Probation Services,” Chapter 43, “Residential Facilities,” Chapter 44, “Work Release,” Chapter 45, “Parole,” Chapter 47, “OWI Programs,” Chapter 50, “Jail Facilities,” and Chapter 51, “Temporary Holding Facilities,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 356.36, 903B.10, 904.108 and 905.7.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 356A, 692A, 901, 902, 903, 903B, 904, 905, 907, 908 and 910 and Iowa Code sections 17A.3, 17A.4, 17A.6, 17A.7, 17A.9, 22.11, 80B.11A, 356.36, 356.43, 903B.10 to 904.108, 904.508A, 904.513, 904.909, 905.7, 905.14, 906.9 to 906.11, 906.15, 906.16, 907.3, 908.1, 908.2, 908.8, 908.11 and 910.5.

Purpose and Summary

All of the Department’s rules were reviewed as part of the comprehensive five-year review required under Iowa Code section 17A.7. These proposed amendments are designed to eliminate outdated or redundant rules, update Iowa Code language and eliminate any rules that are inconsistent or incompatible with statutes or other rules. The proposed amendments also reflect changes to conform the rules to current, more efficient, practices.

The proposed amendments to Chapter 1 reflect the Department’s new mission and the revision of the Department’s internal structure.

The proposed amendments to Chapter 5 reflect changes to the process for records requests and treatment of confidential records/information.

The proposed amendments to Chapters 10 and 11 are nonsubstantive corrections of the address of the Iowa Department of Corrections from “420 Watson Powell Jr. Way, Des Moines, Iowa 50309” to the current address “510 East 12th Street, Des Moines, Iowa 50319.”

The proposed amendments to Chapter 20 make nonsubstantive corrections, which include changing the term “offender” to “incarcerated individual” and removing the word “superintendent” because the Department has only wardens with the closing of the mental health institutes. The proposed amendments to Chapter 20 also make changes to outdated security procedures and outdated sanctions for visitors.

The proposed amendments to Chapter 38 reflect changes to the risk assessment instruments used on sex offenders. The proposed amendments to Chapter 38 also make a nonsubstantive change from the designated term “offender” to “client.”

The proposed amendments to Chapter 40 reflect changes to definitions, accreditation for community-based corrections, the carrying of firearms by staff and other nonsubstantive updates.

The proposed amendments to Chapter 41 reflect nonsubstantive changes to pretrial services and to clarifying factors to be used for presentence investigations.

The proposed amendments to Chapter 42 reflect nonsubstantive changes to probation services, including updating old terminology and clarifying language on infectious diseases.

The proposed amendments to Chapter 43 reflect clarifying changes regarding residential facilities on admission, the federal Prison Rape Elimination Act (PREA), infectious disease, and risk needs assessment instruments.

The proposed amendments to Chapter 44 reflect changes to work release facility requirements, contagious disease, admission, records, personnel health statements, and PREA and remove outdated risk assessment instruments.

The proposed amendments to Chapter 45 reflect changes to effective date/parole agreements, conditions of parole, and violations. These amendments also remove outdated risk assessment instruments and outdated prison language, add clarifying language on infectious disease and change the term “offender” to “client.”

The proposed amendments to Chapter 47 reflect changes to OWI facilities and to PREA, remove references to the American Corrections Association, and change the term “offender” to “client.”

The proposed amendments to Chapter 50 remove inspection of residential facilities, add clarifying language on prisoner mail, and make a nonsubstantive correction to change the name “Citizen’s Aide Office” to “Ombudsman Office.”

The proposed amendment to Chapter 51 removes the inspection of residential facilities and adds clarifying language on detainee mail.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 201—Chapter 7.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on June 12, 2018. Comments should be directed to:

Michael Savala, General Counsel
Department of Corrections
Jessie Parker Building
510 East 12th Street
Des Moines, Iowa 50319
Email: michael.savala@iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

June 12, 2018
11 a.m. to 1 p.m.

Department of Corrections
Jessie Parker Building
Conference Room 510
510 East 12th Street
Des Moines, Iowa 50319

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule **201—1.1(904)**, definition of “Deputy director,” as follows:

“*Deputy director*” means the administrator who is appointed by the director and is responsible for an operational division within the department of corrections. The ~~five~~ four operational divisions are administration, ~~eastern operations, western operations, offender services~~ institutional operations, community-based corrections, and prison industries.

ITEM 2. Amend rule 201—1.2(904) as follows:

201—1.2(904) Mission and function. The department of corrections is mandated by Iowa Code chapter 904 and consists of a policy board, a director and ~~five~~ four operational divisions.

The mission of the department of corrections is ~~to protect the public, the employees, and the offenders creating opportunities for safer communities.~~

The department is charged with the operation of the state's penal institutions, judicial district department of corrections programs, prison industries, corrections administration, and contracting with the judicial district departments of correctional services for community correctional services. It is further charged with accreditation and funding of community-based corrections programs, including but not limited to pretrial release, presentence investigation, probation, parole, residential facilities, work release centers and other duties provided for by law.

ITEM 3. Amend subrule **1.3(3)**, office contact information, as follows:

Anamosa State Penitentiary 406 North High Street, Box 10	Iowa Medical and Classification Center Box A – Highway 965 <u>2700 Coral Ridge Avenue</u>
Anamosa, IA 52205 (319)462-3504 (319)462-4962 Fax	Oakdale, IA 52319 <u>Coralville, IA 52241</u> (319)626-2391 (319)626-2141 Fax
Mt. Pleasant Correctional Facility 1200 East Washington	Iowa State Penitentiary 3 John Bennett Drive, Box 316 <u>2111 330th Avenue, P.O. Box 316</u>
Mt. Pleasant, IA 52641	Fort Madison, IA 52627

(319)385-9511	(319)372-5432
(319)385-8828 Fax	(319)372-6967 Fax
North Central Correctional Facility 313 Lanedale	Iowa Correctional Institution for Women 300 Elm Ave. SW, P.O. Box 700 <u>420 Mill Street SW</u>
Rockwell City, IA 50579	Mitchellville, IA 50169
(712)297-7521	(515)967-4236
(712)297-7875 Fax	(515)967-5347 Fax
Clarinda Correctional Facility 2000 N. 16th Street, Box 1338	First Judicial District, DCS 314 East Sixth Street, P.O. Box 4030
Clarinda, IA 51362	Waterloo, IA 50704-4030
(712)542-5634/5635	(319)236-9626
(712)542-4844 Fax	(319)291-3947 Fax
Second Judicial District, DCS 510 Fifth Street, P.O. Box 623 <u>509 Main Street, Suite 200</u>	Third Judicial District, DCS 515 Water Street
Ames, IA 50010- 0623	Sioux City, IA 51103
(515)232-1511	(712)252-0590
(515)232-9453 Fax	(712)252-0634 Fax
Fourth Judicial District, DCS 801 <u>810</u> South Tenth Street	Fifth Judicial District, DCS 604 Locust Street, Equitable Bldg., Suite 317 <u>1000 Washington Street</u>
Council Bluffs, IA 51501	Des Moines, IA 50309 <u>50314</u>
(712)325-4943	(515) 280-4220 <u>242-6611</u>
(712)325-0312 Fax	(515) 280-4259 <u>242-6656</u> Fax

ITEM 4. Amend rule 201—1.4(904) as follows:

201—1.4(904) Internet ~~Web site~~ website. The department’s Internet home page is located at <http://www.doc.state.ia.us> www.doc.iowa.gov.

ITEM 5. Amend subrule 1.6(8) as follows:

1.6(8) The board shall:

a. Oversee the work of the department as defined in Iowa Code section 904.105 and, for this purpose, ~~the board~~ shall have access at any time to all books, papers, documents and records of the department.

b. No change.

ITEM 6. Amend rule 201—1.7(904) as follows:

201—1.7(904) Director. The governor appoints the director of the department of corrections. The director is responsible for the daily administration of the department. The operations are performed by ~~five~~ four divisions consisting of ~~eastern~~ institutional operations, ~~western operations~~ community-based corrections (CBC), administration, and prison industries, ~~and offender services~~. The deputy directors of these divisions report to the director of the department.

In addition to the deputy directors, the general counsel/inspector general, the director of media and public relations, the director of research/recidivism reduction, and the ~~director of training and professional development~~ medical services director report to the director of the department.

1.7(1) to 1.7(3) No change.

ITEM 7. Amend rule 201—1.8(904) as follows:

201—1.8(904) Organization of the department.

~~1.8(1) The two regional deputy directors are~~ director of institutional operations is responsible for the following all institutions and facilities and for liaison with the following judicial district departments of correctional services, which are generally described herein. These descriptions are in no way binding on the director's authority to transfer offenders incarcerated individuals between institutions.

~~a. Regional deputy~~ Deputy director for eastern of institutional operations:

(1) The Iowa state penitentiary, Fort Madison.

~~1. John Bennett facility, Fort Madison.~~

~~2. Prison farms, Fort Madison.~~

~~3. Clinical care unit, which is a special needs unit.~~

(2) The Anamosa state penitentiary, Anamosa.

~~1. Luster Heights camp, Harpers Ferry, which is a conservation commission camp administered by the Anamosa state penitentiary at Anamosa.~~

~~2. Reserved.~~

(3) The Iowa medical and classification center, Oakdale Coralville.

(4) Mount Pleasant correctional facility, Mount Pleasant.

~~(5) The first judicial district department of correctional services~~ The Iowa correctional institution for women, Mitchellville.

~~(6) The sixth judicial district department of correctional services~~ The Clarinda correctional facility, Clarinda.

~~(7) The seventh judicial district department of correctional services~~ The north central correctional facility, Rockwell City.

~~(8) The eighth judicial district department of correctional services~~ The Newton correctional facility, Newton.

~~(9) The correctional release center, Newton.~~

~~b. Regional deputy director for western operations:~~

~~(1) The Iowa correctional institution for women at Mitchellville.~~

~~(2) The Clarinda correctional facility, Clarinda.~~

~~(3) The north central correctional facility, Rockwell City.~~

~~(4) The Newton correctional facility, Newton.~~

~~(5) The correctional release center, Newton.~~

~~(6) The Fort Dodge correctional facility, Fort Dodge.~~

~~(7) The second judicial district department of correctional services.~~

~~(8) The third judicial district department of correctional services.~~

~~(9) The fourth judicial district department of correctional services.~~

~~(10) The fifth judicial district department of correctional services.~~

~~1.8(2) The two regional deputy directors:~~ The deputy director of CBC:

~~a. Shall be responsible for the following service areas:~~ Is responsible for supervising and coordinating of Code of Iowa requirements as they apply to the judicial district department of correctional services for all eight judicial districts to include:

~~(1) Contracting with the eight judicial district departments of correctional services for work release centers.~~

~~(2) Contracting with the eight judicial district departments of correctional services for parole services.~~

~~(3) Providing coordinated placement of work releasees and parolees with the district departments upon order of the Iowa board of parole.~~

- (1) The first judicial district department of correctional services.
- (2) The second judicial district department of correctional services.
- (3) The third judicial district department of correctional services.
- (4) The fourth judicial district department of correctional services.
- (5) The fifth judicial district department of correctional services.
- (6) The sixth judicial district department of correctional services.
- (7) The seventh judicial district department of correctional services.
- (8) The eighth judicial district department of correctional services.

b. ~~Shall further provide~~ Is responsible for providing assistance and support to the judicial district departments of correctional services and for periodic review and accreditation of these programs. The following services shall be provided in addition to parole and work release:

- (1) to (7) No change.

c. Is responsible for programming for and treatment of incarcerated individuals to include the following:

- (1) Interstate compact administration.
- (2) Substance abuse treatment services.
- (3) Cognitive learning.
- (4) Batterers' education programs.
- (5) Sex offender treatment.
- (6) Preemployment programs.

1.8(3) ~~The deputy director~~ fiscal manager for the division of administration shall be responsible for the following:

- a. to h. No change.

1.8(4) No change.

1.8(5) ~~The deputy director for offender services shall be responsible for the following services within the department of corrections and for providing assistance to the judicial district departments of correctional services:~~ The director of research/recidivism reduction shall be responsible for the following:

- a. ~~Offender classification.~~ Learning center.
- b. ~~Interstate compact administration.~~ Research department.
- c. ~~Offender records.~~
- d. ~~Offender transfers.~~
- e. ~~Program development.~~
- f. ~~Substance abuse treatment services.~~
- g. ~~Cognitive learning.~~
- h. ~~Batterers' education programs.~~
- i. ~~Sex offender treatment.~~
- j. ~~Offender education programs.~~
- k. ~~Offender preemployment programs.~~

1.8(6) The general counsel/inspector general shall be responsible for the following:

- a. Legal services.
- b. Coordination of court orders.
- c. Investigations.
- d. EEO/AA.
- e. Administrative law judges.
- f. Jail inspections.
- g. Policy Legislative program.
- h. Administrative rules.

1.8(7) The director of media and public relations shall be responsible for the following:

- a. and b. No change.
- c. ~~Supervising the office of victims and restorative justice.~~

~~1.8(8)~~ The ~~director of training and professional development~~ medical services director shall be responsible for the following:

~~a. Comprehensive oversight of the development, implementation and review of the department's agencywide staff development training.~~ Institutional medical services.

~~b. Training policies/plans including implementation, curriculum approval, program/policy audit, and evaluation.~~ Central pharmacy.

ITEM 8. Adopt the following new definitions in rule ~~201—5.1(17A,22)~~:

"Custodian" means an agency or a person lawfully delegated authority by the agency to act for the agency in implementing Iowa Code chapter 22.

"Personally identifiable information" means information about or pertaining to an individual in a record which identifies the individual and which is contained in a record system.

"Record" means the whole or a part of a public record, as defined in Iowa Code section 22.1, that is owned by or in the physical possession of this agency.

"Record system" means any group of records, under the control of the agency, from which a record may be retrieved by a personal identifier, such as the name of an individual, number, symbol, or other unique retriever assigned to an individual.

ITEM 9. Amend subrule 5.3(1) as follows:

5.3(1) *Location of record.* A request for access to a record should be directed to the office where the record is kept:

a. Records of current inmates are maintained at the inmates' place of confinement. Such requests should be directed to the Records Office at:

~~Iowa State Men's Reformatory~~ Anamosa
~~State Penitentiary~~
~~Box B 406 North High Street~~
Anamosa, Iowa 52205
(319)462-3504

Mount Pleasant Correctional Facility
~~Medium Security Unit~~ 1200 East Washington
Mount Pleasant, Iowa 52641
(319)385-9511

Clarinda Correctional Facility
~~Box 1338 2000 N. 16th Street~~
Clarinda, Iowa 51632
(712)542-5634

~~Correctional Release Center~~ Newton Correctional
Facility
307 S. 60th Avenue W, Box 218
Newton, Iowa 50208
(515)792-7552

Iowa State Penitentiary
~~31 Avenue G 2111 330th Avenue~~
P.O. Box 316
Fort Madison, Iowa 52627
(319)372-5432

Iowa Medical and Classification Center
~~Box A 2700 Coral Ridge Avenue~~
~~Oakdale, Iowa 52319~~ Coralville, IA 52241
(319)626-2391

Iowa Correctional Institution for Women
~~300 Elm Avenue, S.W.~~
~~P.O. Box 700 420 Mill Street SW~~
Mitchellville, Iowa 50169
(515)967-4236

North Central Correctional Facility
~~P.O. Box 313, 313 Lanedale~~
Rockwell City, Iowa 50579
(712)297-7521

Fort Dodge Correctional Facility
1550 L Street
Fort Dodge, IA 50501
(515)574-4700

If the requester does not know the current place of confinement, the request for a record should be directed to the Iowa Medical and Classification Center as previously listed.

b. Records of former ~~inmates~~ incarcerated individuals and other individuals served by the department's division of institutions should be directed to records office at the Iowa Medical and Classification Center as previously listed.

c. Requests for other records, including administration or operation, should be directed to the Director, Department of Corrections, Capitol Annex, East 12th and Des Moines Streets, Jessie Parker Building, 510 East 12th Street, Des Moines, Iowa 50319, (515)281-4811 (515)725-5701.

ITEM 10. Adopt the following **new** subrules 5.3(5) and 5.3(6):

5.3(5) *Security of record.* No person may, without permission from the custodian, search or remove any record from agency files. The examination and copying of agency records shall be supervised by the custodian or a designee of the custodian. Records shall be protected from damage and disorganization.

5.3(6) *Copying.* A reasonable number of copies of an open record may be made in the agency's office. If photocopy equipment is not available in the agency's office where an open record is kept, the custodian shall permit examination of the record in that office and shall arrange to have copies promptly made elsewhere.

ITEM 11. Amend subrule 5.3(7) as follows:

5.3(7) *Fees.*

a. *When charged.* The agency may charge fees in connection with the examination or copying of records only if the fees are authorized by law. To the extent permitted by applicable provisions of law, the payment of fees may be waived when the imposition of fees is inequitable or when a waiver is in the public interest.

b. *Copying and postage costs.* Price schedules for published materials and for photocopies of records supplied by the agency shall be prominently posted in agency offices. Copies of records may be made by or for members of the public on agency photocopy machines or from electronic storage systems at cost as determined and posted in agency offices by the custodian. When the mailing of copies of records is requested, the actual cost of such mailing may also be charged to the requester.

c. No change.

d. *Advance deposits.*

(1) When the estimated total fee chargeable under this subrule exceeds \$25, the custodian may require a requester to make an advance payment to cover all or a part of the estimated fee.

(2) When a requester has previously failed to pay a fee chargeable under this subrule, the custodian may require advance payment of the full amount of any estimated fee before the custodian processes a new request from that requester.

ITEM 12. Adopt the following **new** rule 201—5.4(17A,22):

201—5.4(17A,22) Access to confidential records. Pursuant to Iowa Code section 22.7 or other applicable provisions of law, the lawful custodian may disclose certain confidential records to one or more members of the public. Other provisions of law authorize or require the custodian to release specified confidential records under certain circumstances or to particular persons. In requesting the custodian to permit the examination and copying of such a confidential record, the following procedures apply and are in addition to those specified for requests for access to records in Iowa Code section 904.602.

5.4(1) *Proof of identity.* A person requesting access to a confidential record may be required to provide proof of identity or authority to secure access to the record.

5.4(2) *Requests.* The custodian may require a request to examine and copy a confidential record to be in writing. A person requesting access to such a record may be required to sign a certified statement or affidavit enumerating the specific reasons justifying access to the confidential record and to provide any proof necessary to establish relevant facts.

5.4(3) *Notice to subject of record and opportunity to obtain injunction.* After the custodian receives a request for access to a confidential record, and before the custodian releases such a record, the custodian may make reasonable efforts to notify promptly any person who is a subject of that record, is identified in that record, and whose address or telephone number is contained in that record. To the extent such a delay is practicable and in the public interest, the custodian may give the subject of such a confidential record to whom notification is transmitted a reasonable opportunity to seek an injunction under Iowa

Code section 22.8, and indicate to the subject of the record the specific period of time during which disclosure will be delayed for that purpose.

5.4(4) Request denied. When the custodian denies a request for access to a confidential record, the custodian shall promptly notify the requester. If the requester indicates to the custodian that a written notification of the denial is desired, the custodian shall promptly provide such a notification that is signed by the custodian and that includes:

- a. The name and title or position of the custodian responsible for the denial; and
- b. A citation to the provision of law vesting authority in the custodian to deny disclosure of the record and a brief statement of the reasons for the denial to this requester.

5.4(5) Request granted. When the custodian grants a request for access to a confidential record to a particular person, the custodian shall notify that person and indicate any lawful restrictions imposed by the custodian on that person's examination and copying of the record.

ITEM 13. Amend rule 201—5.14(17A,22) as follows:

201—5.14(17A,22) Personally identifiable information.

5.14(1) No change.

5.14(2) The type of record. Disclosures are in accordance with the following code:

CODE	MEANING
O	The records are open for public inspection.
C	The records are confidential and are not open to public inspection.
D	The department has discretion whether to allow public inspection of the record when the record contains information that is partially open or partially confidential.

5.14(3) The records systems maintained by the department are:

a. *Director's office*

Description of Record	Type of Record	Legal Authority	Storage	Comparison
1. Bd. Mtg. Minutes	O, D	22, 904	Hard Copy Automated	Full
2. Inmate <u>Incarcerated Individual</u> Corres.	O, C, D	904	Hard Copy	N/A
3. Business Corres.	O, C	22, 904	Hard Copy Automated	Partial
4. General Corres.	O	904	Hard Copy Automated	Partial
5. Investigations	C	904	Hard Copy	N/A
6. Incident Reports	C	904	Hard Copy	N/A
7. Press Releases	O	904	Hard Copy <u>Automated</u>	N/A

b. *Institutions*

Description of Record	Type of Record	Legal Authority	Storage	Comparison
1. Inmate Incarcerated Individual Records				
a. Demographic Data/Action Section	O, C, D	904	Hard Copy <u>Automated</u>	Partial <u>Full</u>
b. Admission Documents	C, D	904	Hard Copy <u>Automated</u>	N/A
c. Classification and Release Documents	O, C, D	904	Hard Copy <u>Automated</u>	Partial <u>Full</u>
d. Time Computation	O, C, D	904	Hard Copy <u>Automated</u>	Partial <u>Full</u>
e. Clinical and Medical	O, C, D	904	Hard Copy <u>Automated</u>	Partial <u>Full</u>
f. Correspondence and Visiting	O, C	904	Hard Copy <u>Automated</u>	Partial <u>Full</u>
g. Legal Documents	O, C	904	Hard Copy <u>Automated</u>	Partial <u>Full</u>
2. Inmate Incarcerated Individual Accounts	O, C, D	904	Hard Copy <u>Automated</u>	Partial <u>Full</u>
3. Security Records				
a. Disciplinary Records	<u>O</u> , C	904	Hard Copy <u>Automated</u>	Partial <u>Full</u>
b. Segregation Logs	C	904	Hard Copy	N/A
c. Housing Unit Logs	C	904	Hard Copy	N/A
d. Incident Reports	C	904	Hard Copy <u>Automated</u>	N/A
4. Contracts and Agreements	O	312, 313 315, 318 904	Hard Copy	N/A
5. Volunteers		D 904	Hard Copy	N/A
6. Staff Training	O, C	904	Hard Copy <u>Automated</u>	Partial <u>Full</u>
7. Inmate Incarcerated Individual Movement	O	904	Hard Copy <u>Automated</u>	N/A
8. Meeting Minutes		D 22, 904	Hard Copy <u>Automated</u>	Full
9. Lawsuits and Attorney Corres.	C	22, 904	Hard Copy	N/A
10. Library Records		D 904	Hard Copy	N/A
11. Education and Vocation Records	C	904	Hard Copy <u>Automated</u>	Partial <u>Full</u>
12. Press Releases	O	904	Hard Copy <u>Automated</u>	N/A
13. Inmate Incarcerated Individual Grievances	C	904	Hard Copy <u>Automated</u>	Partial <u>Full</u>
14. Miscellaneous	O	904	Hard Copy <u>Automated</u>	Partial <u>Full</u>

c. ~~Community~~ Community-Based Corrections - Interstate Compact

Description of Record	Type	Legal Authority	Storage	Comparison
Interstate Compact			Hard Automated	
I. Parole/Probation Supervision		904.602		
A. Investigation Requests	O, C, D	904.602	Hard Automated	Partial <u>Full</u>
B. Acceptance	C, D	904.602	Hard Automated	Partial <u>Full</u>
C. Rejection	C, D	904.602	Hard Automated	Partial <u>Full</u>
D. Progress	C, D	904.602	Hard	N/A
E. Violations	C, D	904.602	Hard Automated	Partial <u>Full</u>
F. Discharge Request	C, D	904.602	Hard	N/A
G. Other Closures	C, D	904.602	Hard Automated	Partial <u>Full</u>
Presentence Investigation Request				
H. Presentence Investigation	C	904.602	Hard	N/A
Absconder Tracking				
I. Parole Violators	O, C, D	904.602	Hard Automated	Partial <u>Full</u>
J. Miscellaneous Reports and Correspondence	O, C, D	904.602	Hard	N/A
II. Parole/Probation/Pretrial/Presentence/Residential				
A. Classification	O, C, D	904.602	Hard Automated	Partial <u>Full</u>
B. Status Reports	O, C, D	904.602	Hard Automated	Partial <u>Full</u>
C. Charge/Disposition	O, C, D	904.602	Hard Automated	Partial <u>Full</u>
III. Work Release				
A. Progress Reports	C, D	904.602	Hard <u>Auto-</u> <u>mated</u>	N/A <u>Full</u>
B. Violation Reports	C, D	904.602	Hard <u>Auto-</u> <u>mated</u>	N/A <u>Full</u>
C. Discharge Reports	C, D	904.602	Hard <u>Auto-</u> <u>mated</u>	N/A <u>Full</u>
D. Disciplinary Records	<u>O</u> , C	904.602	Hard <u>Auto-</u> <u>mated</u>	N/A <u>Full</u>
E. Time Computation	O, C, D	904.602	Hard <u>Auto-</u> <u>mated</u>	N/A <u>Full</u>
F. Legal Documents	O, C	904.602	Hard <u>Auto-</u> <u>mated</u>	N/A <u>Full</u>
G. Incident Reports	C	904.602	Hard <u>Auto-</u> <u>mated</u>	N/A <u>Full</u>
H. Demographic Data/Action Section	O, C, D	904.602	Hard Automated	Partial <u>Full</u>

Description of Record	Type	Legal Authority	Storage	Comparison
I. Admission Documents	C, D	904.602	Hard Automated	N/A
J. Classification and Release Documents	O, C, D	904.602	Hard	<u>Partial Full</u>
K. Clinical and Medical	O, C, D	904.602	Hard	N/A
L. Correspondence and Visiting	O, C	904.602	Hard	<u>Partial Full</u>
IV. Client Complaints	C	904.602	Hard	N/A
V. Jail Inspections	O, C, D	904.602	Hard <u>Auto-mated</u>	<u>N/A Full</u>

d. *Iowa state industries*

Description of Record	Type of Record	Legal Authority	Storage	Comparison
1. Customer Lists	C	22, 904	Hard Copy Automated	<u>Partial Full</u>
2. Formulas, Mixture and Special Designs	C	22, 904	Hard Copy	N/A
3. Unaudited Monthly Balance Sheets and Income Statements	C	22, 904	Hard Copy Automated	<u>Partial Full</u>
4. Cost Calculations for Sealed Bids	C	22, 904	Hard Copy	<u>N/A Full</u>
5. Yearly Audits	O	22, 904	Hard Copy	<u>N/A Full</u>

5.14(4) and 5.14(5) No change.

ITEM 14. Amend rule 201—10.3(17A) as follows:

201—10.3(17A) Copies of proposed rules. A trade or occupational association, which has registered its name and address with the department of corrections, may receive, by mail, copies of proposed rules. Registration of the association's name and address with the department is accomplished by written notification to the Director of Corrections, Department of Corrections, ~~420 Watson Powell Jr. Way, Des Moines, Iowa 50309~~ 510 East 12th Street, Des Moines, Iowa 50319. In the written notification, the association must designate the type of proposed rules and the number of copies of each rule it wishes to receive. A charge will be assessed pursuant to ~~IAC~~ 201—subrule 5.3(7).

This rule does not prevent an association which has registered with the department in accordance with this rule from changing its designation of types of proposed rules or number of copies of proposed rules which the association desires to receive. If an association makes such change designation, it must do so by written notification to the director of corrections.

This rule is intended to implement Iowa Code sections 17A.4 and 22.11.

ITEM 15. Amend rule 201—10.8(17A) as follows:

201—10.8(17A) Petition for rule making. A petition for rule making shall be filed in the director's office, Department of Corrections, ~~420 Watson Powell Jr. Way, Des Moines, Iowa 50309~~ 510 East 12th Street, Des Moines, Iowa 50319. The petition shall either be mailed certified, return receipt requested, or may be delivered in person. An additional copy may be provided if the petitioner wishes to retain a filed stamped copy of the petition. The petition may be either typewritten or legibly printed in ink and must substantially conform to the following form:

DEPARTMENT OF CORRECTIONS
~~420 WATSON POWELL JR. WAY~~ 510 EAST 12TH STREET
DES MOINES, IOWA ~~50309~~ 50319

Petition by _____ (Name) to (Amend, Adopt, or Repeal) Rules Relating to (state subject matter)	}	PETITION FOR RULE MAKING
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(Petition must state in separate numbered paragraphs)

1. Petitioner's name, address and telephone number.
2. The nature of petitioner's interest in the matter.
3. The text or substance of any requested rule adoption, amendment or repeal, including the text and citation for any current rule in effect.
4. The reasons for seeking the requested action, including any statute, rule, data, evidence or arguments which are relevant to the request. Copies of any statute, rule, evidence, etc., shall be attached to the petition.

(Petitioner's Signature)

10.8(1) and 10.8(2) No change.

ITEM 16. Amend rule 201—11.2(17A) as follows:

201—11.2(17A) Petition for declaratory rulings. A petition for a declaratory ruling shall be filed in the director's office, Department of Corrections, ~~420 Watson Powell Jr. Way, Des Moines, Iowa 50309~~ 510 East 12th Street, Des Moines, Iowa 50319. The petition shall either be mailed certified, return receipt requested, or delivered in person. An additional copy may be provided if the petitioner wishes to retain a filed stamped copy of the petition. The petition shall be typewritten and must substantially conform to the following:

DEPARTMENT OF CORRECTIONS
~~420 WATSON POWELL JR. WAY~~ 510 EAST 12TH STREET
DES MOINES, IOWA ~~50309~~ 50319

Petition by _____ (Name) For a Declaratory Ruling on (state statute, rule citation to be ruled on)	}	PETITION FOR DECLARATORY RULING
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(Petition must state in separately numbered paragraphs)

1. Petitioner's name, address and telephone number.
2. A clear, concise and complete statement of all relevant facts on which the ruling is requested.
3. A clear and concise statement of the controversy or uncertainty.
4. Reference to the statutory authority or rules in question, along with attached copies.
5. The reasons for prompting the petition and a full disclosure of petitioner's interest.
6. Whether petitioner is currently a party to a contested case, rule making or judicial proceeding involving the controversy or uncertainty.
7. The names and addresses, when known, of other persons who may be affected by the declaratory ruling.

(Petitioner's Signature)

ITEM 17. Amend rule 201—20.2(904) as follows:

201—20.2(904) Title II definitions.

“*Class I Disciplinary Report*” means the same as a major report and is defined in department policy ~~IO-RD-01~~ IO-RD-03.

“*Class II Disciplinary Report*” means the same as a minor report and is defined in department policy ~~IO-RD-01~~ IO-RD-02.

“*Contraband*” means weapons; alcohol; drugs; money; obscene materials; or materials advocating disruption of or injury to ~~offenders~~ incarcerated individuals, employees, programs, or physical facilities. Contraband shall also include anything which is illegal to possess under federal or state law; anything which is against institutional regulations; drugs or alcohol or materials which are used in the production or use of drugs or alcohol or weapons, explosives, or potential weapons and explosives; and altered authorized property. The term also includes possession or use of any prohibited communication device.

“*Department*” means the Iowa department of corrections.

“*Furlough*” means any temporary release from custody as granted in accordance with Iowa Code section 904.108(2).

“*Furlough residence*” means any private dwelling, apartment, house, trailer court, hotel, motel or community dwelling place.

“*Immediate family*” means an ~~offender’s~~ incarcerated individual’s spouse, mother, father, sister, brother, child, grandparent, established legal guardian or other who acted in place of parents, and step- or half-relation if the step- or half-relation and the ~~offender~~ incarcerated individual were raised as cohabiting siblings.

For the purpose of visitation, all the above will be included as immediate family provided a positive relationship exists. Immediate family members may be subject to criminal background investigation.

“*Law enforcement checks*” means prescheduled, in person, check-ins at designated law enforcement agencies such as police departments, sheriff’s offices and highway patrol offices.

“*Medical practitioner*” means medical doctor, osteopathic physician or ~~physician’s~~ physician assistant employed by the department.

“*Obscene material*” means the same as that described in ~~20.6(4)~~ 20.6(5).

“*Performance evaluation*” means evaluation of work and program participation as well as other areas of behavior.

“*Plan of payment*” means the method by which the ~~offender~~ incarcerated individual is to make restitution. The plan may include legal financial obligations. The plan is to reflect the ~~offender’s~~ incarcerated individual’s present circumstances, such as income, physical and mental health, education, employment and family circumstances.

“*Plan of restitution*” means a plan stating the amount of restitution as set by the court.

“*Responsible person*” means an individual on the ~~offender’s~~ incarcerated individual’s visiting list of legal age and, in the judgment of the staff, is a person of accountability, is able to think and act rationally, and is willing to facilitate the ~~offender’s~~ incarcerated individual’s successful completion of furloughs within the furlough rules and facilitate the return of the ~~offender~~ incarcerated individual to the institution. A responsible person shall further mean an individual not now under indictment, sentence or conviction of an indictable public offense. Ex-felons will not be permitted to act as responsible persons for furlough until the demonstration of two years’ successful adjustment in the community after release from any supervision.

This rule is intended to implement Iowa Code section 904.108(1) “k.”

ITEM 18. Amend rule 201—20.3(904) as follows:

201—20.3(904) Visits to offenders incarcerated individuals. Visiting is a privilege which allows ~~offenders~~ incarcerated individuals to maintain and strengthen relationships with family members and friends. Though visits are encouraged, institutions’ space, schedules, personnel constraints, treatment considerations, or other safety and security issues of the institutions and their operations may result

in limiting the number and length of visits. Visitation is additionally governed by the provisions of department of corrections policy OP-MTV-04.

20.3(1) Definitions.

“*Application*” means a written application identifying the visitor and the visitor’s relationship to the offender incarcerated individual.

“*Background investigation*” means the process by which central visiting authority staff verify the accuracy of a visitor’s application for any reason.

“*Central visiting authority*” or “*CVA*” means the department office that conducts the visitor application approval process.

“*Extended family*” means the offender’s incarcerated individual’s aunts, uncles, nieces, nephews, cousins, great-grandparents, great-grandchildren, and in-laws.

“*Group*” means a family unit (e.g., aunt, uncle and minor nieces and nephews) residing at the same address.

“*Immediate family*” means an offender’s incarcerated individual’s spouse, mother, father, sister, brother, child, grandparent, grandchild (when minors become adults, they will be required to complete the formal visiting application process), established legal guardian or other who acted in place of parents, and step- or half-relation if the step- or half-relation and the offender incarcerated individual were raised as cohabiting siblings.

“*Offender Incarcerated individual*” means a person who has been committed to the custody of the department of corrections or to a judicial district department of correctional services. “*Offender*” also includes a “*violin*” as that term is defined in 20.18(2).

“*Personal search*” means a pat-down search on top of the visitor’s clothes or the nonintrusive use of an electronic search process.

“*Visiting list*” means the screened list of approved visitors with authorized visiting privileges at all department of corrections institutions.

20.3(2) Schedule. Each department of corrections institution will structure a visiting schedule allowing visitation for a minimum of four days per week. Each institution’s visiting room will be open a minimum of four hours on each authorized day of visiting. The ~~warden/superintendent~~ warden will designate the time for visiting on certain days/holidays and advise the offenders incarcerated individuals. The offender incarcerated individual is responsible for informing the visitor of the days and hours for visitation.

20.3(3) Authorized visitors.

a. The central visiting authority will establish an approved visiting list for each offender incarcerated individual. This visiting list remains valid when the offender incarcerated individual is transferred to another institution.

b. To meet facility design limitations and security considerations, the visiting list shall be limited to the following individuals:

(1) Immediate family members.

(2) A total of ~~four~~ six other individuals or groups who are the offender’s incarcerated individual’s friends or extended family members.

(3) Minor children under the immediate supervision of their parent or legal guardian. The minor children of an offender incarcerated individual shall also be allowed to visit under the immediate supervision of any adult on the offender’s incarcerated individual’s approved visiting list.

c. Limitation. An individual on the approved visiting list of one offender incarcerated individual shall not be on the approved visiting list of another offender incarcerated individual, regardless of the location(s) of the offenders incarcerated individuals. An exception may only be granted pursuant to 20.3(5) “b.”

20.3(4) Nonauthorized visitors.

a. The following persons shall not be authorized to visit:

(1) Individuals whose behavior represents a control problem or is counterproductive to stable offender behavior of an incarcerated individual. This determination may be reflected in the background

investigation report which shows that the individual has a record of carrying concealed weapons, use of a controlled substance, previous violation of institutional rules, or similar behavior.

(2) Individuals under criminal indictment.

(3) Individuals on probation, work release, or parole.

(4) Individuals found to be involved with or convicted of incidents of aiding an escape or introducing contraband in any detention or supervised correctional setting.

(5) Individuals who intentionally give false information on the visitor's application form.

(6) Individuals convicted of a felony.

(7) Individuals who may compromise the order and security of the institution.

b. A person working in any institution as a volunteer shall not be on an offender's incarcerated individual's visiting list except with the permission of the ~~warden/superintendent~~ warden or designee.

c. Neither a victim of a sex offense, whether registered or not, nor the victim's family members will be approved for the visiting list of the perpetrator in the victim's case until department staff consult with the victim and restorative justice administrator of the department. Visitation requests from victims shall be considered only when the offender incarcerated individual has successfully completed all recommended treatment programs of the department or board of parole. If the victim's or victim's family member's visitation request is denied, the victim or victim's family member may file an appeal pursuant to 20.3(6) "d."

d. A sex offender whose victim was a minor shall not be permitted to have any children on the offender's incarcerated individual's visiting list until the offender incarcerated individual has completed the sex offender treatment program. After the offender's incarcerated individual's completion of the treatment program, a minor victim of the offender incarcerated individual may be added to the offender's incarcerated individual's visiting list only with the approval of the institutional treatment team and the victim and restorative justice administrator of the department. Other children may be added to the offender's incarcerated individual's visiting list after the offender's incarcerated individual's completion of the treatment program and approval of the institutional treatment team.

e. An application from a victim of a crime other than a sex offense who seeks to be added to the visiting list of the perpetrator in the victim's case shall be reviewed with the victim and restorative justice administrator of the department prior to any approval or denial.

20.3(5) Exceptions. The following exceptions may be implemented by the central visiting authority upon the approval of the ~~warden/superintendent~~ warden or designee.

a. The offender's incarcerated individual's spouse, child, mother or father who is currently under department supervision or on probation, work release, or parole may be approved to visit the offender incarcerated individual by the ~~warden/superintendent~~ warden or designee after consultation with the supervising parole/probation officer. The ~~warden/superintendent~~ warden or designee may authorize either contact or noncontact visiting.

b. The ~~warden/superintendent~~ warden or designee may grant an exception to the limitation in 20.3(3) "c" when the person is an immediate family member of more than one offender incarcerated individual and seeks to be added to the visiting lists of only those offenders incarcerated individuals.

c. A former or current department employee or volunteer who is a member of an offender's incarcerated individual's immediate family may be approved to visit the offender incarcerated individual by the ~~warden/superintendent~~ warden or designee.

d. A former department employee or volunteer who is not an immediate family member of an offender incarcerated individual may be allowed to visit six months after leaving employment or ceasing volunteer service if the former employee or volunteer passes the normal background investigation, there are no security issues arising from the person's prior employment or volunteer service, and the CVA receives approval from the ~~warden/superintendent~~ warden or designee.

e. An offender incarcerated individual who is an immediate family member discharged from prison without correctional supervision must wait six months before contact visits may be arranged. Noncontact visiting may be authorized only for the spouse, child, mother or father of an offender incarcerated individual.

20.3(6) Application process.

a. Visitor application forms shall be provided to offenders incarcerated individuals at each institution. Offenders Incarcerated individuals are responsible for mailing visitor application forms to prospective visitors, who may then apply to be added to the offender's incarcerated individual's visiting list. The completed visitor application form must be sent for processing to the central visiting authority at the following address: Mt. Pleasant Correctional Facility, Attn: Central Records, 1200 E. Washington, Mt. Pleasant, Iowa 52641.

b. All adults, including the offender's incarcerated individual's own children if they are 18 years of age or older, must complete the visitor application process in order to be considered for inclusion on an offender's incarcerated individual's visiting list.

c. Written notification. Written notification of denial of a visitor application will be given to both the offender incarcerated individual and the applicant within 30 days from the CVA's receipt of the application. Notification of approval of a visitor application will be given only to the offender incarcerated individual. The offender incarcerated individual is responsible for notifying the approved visitor.

d. Appeals. When an application is denied, the applicant and the offender incarcerated individual shall be apprised of the reasons for denial.

(1) Applicants may appeal to the warden/superintendent warden or designee in writing. An appeal by an applicant who is the victim of a sex offense, or who is the victim's family member, and is seeking to visit the perpetrator of the crime shall be reviewed in consultation with the department sex offender treatment director or the institution's treatment director for the moderate intensity family violence prevention program.

(2) The decision of the warden/superintendent warden or designee may be appealed to the director of the department of corrections or the director's designee. The decision of the director or the director's designee constitutes final agency action.

20.3(7) Removal from visiting list. If an offender incarcerated individual wishes to have a visitor removed from the offender's incarcerated individual's visiting list, the offender incarcerated individual shall complete the Removal of Visitor form contained in department policy OP-MTV-04 and send it to the central visiting authority. Upon receipt of the removal request, the central visiting authority shall respond to the request within seven business days and send a copy of the removal form to the offender incarcerated individual. Once a visitor has been removed from a visiting list, six months must elapse before reapplication by the removed visitor.

20.3(8) and 20.3(9) No change.

20.3(10) Special visitors.

a. *Law enforcement.* Division of criminal investigation agents, Federal Bureau of Investigation agents, and law enforcement officials shall present proof of identity upon entrance to the institution.

b. *Attorneys.* Attorneys must complete an initial visitor application form to visit an offender incarcerated individual; however, this initial application shall apply to multiple visiting lists. After initial approval is established, attorneys must contact the central visiting authority at (319)385-9511 to be added to the visiting lists of additional offenders incarcerated individuals. Background checks are not required, and attorneys shall not be counted as a friend on an offender's incarcerated individual's visiting list as set forth in 20.3(3) "b."

Attorneys shall present proof of identity upon entrance to the institution. The offender incarcerated individual must express a desire to visit with an attorney before the attorney will be admitted. Attorney visits shall be during normal visiting hours unless a special visit has been requested by the offender incarcerated individual and approved by the warden/superintendent warden or designee prior to the visit.

An attorney testing positive by an electronic detection device may be required to visit without direct contact.

c. *Ministers.* Ministers must complete an initial visitor application form to visit an offender incarcerated individual; however, this initial application shall apply to multiple visiting lists. After initial approval is established, ministers must contact the central visiting authority at (319)385-9511 to be added to the visiting lists of additional offenders incarcerated individuals. Background checks are

required. Ministers shall not be counted as a friend on an offender's incarcerated individual's visiting list as set forth in 20.3(3) "b."

Ministers shall present proof of identity upon entrance to the institution. The offender incarcerated individual must express a desire to visit with a minister before the minister will be admitted. Minister visits shall be during normal visiting hours unless a special visit has been requested by the offender incarcerated individual and approved by the warden/superintendent warden or designee prior to the visit.

A minister testing positive by an electronic detection device may be required to visit without direct contact.

20.3(11) Termination of visiting privileges. Individuals may have visiting privileges modified or terminated when:

a. The offender incarcerated individual or visitor engages in behavior that may in any way be disruptive to the order and control of the institution.

b. The visitor or offender incarcerated individual fails to follow the established rules and procedures of the institution.

c. The visitor and offender incarcerated individual directly exchange or attempt to exchange any object or article. This restriction does not apply to purchases from the canteen or visiting room vending machines that are consumed during the visit.

d. The visitor tests positive for drugs or explosives as determined by an authorized electronic detection device calibrated and operated for testing for the presence of drugs or other contraband.

e. The visit or future visiting is detrimental to the health or welfare of the offender incarcerated individual or visitor.

f. The visitor does not supervise the visitor's children to prevent them from interfering with or disrupting other visits.

Offenders incarcerated individuals may request reconsideration of denied visitors six months after resolution of the reason for denial or when approved by the warden/superintendent warden or designee or regional institutional deputy director.

20.3(12) Noncontact visiting. The warden/superintendent warden or designee may allow noncontact visits when the order or security of the institution may be threatened or when disciplinary rules or procedures have been violated. Noncontact visiting hours will be provided on a scheduled basis. The hours and days will be posted by the warden/superintendent warden or designee, and notice will be posted at least one week prior to any change. Visitors on the noncontact list at the time of a schedule change will be notified of the schedule change by regular mail sent to the last-known address.

20.3(13) No change.

20.3(14) Security procedures. Visitors may be requested to submit to a personal search (pat down) or an electronic search for weapons or contraband. "Personal search" means a pat-down search on top of the visitor's clothes or the nonintrusive use of an electronic search process. If the initial electronic test confirms the presence of a controlled substance, the visitor will be given a second confirmation test. When the electronic detection device alarm is activated, the visitor shall produce the item that set off the alarm or a personal search may be made to find the item. If the visitor refuses to submit to a search, access to visiting shall be denied and entrance shall be denied. All searches shall be conducted in a courteous manner to respect the visitor's privacy. Minors are subject to personal and electronic searches. When a visitor accompanied by a minor refuses to leave the minor with a staff person and does not want the minor present during the search, the visit will be denied. When a minor is searched, the supervising adult shall be present in the room at all times.

a. The warden/superintendent warden or designee will maintain records of all searches which produce positive results, including the name of each person subjected to a search, the names of the persons conducting and in attendance at the search, and the time, date, and place of the search. The written record shall reflect the reason for the search and the results of the search. The written authorization for the search shall be included in the record. Testing records will be maintained by the institution for one year and then expunged. Records of positive tests will be maintained for five years and then expunged. All testing records are confidential and will be released only upon the order of a court of proper jurisdiction.

b. When a visitor tests positive by an electronic search device, the visitor may appeal to the ~~warden/superintendent~~ warden or designee in writing. The decision of the ~~warden/superintendent~~ warden or designee may be appealed to the director of the department of corrections or the director's designee. The decision of the director or the director's designee constitutes final agency action.

c. No change.

~~d. Facilities will establish procedures for personnel selection and training of search personnel. Operators will be trained in accordance with manufacturer's standards, which require 16 hours of initial certification and 4 hours of annual training thereafter. Each facility will have at least two certified trainers of trainers.~~

20.3(15) Sanctions. Visitors testing positive or refusing to be tested by an electronic detection device will be restricted.

a. ~~Testing positive.~~ The following restrictions will apply to visitors testing positive:

(1) ~~First occurrence.~~ Visiting privileges will be suspended from the date and time of the test for the next 2 visiting days. Future visits may be restricted to noncontact status.

(2) ~~Second occurrence.~~ Visiting privileges will be suspended from the date and time of the test for the next 7 visiting days. Future visits may be restricted to noncontact status.

(3) ~~Third occurrence.~~ Visiting privileges will be suspended from the date and time of the test for the next 15 visiting days. Future visits may be restricted to noncontact status.

(4) ~~Fourth occurrence.~~ Visiting privileges will be suspended from the date and time of the test for the next 30 visiting days. In addition, the visitor will be placed on noncontact visiting status for 180 days from the date of the first eligible visit. If the visitor tests positive from this date forward, visiting privileges may be permanently restricted to noncontact status.

~~Upon request by the visitor, the warden/superintendent or designee may allow visits in noncontact status for the first, second, and third occurrence pending the receipt of laboratory reports for any visitor testing positive by an electronic detection device.~~

b. ~~Refusing to be tested.~~ Refusal to submit to a drug test by an electronic testing device will result in suspension of visiting privileges for 15 calendar days from the time of refusal.

c. ~~Written notification.~~ Written notice regarding visiting status or facility access will be presented or mailed within 5 working days to any individual (nonoffenders) who tests positive or who refuses consent to search. Such notice will include the duration of any restriction and procedures for reconsideration or reinstatement.

20.3(16) 20.3(15) Money orders, cashier's checks, and electronic funds transfers. Money orders and cashier's checks for deposit in the offender's incarcerated individual's account must be made payable to the Iowa Department of Corrections ~~Offender~~ Incarcerated Individual Fiduciary Account (IDOC ~~OFA~~ IIFA) and sent to: Fort Dodge Correctional Facility, 1550 L Street, Suite B, Fort Dodge, Iowa 50501, and must include the offender's incarcerated individual's name and ID number and the sender's name and complete address. Funds will also be accepted via electronic funds transfers from authorized vendors. Personal checks and cash will not be accepted. An offender's incarcerated individual's suspected abuse of requests for money from the public may be cause for limits or restrictions on the amounts of money which can be received and from whom money can be received.

20.3(17) 20.3(16) Limits. Each institution, according to its facilities and conditions, shall limit the number of visitors an offender incarcerated individual may have at any one time and the length of visits.

20.3(18) 20.3(17) Segregation status. Offenders Incarcerated individuals who are assigned to special units such as disciplinary detention or administrative segregation status may have visits modified in regard to place, time, and visitor, depending on the staff and space available.

20.3(19) 20.3(18) Abuse of visiting privileges. Visiting privileges may be modified, suspended, or terminated when abuses are evidenced or planned.

20.3(20) 20.3(19) Special visits. The ~~warden/superintendent~~ warden or designee may permit special visits not otherwise provided for in this rule. These may include, but are not limited to, extended visits for close family members traveling extended distances, immediate visits for close relatives or friends about to leave the area, visits necessary to straighten out critical personal affairs, and other visits for similar reasons. All these visits shall be at the sole discretion of the ~~warden/superintendent~~ warden or

designee. When ruling on such visits, the ~~warden/superintendent~~ warden or designee shall consider appropriate factors including the uniqueness of the circumstances involved for both the ~~offender incarcerated individual~~ and the visitor; security, order, and administrative needs of the institution; and available alternatives to a special visit. The decision of the ~~warden/superintendent~~ warden or designee in these cases constitutes final agency action.

~~20.3(21)~~ 20.3(20) *Temporary modifications.* Visiting procedures may be temporarily modified or suspended in the following circumstances: riot, disturbance, fire, labor dispute, space and personnel restrictions, natural disaster, or other emergency.

This rule is intended to implement Iowa Code section 904.512.

ITEM 19. Amend rule 201—20.4(904) as follows:

201—20.4(904) Mail. Constructive, unlimited correspondence with family, friends, and community sources will be encouraged and facilitated. ~~Offenders~~ Incarcerated individuals have the responsibility in the use of correspondence to be truthful and honest. Institutions have the responsibility to maintain a safe, secure, and orderly procedure for ~~offender~~ use of the mail by an incarcerated individual. Mail is additionally governed by the provisions of department of corrections policy OP-MTV-01.

20.4(1) Nonconfidential.

~~a. Mail will not be read or censored on a regular basis unless there is justifiable cause.~~ In an effort to maintain proper security measures, mail may be monitored and read on a random basis.

~~b. All nonconfidential mail shall be inspected for contraband. Nonconfidential mail shall be read when there is suspected abuse of correspondence or a threat to the good sense of order and security of the institution.~~

20.4(2) Confidential.

~~a. No change.~~

~~b. Confidential mail will be delivered unopened and then, in the presence of the offender incarcerated individual, will be opened and inspected for contraband and to ensure that the contents are from the return addressee.~~

Confidential mail may be read only after a finding of probable cause by a court of competent jurisdiction that a threat to the order and security of the institution or abuse of correspondence exists.

~~c. and d. No change.~~

20.4(3) General.

~~a. Pursuant to Iowa Code chapter 2C, mail received from the office of citizens' aide ombudsman office shall be delivered unopened.~~

~~b. When sending confidential mail, offenders incarcerated individuals may be requested to seal the envelope in the presence of staff after the envelope and letters have been inspected for contraband.~~

~~c. No mail lists will be maintained restricting persons from writing to offenders or offenders writing to persons in the public.~~ All letters mailed by ~~offenders~~ incarcerated individuals will be left unsealed for inspection of the contents only. Envelopes shall contain letters to the addressee only.

~~d. and e. No change.~~

~~f. Persons under the age of 18 must provide written permission to the warden/superintendent warden from parents or guardian before correspondence with offenders incarcerated individuals will be allowed.~~

~~g. Offenders Incarcerated individuals under correctional supervision or detention will not be allowed to correspond with other offenders incarcerated individuals unless the individuals are immediate family and approved by the authority of the institution or both authorities in the case of correspondence between facilities.~~

“Immediate family” means mother, father, sister, brother, half sister, half brother, spouse, son, daughter, natural grandparents, and natural grandchildren. Legal guardian, foster parents, stepparents, stepchildren, stepsister, and stepbrother will be included provided a positive relationship exists or contact will confer a benefit to the ~~inmate~~ incarcerated individual.

~~h. Offenders Incarcerated individuals will be denied mail privileges with persons that might present a risk to the order and security of the institution.~~

- i.* No change.
- j.* No limit will be placed on the number of letters mailed for offenders incarcerated individuals able to pay the mailing costs. ~~Offenders that~~ Incarcerated individuals who are unable to pay mailing costs for legal mail will receive limited assistance which may be recoverable.
- k.* Stamped, return-addressed envelopes will be sold through canteen services for all outgoing letters and will be purchased by the offender incarcerated individual.
- l.* Special equipment may be used to review envelopes for items in the envelopes other than the letter. When the contents of the correspondence is inappropriate or contraband items which are not illegal to possess under the law are found in the mail, the mail will be rejected and the offender incarcerated individual shall be notified with the option to return to sender or destroy.
- m.* When mail is rejected due to inappropriate contents of the correspondence or contraband is found, provided the correspondence is not retained for investigation or prosecution, the ~~offender that~~ incarcerated individual to whom the mail was addressed ~~to~~ will have the option of paying the postage to return the mail to the sender or having the mail destroyed by institutional staff. The offender incarcerated individual must choose one of the two options within three days of the rejection notice. This rule is in reference to the return of opened mail per United States Postal Service, Office of Classification and Rates Administration, Ruling #206.
- The sender of rejected correspondence may protest the decision in writing to the warden/superintendent warden.
- n.* All outgoing parcel post items will be packed and sealed by the mail room and postage charged to the offender incarcerated individual.
- o.* Letters will not be delivered which are written in a foreign language or code unless the foreign language is the only language of the offender incarcerated individual (exceptions may be made by the warden/superintendent warden).
- p.* No change.
- q.* The offender's incarcerated individual's name, ID number (~~if known~~), box number or street address, city, state, and zip code shall also appear on the envelope of incoming mail.
- r.* All outgoing mail shall contain a return address including offender the incarcerated individual's name and ID number as well as the name of the institution, address, and zip code.
- s.* and *t.* No change.
- u.* Only first-class letters and packages will be forwarded after an offender's incarcerated individual's transfer or release.
- v.* An individual may deposit funds in an offender's incarcerated individual's account by money order, cashier's check, or electronic funds transfer. Personal checks and cash will not be accepted. Only money orders and cashier's checks will be accepted for deposit into an offender's incarcerated individual's account by mail. Money orders and cashier's checks must be made payable to the Iowa Department of Corrections Offender Incarcerated Individual Fiduciary Account (IDOC OFA IIFA) and sent to: Fort Dodge Correctional Facility, 1550 L Street, Suite B, Fort Dodge, Iowa 50501, and must include the offender's incarcerated individual's name and ID number and the sender's name and complete address. Funds will also be accepted via electronic funds transfers from authorized vendors. An offender's incarcerated individual's suspected abuse of requests for money from the public may be cause for limits or restrictions on the amounts of money which can be received and from whom money can be received.
- w.* No change.
- x.* O-mail. "O-mail" is electronic mail that can be sent to and from offenders incarcerated individuals and the public.
- (1) The offender's incarcerated individual's family and friends shall be responsible for registering on the corrlinks Internet site to enroll in the O-mail system: <http://www.corrlinks.com> www.corrlinks.com.
- (2) and (3) No change.
- (4) Incoming and outgoing O-mail shall meet the same standards as referenced in this rule for offender incarcerated individuals' mail.

(5) No change.

ITEM 20. Amend rule 201—20.5(904) as follows:

201—20.5(904) Money orders, cashier's checks, and electronic funds transfers for offenders incarcerated individuals. An individual may deposit funds in an incarcerated individual's account by money order, cashier's check, or electronic funds transfer. Personal checks and cash will not be accepted. Only money orders and cashier's checks will be accepted for deposit into an offender's incarcerated individual's account by mail. Personal checks and cash will not be accepted. Money orders and cashier's checks must be made payable to the Iowa Department of Corrections Offender Incarcerated Individual Fiduciary Account (IDOC OIA IIFA) and sent to: Fort Dodge Correctional Facility, 1550 L Street, Suite B, Fort Dodge, Iowa 50501, and must include the offender's incarcerated individual's name and ID number and the sender's name and complete address. Funds will also be accepted via electronic funds transfers from authorized vendors. An offender's incarcerated individual's suspected abuse of requests for money from the public may be cause for limits or restrictions on the amounts of money which can be received and from whom money can be received.

ITEM 21. Amend rule 201—20.6(904) as follows:

201—20.6(904) Publications.

20.6(1) The institution shall allow offenders incarcerated individuals access to publications when doing so is consistent with institutional goals of maintaining internal order, safety, security, and rehabilitation.

20.6(2) Publications include any periodical, newspaper, book, pamphlet, magazine, newsletter, or similar material published by any individual, organization, company, or corporation, and made available for a commercial purpose. All publications shall be unused and sent directly from an approved publisher or bookstore which does mail order business. Any exceptions must be authorized by the warden or superintendent. No publication will be denied solely on the basis of its appeal to a particular ethnic, racial, religious, or political group. The quantity of printed materials, as with other personal property, will be controlled for safety and security reasons.

20.6(3) All publications not on the approved list shall be reviewed by a publication review committee for approval, denial, or control of the publication.

a. The committee shall be appointed by the director or designee, department of corrections, and shall include a person with broad exposure to various publications and two representatives of correctional operations.

b. The committee shall fairly review all types of publications to be received by offenders incarcerated individuals in accordance with these rules.

20.6(4) The following procedures shall be used when a publication not on the approved list is reviewed:

a. The committee shall approve, deny, or control publications within 30 working days of receipt of the publication.

b. When a publication is denied or controlled, the committee shall send the offender incarcerated individual a written notice stating the publication involved, the reason for denial or control, and the offender's incarcerated individual's available appeal process.

c. The offender incarcerated individual shall have five days from receipt of the notice of denial or control to notify the designated institution staff to destroy the publication, to specify where to send the publication at the offender's incarcerated individual's expense, or to notify the institution that the decision is being appealed.

d. No change.

20.6(5) No change.

20.6(6) Portrayal or simulation of fellatio, cunnilingus, masturbation, ejaculation, sexual intercourse, male erection, bestiality, sadomasochism, excretory functions, lewd exhibition of genitals,

or other sexually explicit materials will be denied to ~~offenders~~ incarcerated individuals when the material is inconsistent with rehabilitation goals.

20.6(7) Publications which contain material portraying or simulating fellatio, cunnilingus, masturbation, ejaculation, sexual intercourse or male erection and are not approved or denied by the review committee will be controlled for the security and order of the institution and to assist in enabling its control from those ~~offenders~~ incarcerated individuals denied access by 20.6(6) above. Institutional procedures shall be established for the ~~offender~~ incarcerated individual to reserve time in a designated controlled area and obtain the controlled publication for reading during specified times. The controlled publication will be secured until the ~~offender~~ incarcerated individual makes arrangements for further review of the controlled publication. An ~~offender~~ incarcerated individual may have secured no more than ten publications at any given time, none of which are over three months old from publication date or receipt, and any that are in excess of the ten limit or over three months old must be sent out of the institution at the ~~offender's~~ incarcerated individual's expense, destroyed, or taken with the ~~offender~~ incarcerated individual upon release.

20.6(8) An ~~offender~~ incarcerated individual may appeal the committee's decision or the denial of a publication because the publication is inconsistent with rehabilitation goals within ten days of receipt of the decision by filing a written appeal and sending it to ~~Administrator, Division of Investigative Services~~ Office of Inspector General, Department of Corrections, 510 East 12th Street, Des Moines, Iowa 50319. The ~~administrator's~~ inspector general's decision shall be final.

ITEM 22. Amend rule 201—20.7(904) as follows:

201—20.7(904) Interviews and statements.

20.7(1) When ~~offenders~~ incarcerated individuals are selected to be interviewed and photographed within the institution, either individually or as part of a group, identifiable interviews or pictures shall have the written consent of the ~~offender~~ incarcerated individual involved as well as prior consent of the warden, ~~superintendent~~, or designee.

20.7(2) The warden ~~or superintendent~~ is responsible for all communications with mass media.

ITEM 23. Amend rule 201—20.8(904) as follows:

201—20.8(904) Guests of institution. Persons wishing to visit the institution shall give prior notice of their intended visit and receive approval for the visit. The prior notice and approval may be waived by the warden, ~~superintendent~~, or designee for emergencies.

20.8(1) No change.

20.8(2) Persons under 18 years of age may only visit with prior approval of the warden, ~~superintendent~~, or designee, and shall be accompanied by a responsible adult. An adult shall be in charge of no more than four children. Persons under 18 years of age shall not be allowed to make institutional tours of maximum security prisons.

20.8(3) Guests shall be escorted by a staff member. Any exception shall have prior approval of the warden, ~~superintendent~~, or designee.

20.8(4) Guests shall be allowed personal contact with an ~~offender~~ incarcerated individual only when it serves the best interests of the ~~offender~~ incarcerated individual as determined by the warden, ~~superintendent~~, or designee.

20.8(5) All contacts with ~~offenders~~ incarcerated individuals shall be absent of any encouragement, support, or suggestion of activity which would bring disorder to the institution.

20.8(6) Rescinded IAB 3/20/91.

ITEM 24. Amend rule 201—20.9(904) as follows:

201—20.9(904) Donations. Donations of money, books, games, recreation equipment or other such gifts shall be made directly to the warden ~~or superintendent~~. The warden ~~or superintendent~~ shall evaluate the donation in terms of the nature of the contribution to the institution program. The warden

~~or superintendent~~ is responsible for accepting the donation and reporting the gift to the ~~regional~~ institutional deputy director on a monthly basis.

ITEM 25. Adopt the following new rule 201—20.10(904):

201—20.10(904) Incarceration fees. The director may charge incarcerated individuals an incarceration fee, pursuant to Iowa Code section 904.108.

ITEM 26. Amend rule 201—20.11(904,910) as follows:

201—20.11(904,910) Restitution.

20.11(1) Every ~~offender~~ incarcerated individual required by a court order to pay restitution shall have a restitution plan and a restitution plan of payment developed, unless a court-ordered restitution plan has been completed.

20.11(2) The restitution plan of payment shall consider the present circumstances of an ~~offender's~~ incarcerated individual's physical/mental health and other legal financial obligations.

20.11(3) The deputy director of institutions shall ensure that there are written procedures governing the development and modification of each restitution plan and plan of payment.

20.11(4) Each ~~offender~~ incarcerated individual shall be given a Predeprivation Notice: Notice of Intent to Deduct Restitution From All Account Credits and Notice of Opportunity to Respond during initial reception following admission to the Iowa medical and classification center (IMCC) or the Iowa correctional institution for women (ICIW).

20.11(5) Initial ~~offender~~ complaints by incarcerated individuals regarding restitution plans of payment or modifications may be addressed via the ~~offender~~ grievance procedure for incarcerated individuals.

20.11(6) The staff shall explain the restitution plan of payment to the ~~offender~~ incarcerated individual. Each ~~offender~~ incarcerated individual shall receive a copy of the restitution plan of payment.

20.11(7) Restitution payments shall be deducted from all credits to an ~~offender's~~ incarcerated individual's account. Up to 50 percent may be deducted. The following are exempt for deductions from credits to an ~~offender's~~ incarcerated individual's account from an outside source:

a. An amount, assessed by the ~~warden/superintendent~~ warden or designee, specifically for medical costs. The same percent as established in the restitution plan will be deducted from any amount over the total amount assessed. If the medical procedures are not performed or carried out, the money shall be returned to the sender at the ~~offender's~~ incarcerated individual's expense.

b. An amount, assessed by the ~~warden/superintendent~~ warden or designee, specifically for the cost of a funeral trip. The same percent as established in the restitution plan will be deducted from any amount over the total amount assessed.

c. to f. No change.

g. Any other exception approved by the ~~warden/superintendent~~ warden or designee.

20.11(8) and 20.11(9) No change.

20.11(10) A percent greater than that established in the restitution plan of payment may be deducted from a credit to an ~~offender's~~ incarcerated individual's account by authorization of either the ~~offender,~~ incarcerated individual or the warden/superintendent warden or designee; or by court order.

20.11(11) No change.

This rule is intended to implement Iowa Code chapter 904 and sections 910.2, 910.3 and 910.5.

ITEM 27. Amend rule 201—20.12(904) as follows:

201—20.12(904) Furloughs.

20.12(1) Furloughs are a privilege, not a right, and may be denied or canceled at any time for reasons deemed sufficient by the ~~warden/superintendent~~ warden. Reasons for denial or cancellation shall be given to the ~~offender~~ incarcerated individual.

20.12(2) No change.

20.12(3) Emergency medical furlough is for those ~~offenders~~ incarcerated individuals whose medical condition has deteriorated to the point of incapacitation or to a comatose state.

20.12(4) Both emergency family furloughs and emergency medical furloughs shall have approval of the ~~warden/superintendent~~ warden and the ~~respective regional~~ institutional deputy director.

20.12(5) Furloughs are additionally governed by the provisions of the department's furlough policy IS-RL-04.

ITEM 28. Amend rule 201—20.13(904) as follows:

201—20.13(904) Board of parole interviews. Each institution provides space for the conduct of interviews between the Iowa board of parole and institutional ~~offenders~~ incarcerated individuals. When these meetings are held in correctional institutions, attendance is subject to security and safety regulations as stated herein. Any exception to these rules must have prior approval of the director of the department of corrections or designee.

20.13(1) Persons desiring to attend a board of parole interview who are not on an ~~offender's~~ incarcerated individual's visiting list shall notify the ~~warden or superintendent~~ of the respective institution of their intent to attend. A visitor's application will be sent to the person, and the completed application must be received back by the institution at least 15 days prior to the scheduled date of the parole interview in order that a background investigation with law enforcement officials may be completed prior to attendance at the parole interview. Following a successful background investigation, authorization to attend parole interviews will be continuous subject to these rules and any subsequent background investigations conducted at the discretion of the ~~warden or superintendent~~.

20.13(2) Due to security considerations, those persons excluded from applying for visitation privileges pursuant to ~~subrule 20.3(1), paragraph "f," subparagraphs (1) to (7)~~ subparagraphs 20.3(4) "a"(1) to (7), inclusive, are also excluded from attending parole board interviews as listed below:

a. Individuals who have been discharged from a correctional institution within the last 18 months.
b. Individuals whose behavior represents a control problem or is counterproductive to the rehabilitation of the ~~offender~~ incarcerated individual. This may be reflected in the background investigation report which shows the ~~individual~~ individual's having a record of carrying concealed weapons, irresponsible or illegal use of a controlled substance, previous violation of institutional rules, or similar behavior.

c. to g. No change.

20.13(3) Due to security considerations the following rules shall apply:

a. and b. No change.

c. Individuals may be required to leave the institution when:

(1) The ~~offender~~ incarcerated individual or attendee engages in behavior that may in any way be disruptive to order and control of the institution.

(2) No change.

(3) The attendee and ~~offender~~ incarcerated individual directly exchange any object or article.

(4) The attendee talks or communicates with an ~~offender~~ incarcerated individual.

(5) No change.

(6) There is detriment to the health of the ~~offender~~ incarcerated individual or attendee.

(7) No change.

d. Minors outside the immediate family shall have written permission from their parent or guardian and be accompanied by an adult. All children shall have adult supervision. Exceptions shall have prior approval of the ~~warden, superintendent~~ or designee.

e. No change.

f. Attendees may be requested to submit to a personal search (pat down) or review by an electronic device for weapons or contraband. When the electronic device alarm is activated, the attendee shall produce the item; or a personal search may be made to find the item that set off the alarm. Attendees may be requested to submit to a strip search when there is an articulable reason to believe the person is concealing a weapon or contraband. Each institution shall designate the level of authority required

to request a search through institutional policy. This person shall authorize the search in writing. The designation required pursuant to subrule ~~20.3(9)~~ 20.3(8) for visitation will suffice for this subrule as well. Entrance may be denied when the attendee is not willing to submit to a search. The request for a search shall be conducted in an inconspicuous manner. The attendee may verbally request a review by the warden, ~~superintendent~~, or designee at the time of request for a search.

(1) to (6) No change.

20.13(4) to 20.13(7) No change.

20.13(8) Rules that apply to registered victims are found in subrule ~~20.15(8)~~ 20.15(7).

This rule is intended to implement Iowa Code sections 904.102 and 904.103.

ITEM 29. Amend rule 201—20.14(80A) as follows:

201—20.14(80A) ~~Offender transportation~~ Transportation for incarcerated individuals.

20.14(1) Companies under contract to county or state agencies to transport Iowa ~~offenders incarcerated individuals~~ must meet the requirements of this rule to qualify for exemption under Iowa Code section 80A.2 as amended by 1998 Iowa Acts, Senate File 2334.

20.14(2) To comply with the exemption in Iowa Code section 80A.2 as amended by 1998 Iowa Acts, Senate File 2334, the following requirements shall apply:

a. ~~A company(ies)~~ Companies contracting with any jurisdiction/agency within the state of Iowa shall provide, upon request, training and compliance with policy standards governing weapons, security, transportation, and ~~offender~~ management procedures for incarcerated individuals essential to accomplishing safe and secure movement of ~~offenders~~ incarcerated individuals.

b. ~~A company~~ Companies contracting to provide ~~offender~~ transportation for incarcerated individuals with a jurisdiction/agency within the state of Iowa shall provide proof of insurance coverage including, but not limited to, comprehensive general liability, automobile liability, workers' compensation insurance, all inclusive policies, general liability, and errors or omissions.

c. ~~A company~~ Companies contracting with any jurisdiction/agency within the state of Iowa shall provide the names, dates of birth, and social security numbers of all transportation personnel for criminal history checks.

d. to f. No change.

g. This exemption applies only to ~~offender~~ transportation companies for incarcerated individuals. This exemption does not provide exemption for any other part of this statute.

This rule is intended to implement Iowa Code section 80A.2 as amended by 1998 Iowa Acts, Senate File 2334.

ITEM 30. Amend rule 201—20.15(910A) as follows:

201—20.15(910A) Victim notification.

20.15(1) No change.

20.15(2) A victim of a violent crime may become registered with the department of corrections which entitles the victim to be notified when the ~~offender~~ incarcerated individual is to be released in any of the following situations:

a. *Work release.* Approximate date of release and whether the ~~offender~~ incarcerated individual is expected to return to the community where the victim resides will be provided.

b. *Furlough.* Date of leave, date of return and whether the ~~offender~~ incarcerated individual is expected to return to the community where the victim resides will be provided.

c. to e. No change.

f. *Parole.* Approximate date of release and whether the ~~offender~~ incarcerated individual is expected to return to the community where the victim resides.

~~**20.15(3)** Rescinded IAB 3/20/91.~~

20.15(4) ~~**20.15(3)**~~ A victim will become registered upon official request by the county attorney to the Director, or designee, Iowa Department of Corrections, ~~Capitol Annex, 523~~ 510 East 12th Street, Des Moines, Iowa 50319.

~~20.15(5)~~ **20.15(4)** Assistance for registering may be obtained through the county attorney or by contacting the department of corrections, director of ~~corrections~~ victim programs, at ~~(515)281-4811~~ (515)725-5701.

~~20.15(6)~~ **20.15(5)** All information with regard to a registered victim will be kept confidential.

~~20.15(7)~~ **20.15(6)** A registered victim is responsible for notifying the department of corrections of address or telephone changes.

~~20.15(8)~~ **20.15(7)** Registered victims of the Iowa board of parole may attend hearings in accordance with the following rules:

a. Registered victims by the parole board have the right to appear at the ~~offender(s)~~ parole/work release hearing of the incarcerated individual(s) either personally or by counsel.

b. The parole board notifies victims of any scheduled parole/work release hearings where the board will interview the ~~offender~~ incarcerated individual not less than 20 days prior to the hearing.

c. The parole board notification will request any victim(s) planning to attend a hearing to notify the ~~warden/superintendent~~ warden of the intention to attend prior to the hearing.

d. A victim may only be denied attendance when, in the opinion of the ~~warden/superintendent~~ warden or designee, the victim(s) presents a threat to the security and order of the institution.

e. No change.

f. The security director or designee should consider separation of the victim(s) and family/friends in attendance at the same hearing. If there are any signs of conflict between ~~victims~~ the victim(s) and family/friends of ~~offenders~~ incarcerated individuals, the ~~victims~~ victim(s) shall be escorted out of the institution to avoid an unsupervised contact situation on institution grounds.

This rule is intended to implement Iowa Code section 910A.9.

ITEM 31. Amend rule 201—20.17(904) as follows:

201—20.17(904) Institutional community placement.

20.17(1) Home care program. This program allows for selected ~~offenders~~ incarcerated individuals to be released from institutional confinement for a set period of time for the purpose of caring for the ~~offender's~~ incarcerated individual's immediate family. Release may be to a community correction residential facility/halfway house or to the ~~offender's~~ incarcerated individual's home, home of an immediate family member, or other approved arrangements, provided the living environment is suitable to institutional requirements. Release may be for a set number of hours or days as appropriate.

a. *Eligibility criteria.*

(1) The ~~offender~~ incarcerated individual must be the natural parent or legal guardian of the child/children.

(2) The ~~offender~~ incarcerated individual must show cause that this program can provide more suitable care than the present living situation of the child/children.

(3) No change.

(4) The ~~offender~~ incarcerated individual must have been the primary caretaker of the child/children prior to incarceration.

(5) Investigating staff must be able to confirm that the ~~offender~~ incarcerated individual had satisfactorily served this care prior to incarceration.

(6) The proposed living arrangements shall provide a suitable environment for the ~~offender~~ incarcerated individual and dependents.

(7) No change.

(8) It will be verified that the ~~offender~~ incarcerated individual, including spouse or immediate family member living at the same residence, can and will provide adequate support towards the child, children, or other dependent. Eligibility requirements for assistance through the department of human services programs (FIP, food stamps, etc.) will be verified prior to final approval.

(9) It will be verified that the ~~offender~~ incarcerated individual or immediate family living at the residence can provide adequate transportation or that public transportation is available.

(10) Adequate support services (medical, psychological, educational, as well as other treatment programs) must be arranged and available to both the ~~offender~~ incarcerated individual and dependents.

(11) Dependent care for an adult member of the offender's incarcerated individual's immediate family must include a medically documented need with periodic supervision or other approved arrangements by a health-trained professional.

b. Requirements.

(1) Education/employment/child care/adult dependent care. Where all dependents are involved in full-time school, participation in an educational or employment program may be required of the offender incarcerated individual. Where such dependents are not yet in school, child care may be considered as full-time employment.

(2) No change.

20.17(2) Work program—eligibility criteria. This program allows for selected offenders incarcerated individuals to be released from institutional confinement for a period of time for gainful employment in the community. The program may also include placement in a community corrections residential facility/halfway house, or to the offender's incarcerated individual's home, home of an immediate family member, or other approved arrangements, provided the living environment is suitable to institutional requirements. Release may be for a set number of hours or days as appropriate.

a. The offender incarcerated individual must show a substantial need and interest for participation in the program.

b. The offender incarcerated individual must seek and apply for employment through established procedures of the furlough program or through institutional correspondence, telephone, or visiting procedures.

c. No change.

20.17(3) Educational program—eligibility criteria. This program allows for selected offenders incarcerated individuals to be released from institutional confinement for a period of time for educational opportunities in the community. This program may also include placement in a community corrections residential facility/halfway house or to the offender's incarcerated individual's home, home of an immediate family member, or other approved arrangements, provided the environment is suitable to institutional requirements. Release may be for a set number of hours or days as appropriate.

a. The offender incarcerated individual must show a substantial need and interest for participation in the program.

b. The offender incarcerated individual must seek educational opportunities and financial support through established procedures of the furlough program or through institutional correspondence, telephone, or visiting procedures (financial arrangements can only include family support or grants). Educational loans or loans of any type will not be allowed while on institutional count. Additional community corrections restriction may apply while under community supervision.

20.17(4) General requirements for all three programs.

a. Participation in any of these programs at any level is a privilege, not a right, of which participating offenders incarcerated individuals are subject to and held accountable for all provisions of this policy as well as the specific program plan.

b. No change.

c. Offenders incarcerated individuals must be furlough-eligible in accordance with furlough eligibility standards in DOC policy IS-RL-04 and administrative rule ~~20.12(904)~~ 201—20.12(904).

d. and *e.* No change.

f. The offender incarcerated individual may be required to submit to periodic or regular U.A. Testing (this procedure may be completed at any correctional institution, community corrections facility/office, or at the residence).

g. and *h.* No change.

i. Contact frequency. A minimum of one home visit and one other face-to-face contact per month is required of staff. Furthermore, a sufficient number of collateral contacts will be made each month to ensure that the offender incarcerated individual is meeting requirements of the program plan.

j. Special needs. In situations where offenders incarcerated individuals or the family have special needs, a case planning system shall be incorporated to address needs, capabilities, and specific goals. Special attention shall be given to past or immediate problems.

- k. No change.
- l. Temporary absence. Offenders Incarcerated individuals may temporarily leave the residence for necessary purposes such as shopping, religious services, family recreation, medical appointments, employment, etc., as indicated on the plan.

20.17(5) Application procedures.

- a. to c. No change.
- d. The classification committee's recommendation must be approved by the ~~warden/superintendent~~ warden.
- e. If approved by the ~~warden/superintendent~~ warden, the recommendation and all pertinent information shall be forwarded to the institutional deputy director for final approval.
- f. If the recommendation is approved by the institutional deputy director, the ~~offender~~ incarcerated individual must agree to abide by all rules established in the program plan including institutional rules and community corrections rules as well as all local, state, and federal laws.
- g. No change.
- h. Offenders Incarcerated individuals placed in any of these programs will not be relieved of paying restitution or any other financial obligation as required by the court or institution.

20.17(6) No change.

20.17(7) Program activity. This rule does not create any liberty interest in the ~~offender's~~ incarcerated individual's continued participation in any of the programs at any level listed under this rule, and the department of corrections or its designee(s) reserves the right to revoke, suspend, or limit/restrict program activity from the listed programs for any reason, without hearing.

20.17(8) Waiver of liberty interests. As a condition for an ~~offender~~ incarcerated individual to participate in any of the programs at any level listed under this rule, the ~~offender~~ incarcerated individual must voluntarily waive any and all liberty interests to a hearing should the department exercise its right to revoke, suspend or limit/restrict program activity. This waiver must be signed prior to an ~~offender's~~ incarcerated individual's acceptance into a program. The signed waiver shall remove any and all rights to due process should the department exercise its right to revoke, suspend or limit/restrict program activity.

This rule is intended to implement Iowa Code section 904.910.

ITEM 32. Rescind and reserve rule **201—20.18(904)**.

ITEM 33. Amend rule 201—20.20(904) as follows:

201—20.20(904) Offender Incarcerated individuals' telephone commissions.

20.20(1) Definitions.

"*Corrections board*" means the department of corrections board.

"~~Deputy director~~ *Financial manager of administration*" means the person responsible for budgeting and planning.

"*Director*" means the chief executive officer of the department of corrections.

"~~Regional deputy~~ *Deputy director of institutions*" means the person responsible for ~~regional~~ operation of ~~both institution and community corrections services in either the eastern or western portions of Iowa.~~

"~~Warden/superintendent~~ *Warden*" means the chief executive officer of the institution or correctional facility.

20.20(2) Deposit of funds. The department of corrections shall deposit and account for all telephone commissions in a clearing account within the central office. The ~~deputy director~~ financial manager of administration will determine commissions generated by each institution, based on a report from the vendor, for deposit in the institution's ~~offender~~ telephone rebate fund for incarcerated individuals.

20.20(3) Request for funds. Each ~~warden/superintendent~~ warden will determine recurring needs and special projects and submit a written proposal to the ~~respective regional~~ deputy director of institutions for all expenditures and encumbrances.

20.20(4) Review and approval of expenditures. The ~~regional~~ deputy director of operations and the ~~deputy director~~ financial manager of administration will review the proposals for a quarterly presentation by the director to the corrections board for approval. The director will notify the chairpersons and ranking members of the justice system's appropriations subcommittee of the proposals prior to the corrections board approval. All expenditures and encumbrances shall require prior approval from the corrections board and the ~~respective regional~~ deputy director of operations. Institutions shall not be allowed to encumber or expend funds without approval. Revenues generated by telephone commissions at each institution shall be used to determine the availability of funds for each project.

20.20(5) Permitted expenditures. The director shall advance to the corrections board for approval only projects that benefit ~~offenders~~ incarcerated individuals. Expenditures may include, but are not limited to, projects that provide educational, vocational or recreational services or projects, or work or treatment programs for ~~offenders~~ incarcerated individuals. Expenditures may also be used to initiate new programs, services, or projects. Institutions shall give spending priority to programs, services, and projects that promote the health and welfare of ~~offenders~~ incarcerated individuals.

This rule is intended to implement Iowa Code section 904.508A.

ITEM 34. Amend rule 201—38.2(692A,903B) as follows:

201—38.2(692A,903B) Electronic monitoring. It is the intent of the Iowa department of corrections that the electronic monitoring system (EMS) shall be used to enhance public safety. Appropriate levels of EMS should be used to verify the location and restrict the movement of sex offenders based upon a validated risk assessment, the sex offender's criminal history, progress in treatment and supervision, and other relevant factors. EMS is additionally governed by the provisions of department of corrections policy OP-SOP-06.

38.2(1) Definitions.

"*Electronic monitoring system*" or "*EMS*" is a term used collectively for technology that determines the location of ~~offenders~~ clients who have restricted movement while being supervised in their respective community. EMS ~~may also incorporate the ability to conduct random substance abuse testing.~~

"*Offender Client*" means a person who is required to register with the Iowa sex offender registry.

38.2(2) Selection of offenders clients for EMS. All ~~offenders~~ clients on supervision for a current sex offense who are required to be registered as a sex offender under Iowa Code chapter 692A shall be placed on EMS immediately after assignment to supervision. This level may be changed based on risk assessment.

38.2(3) Risk assessment instrument. ~~All required risk~~ Risk assessments used shall be ~~conducted utilizing the risk assessment instruments outlined below as validated and approved by the department of corrections with collaborative input from the judicial districts and other affected stakeholders.~~ The risk assessment should be completed within 30 days prior to the ~~offender's~~ incarcerated individual's release from custody or upon the ~~offender's~~ incarcerated individual's/client's placement on probation, parole, or work release.

a. —Statie 99—revised. Designed for adult male sex offenders aged 18 and over and juvenile male offenders waived to adult court who have a specific identified victim.

b. —ISORA. Designed for adult male and female sex offenders aged 18 and over who may or may not have a specific identified victim.

c. —Stable 2007. Designed to assess dynamic risk factors for sex offense recidivism for the purpose of treatment, supervision, and monitoring of sex offenders primarily on community correctional supervision.

d. —Level of service inventory—revised. A quantitative risk assessment instrument to determine the offender's criminogenic risk, programming needs and the required level of service.

38.2(4) Notification of victims. ~~A~~ The supervising judicial district department of correctional services shall notify a registered victim regarding a sex offender who is convicted of a sex offense against a minor and who is under the supervision of a judicial district department of correctional services of the following:

a. The beginning date for use of an electronic tracking and monitoring system to supervise the sex offender and the type of electronic tracking and monitoring system used.

b. The date of any modification to the use of an electronic tracking and monitoring system and the nature of the change.

NOTE: Notification includes the initial notification to victims of the date that ~~an offender~~ a client has been placed on an electronic monitoring device, notification as to the date an electronic monitoring device was changed with greater or less monitoring capabilities (GPS to radio frequency or radio frequency to GPS), and notification as to the date the ~~offender~~ client was removed from an EMS.

38.2(5) No change.

ITEM 35. Amend rule 201—38.4(903B) as follows:

201—38.4(903B) Hormonal intervention therapy.

38.4(1) *Affected offenders clients.* All ~~offenders~~ clients convicted of a “serious sex offense” in which the victim was a child who, at the time the offense was committed, was 12 years of age or younger; or ~~offenders~~ clients convicted of a second or subsequent offense may be required to undergo hormonal intervention therapy as ordered by the court or board of parole in accordance with the provisions of ~~1998 Iowa Acts, Senate File 2398, section 21~~ Iowa Code section 903B.10.

38.4(2) *Agency responsibility.* The department of corrections, judicial districts’ departments of correctional services, and the board of parole responsibilities are defined in ~~1998 Iowa Acts, Senate File 2398, section 21~~ accordance with the provisions of Iowa Code section 903B.10.

38.4(3) *Assessment of affected offenders clients.*

a. *Psychosexual assessment.* A psychosexual assessment shall be conducted on all “affected” ~~offenders~~ clients, as a part of the presentence investigation (PSI) prior to sentencing or upon entry into judicial district department of correctional services supervision or institutional placement if a referral for hormonal intervention therapy is being made.

(1) The psychosexual assessment shall be conducted by or under the direction of:

- A licensed psychologist; or
- A person specifically trained and experienced in the professional administration, scoring and interpretation of psychological tests (graduate level coursework in testing and assessment); or
- A staff member ~~that~~ who meets the experience and educational requirements of the Iowa department of ~~personnel~~ administrative services or Iowa community-based corrections psychologist classification.

(2) No change.

(3) The assessment shall follow the ~~department of corrections~~ statewide standardized format and shall include a determination as to the need and effectiveness of hormonal intervention therapy as well as treatment recommendations.

b. *Medical assessment.* If hormonal intervention therapy is recommended as an appropriate treatment component, the ~~offender~~ client shall receive a medical assessment to determine biological factors as related to hormonal intervention therapy.

38.4(4) No change.

38.4(5) *Educational/treatment programming.*

a. Hormonal intervention therapy is to be utilized in conjunction with a sex offender ~~educational/treatment~~ treatment program (SOTP). The ~~offender~~ client should be involved in concurrent cognitive-behavioral treatment. In all cases where the treatment plan includes hormonal therapy, the plan shall also include monitoring and counseling.

b. All institutional or community-based corrections ~~SOTP programs~~ SOTPs shall meet the current Iowa board for the treatment of sexual abusers (IBTSA) standards ~~dated March 2006~~.

38.4(6) *Application of hormonal therapy.*

a. *Utilization of hormonal therapy.*

(1) Therapy shall utilize medroxyprogesterone acetate (MPA) or other approved pharmaceutical agents.

(2) Therapy shall be initiated as soon as reasonably possible after the ~~offender~~ client is sentenced.

1. If the offender client is incarcerated within a local jurisdiction (jail, residential facility), the judicial district department of correctional services shall coordinate initiation of treatment prior to the release of the offender client from custody.

2. If the offender client is incarcerated within the department of corrections, initiation of treatment shall be determined by department of corrections medical staff.

(3) Requests for hormonal therapy by the offender client when the aforementioned criteria are not met shall be reviewed for consideration by the agency of jurisdiction.

(4) No change.

b. Monitoring/termination of hormonal therapy.

(1) Monitoring. The agency of jurisdiction shall continue to monitor the offender's client's therapy throughout the offender's client's confinement or supervision. The agency of jurisdiction may adjust medication, initiate other medication, or continue prescribed therapy with medical approval.

(2) No change.

38.4(7) *Offender Client fees.* Offenders Clients are required to pay a reasonable fee for the costs related to hormonal therapy. Offender Client fees shall be based on the offender's client's ability to pay as determined by the supervising office statewide client fee policy.

38.4(8) *Maintenance/transfer of records.* Offender Client file information shall be available and shared upon request between responsible agencies including court of jurisdiction.

ITEM 36. Amend **201—Chapter 38**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~chapter~~ chapters 692A as amended by 2009 Iowa Acts, Senate File 340, and Iowa Code ~~chapter~~ 903B.

ITEM 37. Amend rule **201—40.1(905)**, definitions of “Deputy director” and “Medical practitioner,” as follows:

“*Deputy director*” shall mean the ~~respective regional~~ deputy director for community-based corrections (CBC) of the department of corrections.

“*Medical practitioner*” means medical doctor, osteopathic physician ~~or physician's~~, physician assistant or nurse practitioner.

ITEM 38. Amend subrule 40.2(4) as follows:

40.2(4) The biennial team review shall include a complete review of the following:

a. and *b.* No change.

c. Programs mandated by the Code of Iowa and any special programs approved by the department of corrections. Programs shall comply with program specific standards developed and approved by the department of corrections with collaborative input from the judicial districts and other affected stakeholders, i.e., domestic abuse, sex offender treatment, and intensive supervision program.

d. No change.

e. Any regular or special evaluations of the services provided by the district department.

The biennial review shall be conducted as provided in the “accreditation standards for community-based corrections” and any program specific standards which shall be open for public inspection at the offices of the department of corrections. A proposed draft of these standards will be made available to the districts 180 days prior to the biennial review. The accreditation and program specific final standards, and any changes in the standards, shall be made available to the district departments at least 90 days before the biennial review.

ITEM 39. Amend subrule 40.4(12) as follows:

40.4(12) Through their approval, the director, Iowa department of corrections, and the Iowa corrections board shall ensure that the director of the district department of correctional services, of districts authorized to carry firearms, has written standards and procedures which regulate the safe conveying and use of firearms. The standards shall include, but not be limited to, the following:

a. to *e.* No change.

f. Any officer who discharges a weapon shall submit a written report of the incident through the department of corrections critical incident reporting policy. The judicial district director shall file a report

of the incident, the investigation, and the results of the investigation with the regional deputy director of CBCs within five days of the occurrence.

~~g. No officer shall be required to carry a firearm, and such refusal shall not affect job assignments, promotion consideration, or employment possibility.~~

~~h. g. Firearms shall be secured under lock and key when not in use in a location inaccessible to nonauthorized personnel.~~

ITEM 40. Amend rule 201—40.5(905) as follows:

201—40.5(905) District director.

40.5(1) The department shall have procedures governing the personnel employed by the judicial district, and a system of fiscal accountability which assures ensures compliance with the requirements of the department of corrections and the Code of Iowa.

40.5(2) The director shall ~~acquire current copies of~~ provide electronic access to the Code of Iowa and supplements thereof, the Iowa Administrative Code, and applicable federal regulations and shall prepare and maintain current a department of correctional services policies and procedures manual which shall include, but not be limited to, the following:

a. to f. No change.

40.5(3) The department shall ensure that an employee manual is readily accessible to all employees and shall include information which provides necessary guidance for the performance of the duties outlined in the employee's job description, personnel policies and procedures, and employee rights and responsibilities.

a. No change.

b. The district department shall enter and maintain information required by the department of corrections statewide database application called the Iowa corrections offender network (ICON). That information will include all details necessary for the department of corrections to generate accurate and timely periodic statistical reports of district department, pretrial release, presentence investigations, field services workloads, residential facility occupancy, and specially funded treatment/monitoring programs. The district department shall devise and implement local policies and procedures to provide adequate training and support of data entry personnel and other end users, regularly audit data entry accuracy and timeliness and correct inaccurate or incomplete information discovered during that auditing process.

40.5(4) to 40.5(7) No change.

40.5(8) The district department shall establish fiscal procedures in accordance with guidelines established by the department of corrections to ensure that funds generated from programs financed with state moneys or moneys collected by the use of state allocations be identified and expended to offset program costs as described and approved in the state purchase of service contract. All funds received by the district department and their source shall be reported to the department of corrections. All fund balances for the current fiscal year shall be reported by the district departments to the department of corrections on December 31, March 31, and June 30, and for both fiscal years on September 30 quarterly on specific due dates. Funds so generated shall be expended during the fiscal year in which they are collected. However, such funds not expended during the fiscal year will be utilized by the judicial district department of correctional services to reduce budget requests for the subsequent fiscal year, ~~with the exception of the discretionary funds identified in the following paragraph~~. All funds shall be applied as budgeted or be utilized as discretionary program funds with the approval of the department of corrections before applying other funds to an expenditure.

~~Commencing with fiscal year 1987, the district department may apply 50 percent of the growth in local funds earned over the average of the previous two fiscal years to discretionary programs in the following fiscal year with department of corrections approval. Additionally, local funds in excess of 10 percent of the purchase of service contract budget may be applied to discretionary programs by the district department in the following fiscal year with department of corrections approval. The total funds which may be carried over for discretionary purposes and not utilized to reduce the subsequent year's budget request shall not exceed 1 percent of the district department's purchase of service contract budget.~~

40.5(9) The district director shall administer the community-based corrections personnel classification system established by the district departments and the department of corrections and shall adhere to all salary ranges, policies, and procedures established for the purpose of implementing and maintaining the community-based corrections personnel classification system manual.

The district director shall administer the collective bargaining contract and adhere to all policies and procedures established by the department of corrections and department of ~~personnel~~ administrative services for contract administration.

Employee positions utilized by the district department shall be approved by the district board and the department of corrections through the purchase of service agreement. Any changes in the number and classification of positions authorized in the purchase of service agreement shall be approved by the district board and the department of corrections.

40.5(10) The district director shall administer preemployment testing to determine the suitability of applicants for corrections positions in district departments of correctional services in compliance with the Code of Iowa. Applicants, pursuant to the Code of Iowa, must satisfactorily complete ~~psychological and cognitive testing~~ mental fitness testing as approved by the department of corrections prior to hire. In addition, a background investigation and criminal records check will be completed on all hires.

ITEM 41. Amend rule 201—41.1(811,905) as follows:

201—41.1(811,905) Pretrial services.

41.1(1) The district department shall designate the staff responsible for providing pretrial ~~interviews~~ assessments and release with services programs.

41.1(2) No change.

41.1(3) The district department shall have policies and procedures ~~assuring~~ ensuring daily staff ~~contact with~~ availability for all jails in the district for the purpose of determining the presence of persons eligible for a pretrial ~~interview~~ assessment and shall have policy ~~assuring~~ ensuring that all eligible persons are provided an ~~interview~~ assessment without unnecessary delay.

41.1(4) The district department shall have written policies establishing uniform, validated criteria, as approved by the department of corrections with collaborative input from the judicial districts and other affected stakeholders for screening pretrial release candidates, which require consideration of those items contained in Iowa Code section 811.2.

41.1(5) and **41.1(6)** No change.

41.1(7) The district department shall have written policies and procedures governing the supervision of persons released to ~~assure~~ ensure that adequate supervision is provided.

41.1(8) The district department shall have written policies and procedures governing the notification of the agent or agencies responsible for correctional clients who receive pretrial ~~interviews~~ assessments.

41.1(9) No change.

ITEM 42. Amend rule 201—41.2(901,905) as follows:

201—41.2(901,905) Presentence investigation.

41.2(1) and **41.2(2)** No change.

41.2(3) The district department shall have written policies and procedures which ensure that the presentence investigation report includes an identification of client needs, protective factors and the results of a validated risk assessment as approved by the department of corrections with collaborative input from the judicial districts and other affected stakeholders.

41.2(4) and **41.2(5)** No change.

41.2(6) The district department shall have written policies and procedures concerning the content of presentence investigations ordered by the judiciary when the offense is ~~a serious~~ an aggravated misdemeanor or higher.

ITEM 43. Amend rule 201—42.1(907,908,910) as follows:

201—42.1(907,908,910) Probation.

42.1(1) No change.

42.1(2) The district department shall have written policies and procedures which ensure that a an electronic case record is maintained on each client under supervision.

42.1(3) The district department shall have uniform written policies and procedures governing the classification and supervision of probationers ~~which is in compliance with the classification system established by the eight district departments and approved by the department of corrections.~~

42.1(4) The district department shall have uniform written policies and procedures which ensure that ~~a case auditing system is developed and utilized according to established auditing standards which shall include a Level of Service Inventory Revised (LSI-R), CMC/Jesness and Case File Audit System. The district department shall~~ the use of the statewide case management system to ensure so that offender client risk, and criminogenic needs and protective factors are identified and addressed in an effort to lower risk and reduce victimization using the approved uniform and validated risk/needs assessment instruments. The system should be designed to focus the majority of resources on moderate- and high-risk offenders and shall include the following elements: ongoing risk and need assessment, responsivity, case planning, case plan follow-up and documentation, transfer of records, staff training, and continuous quality assurance improvement. ~~Districts shall ensure that all case management staff, i.e., staff whose job duties include administering the LSI-R or using the LSI-R to develop case plans, become certified to administer and score the LSI-R.~~

42.1(5) to 42.1(16) No change.

42.1(17) The district department shall have written policies and procedures to prevent the transmission of contagious infectious disease in compliance with Iowa Code section 905.15.

This rule is intended to implement Iowa Code chapters 905 and 907 and sections 908.11 and 910.5.

ITEM 44. Amend rule 201—43.1(905,907,908,910) as follows:

201—43.1(905,907,908,910) Residential facilities.

43.1(1) The facility shall admit residents ~~only on an order of the~~ in accordance with the correctional continuum, court or in accordance with a order, release order from board of parole, or purchase of service agreement contract with the department of corrections, federal correctional agencies or a county board of supervisors.

43.1(2) At the time of intake, the facility staff shall discuss with each resident, program goals, services available, rules governing conduct in the facility, disciplinary procedures, client fiscal management and residents' rights, ~~and communication privileges~~ and all federal Prison Rape Elimination Act (PREA) orientation and education standards and shall obtain written documentation from the resident that these matters were discussed.

43.1(3) and 43.1(4) No change.

43.1(5) ~~The district department shall have written policies and procedures which ensure that an individual case plan is maintained on each resident which includes an assessment of client needs and resources utilized to meet those needs.~~

43.1(6) **43.1(5)** The district department shall have written policies which establish facility rules, possible sanctions, ~~and appeal procedures~~ and PREA standards that comply with all federal standards for all residents.

43.1(7) **43.1(6)** The district department shall have written policies which establish a grievance procedure for residents which applies to activities other than disciplinary action.

43.1(8) **43.1(7)** The district department shall have written policies and procedures establishing criteria governing the use of and reporting of the use of physical force by facility staff which conform to appropriate statutes or regulations.

43.1(9) **43.1(8)** The district department shall have written policies and procedures for searching residents and their property and for seizure of resident property or contraband.

~~43.1(10)~~ **43.1(9)** The district department shall have a written policy which ensures that at least one staff member is awake, dressed, in the facility, and readily available to residents 24 hours a day. Facility staff shall know the whereabouts of all residents.

~~43.1(11)~~ **43.1(10)** The district department staff shall ~~assure~~ ensure the provision and maintenance of a safe environment for the residents, including compliance with fire, building, health, and safety regulations or standards applicable in the local jurisdiction.

~~43.1(12)~~ **43.1(11)** Infectious disease.

a. In compliance with Iowa Code section 905.15, the district department shall have written policies and procedures to prevent the transmission of contagious infectious disease, including notification to facility personnel if any person committed to the facility is found to have a contagious infectious disease.

b. The district department shall ~~provide~~ refer for a medical examination of any resident suspected of having a communicable disease, which safeguards both residents and employees. Employees who contract a communicable disease, except common colds, should not be permitted to work in a facility until the danger of contagion is ended. For purposes of this rule, communicable disease shall mean any disease which is transmittable from one person to another and is either temporarily or permanently debilitating.

~~43.1(13)~~ **43.1(12)** The district department shall have written policies and procedures which govern the medical care of residents in case of emergencies, sudden illnesses, or accidents.

~~43.1(14)~~ **43.1(13)** The district department shall have written policies and procedures governing the method of handling prescription and nonprescription drugs.

~~43.1(15)~~ **43.1(14)** The district department shall have written policies and procedures which ~~assure~~ ensure that all residents have access to three meals a day during the week and two meals on weekend days and that meals provided at the facility meet recognized minimum daily nutritional requirements.

~~43.1(16)~~ **43.1(15)** The district department shall have written policies which ensure that if food service is provided, all facilities including kitchen equipment and food handlers comply with applicable health and safety laws and regulations as evidenced by a certificate of rating from the Iowa department of agriculture and land stewardship or local restaurant inspection unit.

~~43.1(17)~~ **43.1(16)** The district department shall have written policies and procedures that are consistent with risk reduction for recommending ~~the~~ removal and revocation of resident status at the facility.

~~43.1(18)~~ **43.1(17)** The district department shall have written policies and procedures for discharge from the facility and which require a recommendation for discharge when it is clear that the resident has met the requirements of the court, is no longer believed to be a threat to the community, or cannot benefit substantially from further supervision.

~~43.1(19)~~ **43.1(18)** The district department shall have written policies and procedures which ensure ~~that a case auditing system is developed and utilized according to established auditing standards which shall include a Level of Service Inventory Revised (LSI-R), CMC/Jesness and Case File Audit System.~~ The district department shall the use of the statewide case management system to ensure so that offender client risk, and criminogenic needs and protective factors are identified using the approved uniform and validated risk/needs assessment instruments and are addressed in an effort to lower risk and reduce victimization. The system should be designed to focus the majority of resources on moderator-moderate- and high-risk offenders clients and shall include the following elements: ongoing risk and need assessment, responsivity, case planning, case plan follow-up and documentation, transfer of records, staff training, and continuous quality assurance improvement. Districts shall ensure that all case management staff, i.e., staff whose job duties include administering the LSI-R or using the LSI-R to develop case plans, become certified to administer and score the LSI-R.

~~43.1(20)~~ Rescinded IAB 12/8/04, effective 1/12/05.

This rule is intended to implement Iowa Code section 907.3 and chapters 905, 908 and 910.

ITEM 45. Amend rule 201—44.1(904) as follows:

201—44.1(904) Administration.

44.1(1) No change.

44.1(2) Facility requirements.

a. The facility staff shall ~~assure~~ ensure the provision and maintenance of a safe environment for the residents. Each facility shall comply with fire, building, health and safety regulations or standards applicable in the local jurisdiction.

b. The district department shall have written policy which ensures that at least one staff member is ~~awake, dressed and~~ readily available to residents 24 hours a day in each work release facility.

c. to e. No change.

f. The district departments shall have ~~uniform~~ written policies and procedures for the ~~inventory and recording control~~ of a work release resident's property.

g. and h. No change.

i. The district departments shall have written policies and procedures which establish compliance with all federal PREA standards.

44.1(3) Admission.

a. The district departments shall admit residents in accordance with ~~a contract~~ the purchase of service agreement with the department of corrections or federal correctional agencies.

b. At the time of intake, the facility staff shall discuss with each resident program goals, services available, rules governing conduct in the facility, disciplinary procedures, client fiscal management and residents' responsibilities, rights, and communication privileges, and all federal PREA orientation and education standards and shall obtain written documentation from the resident that these matters were discussed.

44.1(4) No change.

44.1(5) Records.

a. No change.

b. The district departments shall maintain a case record for each client under supervision which shall include, when applicable, the following: (1) Identification data, (2) institutional information packet, (3) case plan, (4) restitution plan, (5) work release plans, (6) ~~chronological records~~ generic notes, (7) disciplinary reports, (8) hold orders, (9) transfer reports, (10) parole progress reports, (11) signed release of information forms, ~~(12) inventory sheets,~~ and ~~(13)~~ (12) discharge reports.

Written procedures shall exist at the facility concerning the security, maintenance, accessibility, closure and destruction of said case records.

c. The district department shall have uniform written policies and procedures which ensure ~~that a case auditing system is developed and utilized according to established auditing standards which shall include a Level of Service Inventory Revised (LSI-R), CMC/Jesness and Case File Audit System.~~ The district department shall the use of the statewide case management system to ensure so that offender client risk, and criminogenic needs and protective factors are identified using the approved uniform and validated risk/needs assessment instruments and are addressed in an effort to lower risk and reduce victimization. The system should be designed to focus the majority of resources on moderate- and high-risk ~~offenders~~ clients and shall include the following elements: ongoing risk and need assessment, responsivity, case planning, case plan follow-up and documentation, transfer of records, staff training, and continuous quality assurance improvement. ~~Districts shall ensure that all case management staff, i.e., staff whose job duties include administering the LSI-R or using the LSI-R to develop case plans, become certified to administer and score the LSI-R.~~

~~d. The district department shall have written policies and procedures which ensure that a case auditing system is developed and utilized according to established auditing standards which shall include the CMC Audit System and a Case File Audit System.~~

ITEM 46. Amend rule 201—44.2(904) as follows:

201—44.2(904) Provision of services.

44.2(1) No change.

44.2(2) Food service.

a. The district department shall have policies and procedures which ~~assure~~ ensure that all work release residents have access to three meals a day during the week and two meals on weekend days and that meals provided at the work release facility meet recognized minimum daily nutritional requirements.

b. The district department shall have written policies which ensure that if food service is provided, all facilities including kitchen equipment and food handlers comply with applicable health and safety laws and regulations as evidenced by a certificate of rating from the Iowa department of agriculture and land stewardship or local restaurant inspection unit.

44.2(3) Medical service.

a. The district department shall ~~provide~~ refer for a medical examination of any work release resident suspected of having a communicable disease, which safeguards both residents and employees. Employees who contract a communicable disease, except common colds, should not be permitted to work in a facility until the danger of contagion is ended. For purposes of this rule, communicable disease shall mean any disease which is transmittable from one person to another and is either temporarily or permanently debilitating.

b. and c. No change.

d. ~~All personnel shall furnish a statement from a valid medical practitioner or registered nurse prior to starting employment, stating that they are in good health, able to perform the duties required and free from any communicable disease that could reasonably be determined to represent a public health hazard. In compliance with Iowa Code section 905.15, the district department shall have written policies and procedures to prevent the transmission of contagious infectious disease. Notification to facility personnel is required if any person committed to the facility is found to have a contagious infectious disease.~~

44.2(4) Visitation. The district department shall have written policies and procedures which provide for visitation, but visiting privileges may be limited to the extent necessary for security and management reasons.

44.2(5) No change.

ITEM 47. Amend rule 201—44.3(910) as follows:

201—44.3(910) Restitution.

~~44.3(1) Restitution plan of payment. There~~ The district departments shall be a have a policy and procedure for restitution plan of payment developed on those work releasees who have been court ordered to pay restitution unless the court ordered restitution plan of payment has been completed. Factors which must be considered in developing the restitution plan of payment are: The restitution policy and procedure shall be administered in accordance with local judicial procedure and the Code of Iowa.

~~a. Present income/employment~~

~~b. Physical/mental health~~

~~c. Education~~

~~d. Financial situation~~

~~e. Family circumstances~~

~~The district department shall have written policies and procedures governing the development and modification of the restitution plan of payment. Final approval of the restitution plan of payment shall be by the district director.~~

~~The approved restitution plan of payment shall be forwarded to the appropriate clerk of court by the district department or to the person responsible for collection if collections are performed by the district department.~~

44.3(2) Compliance.

a. and b. No change.

c. The district department ~~will~~ shall provide statements to the appropriate clerks of court when community service is ordered in lieu of financial restitution.

ITEM 48. Amend rule 201—44.6(904) as follows:

201—44.6(904) Violations.

44.6(1) *Preplacement violations.* When disciplinary problems occur with residents who have been approved for work release but not yet placed, designated staff shall determine whether or not the situation is serious enough to warrant further review by the board of parole. Designated staff herein shall mean authorized persons from the judicial district department of correctional services, ~~the community services division~~ or the sending institution.

44.6(2) No change.

44.6(3) *Request for temporary custody.* Requests for temporary custody in a county jail or municipal holding facility may be issued by an authorized staff person of the district department of correctional services, in those cases where the resident is considered dangerous, likely to flee or in serious violation of the work release program. The requests shall be consistent with department of corrections policy.

44.6(4) to 44.6(6) No change.

44.6(7) *Special transfers.* Transfers from one facility to another or from a facility to ~~the~~ a designated Iowa ~~medical and~~ classification center may be allowed in special circumstances with the approval of the department of corrections.

ITEM 49. Amend rule 201—44.9(904,910) as follows:

201—44.9(904,910) Home work release. Pursuant to Iowa Code section 904.901, home work release provides the opportunity in exceptional circumstances for qualified ~~offenders~~ clients of correctional institutions to return to their homes ~~and care for dependent children under the age of 18.~~

44.9(1) *Administration.*

a. No change.

b. *Housing requirements.* The physical structure shall provide for adequate space, meet basic sanitary requirements and be in good repair. A functional telephone will be ~~maintained~~ available to the client in the residence at all times. The residence shall not be occupied by persons outside the nuclear family except in rare instances where financial considerations are a factor and prior approval has been granted by the board of parole or the deputy director.

c. to e. No change.

f. *Records.*

(1) No change.

(2) The district department shall maintain a case record for each home work releasee under supervision which shall include, when applicable, the following:

1. Identification date,
2. Institutional information packet,
3. Case plan,
4. Restitution plan,
5. Work release plans,
6. ~~Chronological records~~ Generic notes,
7. Disciplinary reports,
8. Hold orders,
9. Transfer reports,
10. Parole progress reports,
11. Signed release of information forms, and
- ~~12. Inventory sheets, and~~
- ~~13.~~ 12. Discharge reports.

The district department shall have written procedures concerning the security, maintenance, accessibility, closure and destruction of said case records.

(3) The district departments shall have written policies and procedures which ensure that an individual case plan is maintained on each work release resident which includes an a uniform, validated assessment of client needs risk, protective factors, and resources utilized to meet those needs.

44.9(2) No change.

44.9(3) *Home work releasee finances.* The home work releasee shall assume total financial responsibility, including medical expenses, for ~~their~~ releasee care and the care of ~~their~~ the releasee's minor dependent children. Neither the department of corrections nor the district department shall incur any expense on the part of the home work releasee or dependents.

44.9(4) *Violations.*

a. *Preplacement violations.* When disciplinary problems occur with ~~offenders~~ clients who have been approved for home work release but not yet placed, designated staff shall determine whether or not the situation is serious enough to warrant further review by the board of parole. Designated staff herein shall mean authorized persons from the judicial district department of correctional services, the community services division or the sending institution.

b. No change.

c. *Requests for temporary custody.* Requests for temporary custody in a county jail or municipal holding facility may be issued by an authorized staff person of the district department of correctional services, in those cases where the home work releasee is considered dangerous, likely to flee or in serious violation of the work release program and shall be consistent with department of corrections policy.

d. to g. No change.

44.9(5) No change.

ITEM 50. Amend rule 201—45.1(906) as follows:

201—45.1(906) Administration.

45.1(1) *Supervision.* Persons committed to the director of the department of corrections and granted parole by the Iowa board of parole shall be supervised by the judicial district departments of correctional services. The district departments shall impose conditions of parole as contained in rule 201—45.2(906).

45.1(2) *Effective date/parole agreement.*

a. Parole is effective only upon the acceptance of the terms of parole as evidenced by the signing of the standard parole agreement form by the parolee before a district department employee. ~~In the event that emergency procedures are effected to reduce the institutional population, institutional staff shall authorize a temporary agreement by having the offender sign the standard form prior to leaving the institution. The temporary agreement shall be forwarded to the supervising parole agent who may revise the agreement in accordance with rule 45.2(906).~~ The parole agreement shall be issued only upon the written order of the board of parole and shall not be issued prior to the establishment of an approved parole plan. The parolee may not be released on parole prior to the execution of the parole agreement. The parole agreement shall contain the conditions of parole pursuant to rule 201—45.2(906) and shall contain the parolee's reporting instructions.

b. The district department shall have written uniform policies and procedures which ensure ~~that a case auditing system is developed and utilized according to established auditing standards which shall include a Level of Service Inventory-Revised (LSI-R), CMC/Jesness and Case File Audit System.~~ The district department shall the use of the statewide case management system ~~to ensure so that offender client risk, and criminogenic needs and protective factors are identified using the approved uniform and validated risk/needs assessment instruments and are addressed in an effort to lower risk and reduce victimization.~~ The system should be designed to focus the majority of resources on moderate- and high-risk ~~offenders~~ clients and shall include the following elements: ongoing risk and need assessment, responsivity, case planning, case plan follow-up and documentation, transfer of records, staff training, and continuous quality assurance improvement. ~~Districts shall ensure that all case management staff, i.e., staff whose job duties include administering the LSI-R or using the LSI-R to develop case plans, become certified to administer and score the LSI-R.~~

c. The district department shall have written policies and procedures to ensure the delivery of parole services which are consistent with statewide policy and expectations.

~~45.1(3) and 45.1(4) No change.~~

~~45.1(5) Parole release funds. Offenders Clients approved for parole will receive clothing or a clothing allowance, money and transportation in accordance with the provisions of Iowa Code section 906.9.~~

~~45.1(6) to 45.1(8) No change.~~

~~45.1(9) Parole relief fund. Rescinded IAB 10/2/91, effective 9/13/91.~~

ITEM 51. Amend rule 201—45.2(906) as follows:

201—45.2(906) Conditions of parole.

~~45.2(1) Standard conditions. The following are standard conditions of parole supervision applicable to all parolees. The district department shall have all persons on parole sign conditions of parole that are consistent with the standard conditions as established and approved by the board of parole. Standard conditions are applicable to all parolees.~~

~~a. The parolee shall obey all federal, state and local laws and ordinances.~~

~~b. In the event of any arrest or citation, the parolee shall notify the district department of the arrest or citation within 24 hours.~~

~~c. The parolee shall secure and maintain employment as approved by the district department. The parolee shall obtain advance permission from the district department before changing or quitting a job. If the parolee is fired or laid off, the parolee shall notify the district department within 24 hours. If the parolee is unemployed, every effort shall be made to obtain employment, and such efforts shall be reported to the district department as directed.~~

~~d. The parolee will be restricted to the county of residence unless prior permission to travel has been granted by the district department or otherwise in accordance with the parole agreement. The parolee will secure advance written permission which may be a part of the parole agreement, from the district department before traveling outside the state of residence.~~

~~e. The parolee shall obtain prior permission from the district department before changing residence.~~

~~f. The parolee shall maintain contact with the district department as directed by the district department or the department of corrections.~~

~~g. The parolee shall maintain and, upon request, present proof of adequate liability insurance or proof of financial responsibility and a valid driver's license before owning or operating a motor vehicle.~~

~~h. The parolee shall not own, possess, use or transport firearms or other dangerous weapons or imitation thereof.~~

~~i. The parolee shall cooperate in any treatment/rehabilitation/monitoring program as specified by the district department.~~

~~j. The parolee will make payments as directed by the restitution plan of payment.~~

~~45.2(2) Special conditions. Special conditions may be imposed at any time and shall only be imposed in accordance with the needs of the case as determined by the judicial district department of corrections, the department of corrections or the Iowa board of parole. Special conditions shall be handled in the following manner.~~

~~a. Deletions. Immediately following the When a condition is being deleted, the deletion shall be clearly noted on all copies of the parole agreement. Both the parolee and district department staff shall sign the notation of deletion including the date of the deletion and shall upload the updated agreement into the appropriate Iowa corrections offender network (ICON) module(s). The district supervisor district director or designee and the board of parole shall be immediately informed of the deletion in writing notified of those deletions required by local policy and board of parole administrative rules.~~

~~b. Additions. Additional conditions may be imposed. The When a condition(s) is added, the additional conditions condition(s) shall be clearly indicated on all copies of the parole agreement and shall be signed and dated by the parolee and the supervising agent, and the updated agreement shall~~

be uploaded into the appropriate ICON module(s). ~~The department of corrections district director or designee and the parole board shall be notified of additional conditions~~ condition(s) in writing.

ITEM 52. Amend subrule 45.4(1) as follows:

45.4(1) Offenses. The district department may at any time report violations of the conditions of parole to the board of parole.

~~Within ten calendar five business days of receipt of knowledge of the commission of certain required reportable violations, listed below as designated by the board of parole, the supervising officer shall make written report to the board of parole of the violations. The report shall include a recommendation or revoke parole or continue the person on parole. When the subject of the report is the commission of a new offense, the supervising officer may withhold recommendation until disposition of the charges in district court.~~

~~a. Violation of any federal or state law; simple misdemeanors need not be reported.~~

~~b. Any violent or assaultive conduct.~~

~~c. Possession, control, or use of any firearms, imitation firearm, explosives, or weapons as defined in federal or state statutes.~~

~~d. Sale, possession, continual or problem use, transportation or distribution of any narcotic or other controlled substance, or repeated excessive use of alcohol by the parolee.~~

~~e. A parolee whose whereabouts are unknown and has been unavailable for contact for 30 days, or reliable information has been received indicating that the parolee is taking flight or absconding.~~

~~f. Any behavior indicating the parolee may be suffering from a mental disorder which impairs the parolee's ability to function in the community or which makes the parolee a danger to self or others when the mental disorder cannot be adequately treated while in the community.~~

~~g. Any other conduct or pattern of conduct in violation of the conditions of parole deemed sufficiently serious by the parole officer. The parole officer or supervisor is authorized to dispose of any other parolee misconduct not required to be reported above.~~

ITEM 53. Amend rule 201—45.5(906) as follows:

201—45.5(906) Voluntary return to institution. A parolee may ~~be returned~~ return to an Iowa department of corrections institution for a period not to exceed 90 days for treatment or further training, provided a voluntary return agreement is approved and signed by the district department and the warden ~~or superintendent~~ of said institution ~~and is signed by them~~ and by the parolee prior to the return. A parolee's voluntary return to the institution will also require a hearing with the parole board administrative law judge.

ITEM 54. Amend rule 201—45.6(906) as follows:

201—45.6(906) Discharge from parole. The parole officer shall make application for discharge to the district director following the parolee's satisfactory adjustment under supervision and upon the parole officer's determination that the parolee is able and willing to perform in a law-abiding fashion without further supervision. Discharge from parole may be granted prior to expiration of sentence, except for persons convicted for violation of Iowa Code section 709.3, 709.4 or 709.8, on or with a child. Such persons shall not be discharged until expiration of maximum sentence. Discharge granted by the district director shall terminate the person's sentence.

45.6(1) Recommendation. The recommendation for discharge from parole as submitted by the supervising officer shall include, but not be limited to, the following:

~~a. Parolee's attitude and adjustment to parole supervision.~~

~~b. to e. No change.~~

~~f. The reasons why the discharge is appropriate, based on the consideration of the parolee's level of risk.~~

45.6(2) Upon discharge, the parole officer shall give the discharged parolee the standard ~~form~~ information to be completed and submitted if the ex-parolee seeks restoration of citizenship rights. If the ex-parolee seeks restoration within 60 days of discharge, the parole agent shall recommend for or

against the restoration. The standard ~~form~~ information shall be forwarded to the board of parole by the person seeking the restoration.

Under no circumstances shall parole supervision extend beyond the expiration of a parolee's sentence. (Iowa Code section 906.15)

45.6(3) No change.

ITEM 55. Adopt the following new rule 201—45.8(905):

201—45.8(905) Infectious disease. In compliance with Iowa Code section 905.15, the district department shall have a written policy and procedure to prevent the transmission of contagious infectious disease.

ITEM 56. Amend rule 201—47.1(904) as follows:

201—47.1(904) OWI facilities.

47.1(1) ~~Offenders~~ Clients convicted of an offense under Iowa Code chapter 321J, sentenced to the custody of the director of corrections, and assigned to a continuum of programming, including treatment providers, residential facilities and institutions, for the supervision and treatment of ~~offenders~~ clients shall be subject to the provisions of these rules and policies developed by the department of corrections.

47.1(2) The district department shall select appropriate facilities and treatment providers subject to the approval of the department of corrections, for the risk management and programming of ~~offenders~~ clients defined in this chapter.

47.1(3) Any facility operated by a district department directly or through a contract shall comply with the provisions of 201—Chapters 40 and 43 and policies developed by the department of corrections to include all federal PREA standards.

47.1(4) and **47.1(5)** No change.

~~**47.1(6)** Any facility operated in whole or in part under the provisions of this chapter shall review and consider the American Corrections Association Standards for Adult Community Residential Facilities.~~

~~**47.1(7)**~~ **47.1(6)** The district director is responsible for all programs and ~~offenders~~ clients that are subject to these rules and will develop consistent policies and procedures. Any change in the custody status of ~~offenders~~ clients shall be approved by the department of corrections in consultation with a district department official.

ITEM 57. Amend rule 201—47.2(904) as follows:

201—47.2(904) Movement of offenders clients.

47.2(1) The judicial district departments of correctional services and the department of corrections shall utilize standardized placement criteria founded on the presumption that assignment will be made to the least restrictive and most cost-effective component of the continuum for the purposes of risk management, substance abuse treatment, education, and employment. The continuum is defined as consisting of three basic components, namely (1) incarceration until released by the board of parole or expiration of sentence, (2) short-term incarceration for approximately ~~21~~ 60 days with subsequent transfer to a community corrections OWI residential program with differential levels of treatment and intervention, and (3) direct placement to a community corrections OWI residential program with differential levels of treatment and intervention. The criteria established to determine continuum assignment consists of the ~~offender's~~ client's previous criminal record, present charges and attitude toward treatment.

47.2(2) When there is insufficient bed space in the community-based correctional program to accommodate the ~~offender~~ client, the court may order the ~~offender~~ client to be released on personal recognizance or bond, released to the supervision of the judicial district department of correctional services, or held in jail.

47.2(3) Priority for placement in the treatment program ~~will~~ shall be based on the date of sentence unless an exception is made by the department of corrections or district department for special circumstances.

47.2(4) When the offender client is sentenced to the director of the department of corrections and ordered to the supervision of the judicial district and space is not available in a community program, or supervision concerns arise, the district director or designee may request temporary placement at the Iowa Medical and Classification Center (IMCC)/Iowa Correctional Institution for Women (ICIW) for classification and assignment. Final approval is granted by the regional deputy director of community-based corrections or designee until space is available in the community program.

47.2(5) If medical conditions prohibit program participation and community resources, including University Hospitals, are not available to sufficiently meet offender client needs, the offender client may be assigned with the approval of the deputy director of offender services community-based corrections or designee to the Iowa Medical and Classification Center at ~~Oakdale~~ (IMCC)/Iowa Correctional Institution for Women (ICIW) for treatment until the offender's client's health status permits placement into a community-based correctional program.

47.2(6) The transfer of offenders clients placed with the department of corrections to community facilities may be delayed by the department of corrections for security or medical reasons. Offenders Clients with active detainers or offenders clients refusing to participate in the program may be transferred to an institution.

47.2(7) Offenders Clients placed with the department of corrections shall ~~be transferred in typically transfer out of~~ custody to their assigned facility unless an exception is approved required by the department of corrections.

47.2(8) The district department shall comply with established policies and develop procedures for the temporary confinement of offenders clients who present a threat to the safety or security of the public, facility staff, or residents.

47.2(9) Offenders Clients housed in community facilities may be transferred to the Iowa Medical and Classification Center (IMCC) or the Iowa Correctional Institution for Women (ICIW) on the recommendation of the district director or designee and with the approval of the regional deputy director of community-based corrections or designee for reclassification and assignment to an institution. Transfer recommendations may be made for security, disciplinary, treatment, medical, or legal reasons.

47.2(10) The district department shall maintain a current contingency plan to ensure the continuation of programs or custody of offenders clients in the event of an emergency such as fire, tornado, chemical spill, or work stoppage.

47.2(11) Offenders Clients who have been housed in a community facility for substance abuse treatment, subsequently granted parole or work release, and said parole or work release is revoked, may be returned to the OWI Continuum, if eligible, or returned to the designated classification center for reclassification and placement in an institution.

ITEM 58. Amend rule 201—47.3(904) as follows:

201—47.3(904) Fiscal.

47.3(1) and **47.3(2)** No change.

47.3(3) The district department shall not enter into a subcontract for custody or treatment of offenders clients without the written approval of the regional deputy director of community-based corrections.

a. to d. No change.

47.3(4) The district department shall maintain a schedule of daily fees to be assessed to offenders clients.

47.3(5) Offenders Clients may not be denied services due to an inability to pay the daily fee.

47.3(6) The district department shall comply with established policies and develop procedures which require that all offenders clients surrender their earnings to facility staff for the purpose of financial management and savings. Those policies and procedures shall provide for the proper accounting and disbursement of all offender client funds including, but not limited to, deduction of a daily fee where appropriate.

47.3(7) Upon request by the district director or designee, the county shall provide temporary confinement of offenders clients allegedly violating the conditions of the assignment to a treatment

program. The department of corrections shall negotiate a reimbursement rate with each county for the temporary confinement of offenders clients.

47.3(8) A county holding offenders clients ordered to jail due to insufficient space in a community-based corrections program will be reimbursed by the department of corrections.

47.3(9) If ~~an offender~~ a client escapes or participates in an act of absconding from the facility to which the offender client is assigned, the offender client shall reimburse the department of corrections for the cost of transportation.

ITEM 59. Amend rule 201—47.4(904) as follows:

201—47.4(904) Program structure.

47.4(1) The district department shall provide 24-hour housing and supervision of offenders clients either directly or through a contract with other agencies or individuals.

47.4(2) Each offender client shall sign a supervision agreement approved by the department of corrections. Failure to sign said agreement or abide by the requirements therein shall constitute reason to recommend returning the offender client to an institution.

47.4(3) The district department shall ensure that all offenders clients are involved in an appropriate continuum of programming which has been approved by the department of corrections.

47.4(4) No change.

47.4(5) The district department shall ensure, to the extent possible, that all offenders capable clients are employed a minimum of 30 hours per week.

47.4(6) The district department shall comply with established policies and procedures to allow offenders clients to leave the facility for treatment, employment, and food service when those activities are not provided at the facility. In all other circumstances, offenders clients may only leave the facility without supervision in accordance with department of corrections furlough procedures.

47.4(7) The district department, or subcontractor, shall utilize the department of corrections policies and procedures concerning offender client discipline.

47.4(8) ~~The Each~~ district department shall ~~comply with established~~ have policies and ~~develop~~ procedures ~~to ensure development and modification of~~ for a restitution plan of payment for each offender client entering the program. Said ~~plan~~ policies and procedures shall comply with the Code of Iowa Code ~~chapter 910~~ and local judicial procedure. Restitution payments shall be an integral part of each offender's client's financial management.

47.4(9) The district department shall comply with established policies and develop procedures to ensure that the offenders clients who are identified as needing continuing care receive follow-up treatment according to their identified needs. ~~An offender~~ The client will receive correctional supervision following release from the facility unless the offender's client's sentence has legally expired.

47.4(10) The district department shall have written policies and procedures which govern the medical care of OWI offenders clients in case of emergencies, sudden illnesses, accidents, or death.

47.4(11) The district department shall comply with established policies and develop procedures to ensure that a ~~written summary of the offender's progress in the program is~~ report of violations and a transfer classification decision are completed timely on all offenders clients who fail to satisfactorily complete the program and ~~are placed~~ who are being recommended for placement at the Iowa Medical and Classification Center/Iowa Correctional Institution for Women. ~~Said report shall be forwarded to the Iowa Medical and Classification Center immediately following termination from the program.~~

47.4(12) The district department shall comply with established policies and develop procedures and criteria for recommending parole from the facility which shall include the completion of a department of corrections approved continuum of programming. ~~The recommendation for parole shall specify the treatment hours completed and document that maximum benefits have been received. When physically able, the offender must demonstrate a satisfactory work record for at least 90 days. This requirement may be reduced by the department of corrections when justification exists.~~

47.4(13) Each offender client shall be awarded earned time in accordance with department of corrections policies and procedures. The district director or designee may recommend the loss of earned time pursuant to the same policy.

47.4(14) The district department shall comply with established policies and develop procedures which provide for visitation of ~~offenders~~ clients. However, visiting privileges may be limited to the extent necessary for treatment, security, or management reasons.

47.4(15) Reserved.

47.4(16) No change.

47.4(17) The district department shall comply with established policies and develop procedures for addressing an escape when an offender a client is absent from the facility without authorization or there is probable cause to believe the ~~offender~~ client is taking flight or involved in criminal activity.

ITEM 60. Amend rule 201—50.3(356,356A) as follows:

201—50.3(356,356A) Inspection and compliance. The chief jail inspector or authorized representatives shall visit and inspect each jail within this state at least annually to determine the degree of compliance with these standards and within 45 days of each inspection shall report the results to the sheriff and the governing body responsible for the facility.

~~If a residential facility is operated by a judicial district department of correctional services, the regional deputy director of the department of corrections and the regional deputy director's personnel shall be responsible for all inspections and approvals and shall have the same powers as the members of the jail inspection unit in carrying out these rules.~~

50.3(1) to 50.3(3) No change.

This rule is intended to implement Iowa Code sections 17A.10, 17A.12 and 356.43.

ITEM 61. Amend subrule 50.19(1) as follows:

50.19(1) Prisoner mail.

a. to c. No change.

d. Privileged correspondence if so marked may be opened only in the presence of the prisoner and then only to detect the presence of contraband; it may not be read except by the prisoner. Privileged correspondence is defined as incoming and outgoing mail to or from:

- (1) An attorney;
- (2) A judge;
- (3) The governor of Iowa;
- (4) The ~~citizen's aide office~~ ombudsman office;
- (5) A member of the state or federal legislature.

e. No change.

ITEM 62. Rescind and reserve rule **201—50.23(356,356A)**.

ITEM 63. Amend rule 201—51.3(356,356A) as follows:

201—51.3(356,356A) Inspection and compliance. The chief inspector or authorized representatives shall visit and inspect each facility within this state at least annually to determine the degree of compliance with these standards and within 45 days of each inspection shall report the results to the temporary holding facility administrator and the governing body responsible for the facility. ~~If a residential facility is operated by a judicial district department of correctional services, the regional deputy director of the department of corrections and the regional deputy director's personnel shall be responsible for all inspections and approvals and shall have the same powers as the members of the inspection unit in carrying out these rules.~~

51.3(1) to 51.3(3) No change.

This rule is intended to implement Iowa Code sections 17A.10, 17A.12 and 356.43.

ITEM 64. Adopt the following new subrule 51.16(5):

51.16(5) Detainee mail.

a. Detainees held beyond 24 hours shall be furnished a reasonable amount of writing materials upon request. Jail officials may prohibit a detainee from corresponding with a person who states in

writing that the person does not want to correspond with the detainee. This mail restriction does not include a “prior approval” list.

b. A reasonable amount of postage shall be provided to indigent detainees who are held beyond 24 hours for communication with the courts and for at least two letters per week of a personal nature when other means of communication are not available.

c. General correspondence may be opened and inspected; it may be read for security reasons if the detainee is notified of this procedure.

d. Privileged correspondence if so marked may be opened only in the presence of the detainee and then only to detect the presence of contraband; privileged correspondence may not be read except by the detainee. Privileged correspondence is defined as incoming and outgoing mail to or from:

- (1) An attorney;
- (2) A judge;
- (3) The governor of Iowa;
- (4) The ombudsman office;
- (5) A member of the state or federal legislature.

e. Written policy, procedure, and practice require that, excluding weekends and holidays, incoming and outgoing letters be held for no more than 24 hours and packages be held for no more than 48 hours for inspection before delivery to the detainee or post office.