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Rules transferred from Social Services Department[770] to Department of Corrections[291];
see 1983 Iowa Acts, chapter 96. Rules transferred from agency number [291] to [201] to conform with
the 1986 reorganization numbering scheme in general, IAC Supp. 3/20/91.
Note: Iowa Code chapter 246 renumbered as chapter 904 and 247 renumbered as chapter 913 in 1993 Iowa Code.

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TITLE I
GENERAL DEPARTMENTAL PROCEDURES

CHAPTER 1
DEPARTMENTAL ORGANIZATION AND PROCEDURES

[Prior to 3/20/91, Corrections Department[291]]

201—1.1(904) Title I definitions.

"Department" means the department of corrections.

"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 operational divisions are administration, eastern operations, western operations, offender services and prison industries.

"Director" means the director of the department of corrections.

"Plan of compliance" means a schedule of action to be followed in correcting statute or rule deficiencies cited by the department of corrections.

"Public official" means any officer of the federal government, any state or a political subdivision thereof, receiving a salary or per diem, if elected or appointed or whether serving full-time or part-time.

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 operational divisions.

The mission of the department of corrections is to protect the public, the employees, and the offenders.

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.

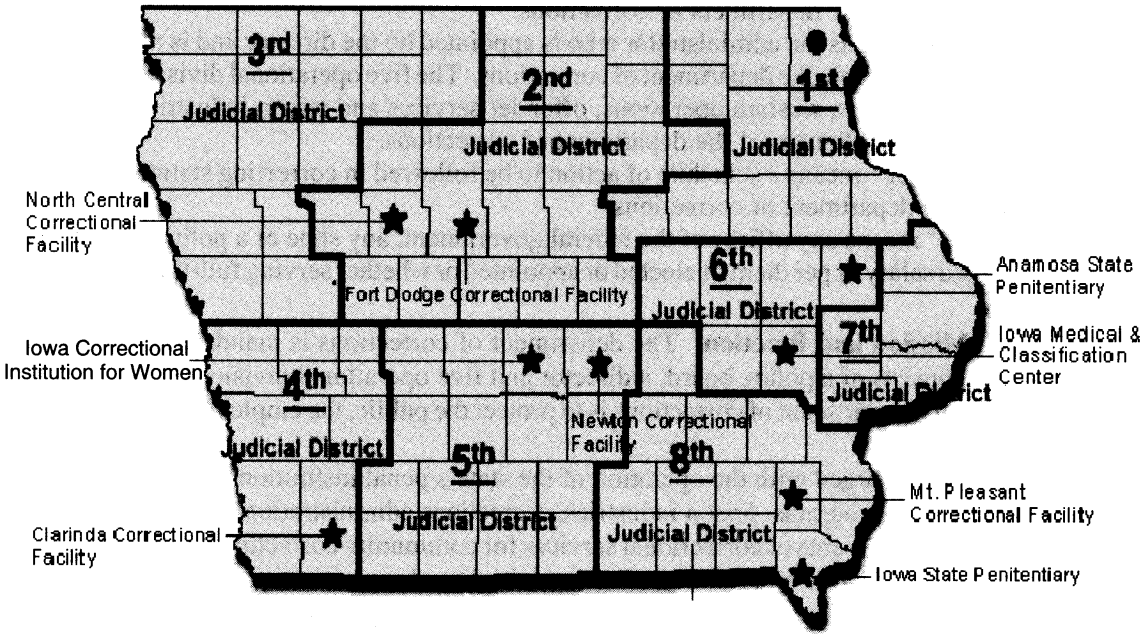
201—1.3(904) Offices.

1.3(1) *Central office.* The central office for the department of corrections is located in the Jessie Parker State Office Building in the Capitol Complex in Des Moines. Its mailing address is the Department of Corrections, Jessie Parker State Office Building, 510 E. 12th Street, Des Moines, Iowa 50319; telephone (515)725-5701. Office hours are 8 a.m. to 4:30 p.m., Monday through Friday, excluding holidays.

1.3(2) *Division offices.* The central offices of the divisions of the department are also located in the Jessie Parker State Office Building.

1.3(3) *Contact information.* Contact information for correctional institutions and judicial district departments of correctional services and other offices located outside the principal headquarters is listed below and may also be found on the department's Web site, which is listed in rule 1.4(904). The following map provides a general overview of judicial district department of correctional services and correctional institution locations.

Department of Corrections Institutions
and
Judicial District Departments of Correctional Services



Anamosa State Penitentiary
406 North High Street, Box 10
Anamosa, IA 52205
(319)462-3504
(319)462-4962 Fax

Iowa Medical and Classification Center
Box A - Highway 965
Oakdale, IA 52319
(319)626-2391
(319)626-2141 Fax

Mt. Pleasant Correctional Facility
1200 East Washington
Mt. Pleasant, IA 52641
(319)385-9511
(319)385-8828 Fax

Iowa State Penitentiary
3 John Bennett Drive, Box 316
Fort Madison, IA 52627
(319)372-5432
(319)372-6967 Fax

Newton Correctional Facility
307 S. 60th Avenue W, P.O. Box 218
Newton, IA 50208
(641)792-7552
(641)791-1683 Fax

Fort Dodge Correctional Facility
1550 L Street
Fort Dodge, IA 50501-5767
(515)574-4700
(515)574-4707 Fax

North Central Correctional Facility
313 Lanedale
Rockwell City, IA 50579
(712)297-7521
(712)297-7875 Fax

Iowa Correctional Institution for Women
300 Elm Ave. SW, P.O. Box 700
Mitchellville, IA 50169
(515)967-4236
(515)967-5347 Fax

Clarinda Correctional Facility
2000 N. 16th Street, Box 1338
Clarinda, IA 51362
(712)542-5634/5635
(712)542-4844 Fax

First Judicial District, DCS
314 East Sixth Street, P.O. Box 4030
Waterloo, IA 50704-4030
(319)236-9626
(319)291-3947 Fax

Second Judicial District, DCS
510 Fifth Street, P.O. Box 623
Ames, IA 50010-0623
(515)232-1511
(515)232-9453 Fax

Third Judicial District, DCS
515 Water Street
Sioux City, IA 51103
(712)252-0590
(712)252-0634 Fax

Fourth Judicial District, DCS
801 South Tenth Street
Council Bluffs, IA 51501
(712)325-4943
(712)325-0312 Fax

Fifth Judicial District, DCS
604 Locust Street, Equitable Bldg., Suite 317
Des Moines, IA 50309
(515)280-4220
(515)280-4259 Fax

Sixth Judicial District, DCS
951 29th Ave. SW
Cedar Rapids, IA 52404
(319)398-3675
(319)398-3684 Fax

Seventh Judicial District, DCS
605 Main Street
Davenport, IA 52803-5244
(563)322-7986
(563)324-2063 Fax

Eighth Judicial District, DCS
1805 West Jefferson, P.O. Box 1060
Fairfield, IA 52556-1060
(641)472-4242
(641)472-9966 Fax

201—1.4(904) Internet Web site. The department's Internet home page is located at http://www.doc.state.ia.us.

201—1.5(904) Method by which and location where the public may obtain information or make submissions or reports.

1.5(1) Persons wishing to obtain information from or report information to the department may contact any of the offices listed in rule 1.3(904) or found on the department's Web site.

1.5(2) Persons wishing to make submissions to the department may do so by delivering or forwarding information to the principal offices of the affected division or, if the subject matter is relevant to a specific prison or judicial district department of correctional services, the nearest office as listed in rule 1.3(904) or found on the department's Web site.

201—1.6(904) Board of corrections. The director of the department has, by statute, the advice and counsel of the board of corrections. This seven-member board is appointed by the governor with confirmation by the senate, and its powers and duties are policymaking and advisory with respect to the services and programs operated by the department.

1.6(1) A quorum shall consist of two-thirds of the membership appointed and qualified to vote.

1.6(2) When a quorum is present, a position is carried by a majority of the qualified members of the board.

1.6(3) Copies of administrative rules and other materials considered are made a part of the minutes by reference.

1.6(4) Copies of the minutes are kept on file in the director's office.

1.6(5) At each meeting the board shall set the date and location of the next meeting.

a. Notice of the meetings shall be given pursuant to Iowa Code chapter 21.

b. When it is determined by the chairperson of the board that an emergency meeting is required, the communications media shall be notified as far in advance of the meeting as time allows. The nature of the emergency shall be stated in the minutes.

c. Persons wishing to appear before the board shall submit their request to the department office not less than ten days prior to the meeting. Presentations may be made at the discretion of the chairperson and only upon matters appearing on the agenda.

d. Persons wishing to submit written material should do so at least ten days in advance of the scheduled meeting to ensure that board members have adequate time to receive and evaluate the material.

1.6(6) In cases not covered by these rules, Robert's Rules of Order shall govern.

1.6(7) The chairperson may appoint committees of the board as necessary to conduct the business of the board. Committee meetings shall comply with Iowa Code chapter 21.

1.6(8) The board shall:

a. Oversee the work of the department and, for this purpose, it shall have access at any time to all books, papers, documents and records of the department.

b. Report to the governor and the general assembly recommendations regarding the activities of the department when necessary.

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 divisions consisting of eastern operations, western operations, administration, 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, and the director of training and professional development report to the director of the department.

1.7(1) The appointment and qualifications of the director are mandated in Iowa Code section 904.107.

1.7(2) Duties of the director are prescribed in Iowa Code section 904.108.

1.7(3) The director shall have the authority to place on notice intended administrative action pursuant to Iowa Code chapter 17A by approval of the board of corrections. A report listing all rules placed under notice during the previous month shall be submitted to the board of corrections at its regular meeting for review. The board of corrections shall review and shall adopt rules following the period of public comment.

201—1.8(904) Organization of the department.

1.8(1) The two regional deputy directors are responsible for the following 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 between institutions.

a. Regional deputy director for eastern 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.

(4) Mount Pleasant correctional facility, Mount Pleasant.

(5) The first 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. 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:

a. Shall be responsible for the following service areas:

(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.

b. Shall further provide 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) Pretrial interviews.

(2) Pretrial supervision.

(3) Presentence investigation.

(4) Probation.

(5) Residential services.

(6) Community service sentencing.

(7) OWI facilities.

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

a. Budget development and control.

b. Personnel.

c. Accountable government oversight.

d. Planning and development.

e. General administrative support.

f. Fiscal policy and procedures.

g. Engineering.

h. Data processing.

1.8(4) The deputy director for prison industries shall be responsible for the following:

a. The manufacturing/service/purchasing operations.

b. The activities and programs of the sales manager and territorial sales staff of Iowa prison industries.

c. The budget, income and expense forecasts and financial record keeping/reporting required to operate Iowa prison industries as a self-supporting activity.

d. Private sector employment.

e. Farms.

f. Centralized canteen.

g. State and federal surplus.

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:

a. Offender classification.

b. Interstate compact administration.

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.

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

a. Providing public information to constituency groups and the media.

b. Facilitating internal communications in the department.

c. Supervising the office of victims and restorative justice.

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

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

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

These rules are intended to implement Iowa Code sections 904.101 to 904.108.

[Filed emergency 9/9/83—published 9/28/83, effective 10/1/83]
[Filed 11/18/83, Notice 9/28/83—published 12/7/83, effective 1/11/84]
[Filed emergency 1/27/84—published 2/15/84, effective 1/27/84]
[Filed 5/4/84, Notice 2/15/84—published 5/23/84, effective 6/27/84 and 7/1/84]
[Filed 7/24/84, Notice 5/23/84—published 8/15/84, effective 9/19/84]
[Filed 4/4/85, Notice 10/24/84—published 4/24/85, effective 5/29/85]
[Filed 9/20/85, Notice 7/31/85—published 10/9/85, effective 11/13/85]
[Filed emergency 2/20/91—published 3/20/91, effective 2/20/91]
[Filed emergency 5/10/91—published 5/29/91, effective 5/10/91]
[Filed 4/17/07, Notice 2/14/07—published 5/9/07, effective 6/13/07]

CHAPTERS 2 and 3
Reserved

CHAPTER 4
GENERAL ADMINISTRATION
[Prior to 3/20/91, Corrections Department[291]]

201—4.1(904) Iowa corrections purchase of services agreement. An Iowa corrections purchase of services agreement is a legal agreement between the department and an institution, organization, facility or individual for specified service(s) to clients referred by the department. The agreement establishes the type and quality of service to be provided, the charge, a maximum number of units of service to be available and other conditions.

201—4.2(904) Cancellation. The Iowa corrections purchase of services agreement may be canceled by either party with or without cause upon 30 days' notice in writing.

These rules are intended to implement Iowa Code section 904.108.

[Filed emergency 9/9/83—published 9/28/83, effective 10/1/83]
[Filed 11/18/83, Notice 9/28/83—published 12/7/83, effective 1/11/84]
[Filed emergency 2/20/91—published 3/20/91, effective 2/20/91]

CHAPTER 5
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

[Prior to 3/20/91, Corrections Department[291]]

The Iowa department of corrections hereby adopts, with the following exceptions and amendments, rules of the Governor's Task Force on Uniform Rules of Agency Procedure relating to public records and fair information practices which are printed in the first volume of the Iowa Administrative Code.

201—5.1(17A,22) Definitions. As used in this chapter:

"Agency" means the department of corrections.

"Confidential records" are records, as defined under Iowa Code sections 22.7, 22.8, 904.601, 904.602, and 904.603, which are not disclosed to members of the public except by court order. This includes records which the department is prohibited by law from making available for inspection by members of the public and those exempt records which the department has determined not to disclose to members of the public.

"Open records" are those records which are not authorized or required to be kept confidential under Iowa Code sections 22.7, 22.8, 904.601, 904.602, and 904.603 or any other provision of the law.

201—5.2(17A,22) Statement of policy. The purpose of this chapter is to facilitate broad public access to open records. It also seeks to facilitate sound agency determinations with respect to the handling of confidential records and the implementation of the fair information practices Act. This agency is committed to the policies set forth in Iowa Code chapter 22; agency staff shall cooperate with members of the public in implementing the provisions of that chapter.

201—5.3(17A,22) Requests for access to records.

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
Box B
Anamosa, Iowa 52205
(319)462-3504

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

Clarinda Correctional Facility
Box 1338
Clarinda, Iowa 51632
(712)542-5634

Correctional Release Center
Box 218
Newton, Iowa 50208
(515)792-7552

Iowa State Penitentiary
31 Avenue G
Box 316
Fort Madison, Iowa 52627
(319)372-5432

Iowa Medical and Classification Center
Box A
Oakdale, Iowa 52319
(319)626-2391

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

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

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 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, Des Moines, Iowa 50319, (515)281-4811.

5.3(2) *Office hours.* Open records shall be made available during all customary office hours, which are 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

5.3(3) *Request for access.* Requests for access to records may be made in writing, in person, or by telephone if the request is for open record information. Requests shall identify the particular records sought by name or description in order to facilitate the location of the record. Mail requests shall include the name, address, and telephone number of the person requesting the information. A person shall not be required to give a reason for requesting an open record.

5.3(4) *Response to requests.* The custodian is authorized to grant or deny access to the record according to the provisions of Iowa Code chapter 22, sections 904.601, 904.602, 904.603, and this chapter. The decision to grant or deny access may be delegated to one or more designated employees. Unless the size or nature of the request requires time for compliance, the agency shall comply with the request as soon as feasible. However, access to such a record may be delayed for one of the purposes authorized by Iowa Code section 22.8(4) or 22.10(4). The agency shall promptly inform the requester of the reason for the delay. A request to review a confidential record shall be in writing. A person requesting access to such a record may be required to complete department of corrections Form No. IN-V-24-F-1 enumerating the specific grounds justifying access to the confidential record and to provide any proof necessary to establish relevant facts, request prior to receiving access to the record.

5.3(7) *Fees.*

c. *Supervisory fee.* An hourly fee may be charged for actual agency expenses in supervising the examination and copying of requested records when the supervision time required is in excess of five minutes. The custodian shall prominently post in agency offices the hourly fees to be charged for supervision of records during examination and copying. That hourly fee shall not be in excess of the hourly wage of an agency employee who ordinarily would be appropriate and suitable to perform this supervisory function.

201—5.5(17A,22) Requests for treatment of a record as a confidential record and its withholding from examination.

5.5(5) *Request granted or deferred.* If a request for confidential record treatment is granted, or if action on such a request is deferred, a copy of the record from which the matter in question has been deleted and a copy of the decision to grant the request or to defer action upon the request will be placed in the agency public file in lieu of the original record. If the agency subsequently receives a request for access to the original record, the agency will make reasonable and timely efforts to notify any person who has filed a request for its treatment as a confidential record.

201—5.6(17A,22) Procedure by which additions, dissents, or objections may be entered into certain records. Except as otherwise provided by law, a person may file a request with the custodian to review, and to have a written statement of additions, dissents, or objections entered into, a record containing personally identifiable information pertaining to that person. However, this does not authorize a person who is a subject of such a record to alter the original copy of that record or to expand the official record of any agency proceeding. Requester shall send the request to review such a record or the written statement of additions, dissents, or objections to the custodian or to the director's office. The request to review such a record or the written statement of such a record of additions, dissents, or objections must be dated and signed by requester, and shall include the current address and telephone number of the requester or the requester's representative.

201—5.9(17A,22) Disclosures without the consent of the subject.

5.9(1) Open records are routinely disclosed without the consent of the subject.

5.9(2) To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

a. For a routine use as defined in 201—5.10(17A,22) or in the particular record system.

b. To a recipient who has provided the agency with advance written assurance that the record will be used solely as a statistical research or reporting record; provided that the record is transferred in a form that does not identify the subject.

c. To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of such government agency or instrumentality has submitted a written request to the agency specifying the record desired and the law enforcement activity for which the record is sought.

d. To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last-known address of the subject.

e. To the legislative fiscal bureau under Iowa Code section 2.52.

f. Disclosures in the course of employee disciplinary proceedings.

g. In response to a court order or subpoena.

201—5.10(17A,22) Routine use. To the extent allowed by law, the following uses are considered routine uses of all agency records:

1. Disclosure to those officers, employees, and agents of the agency who have a need for the record in the performance of their duties. The custodian of the record may upon request of any officer or employee, or on the custodian's own initiative, determine what constitutes legitimate need to use confidential records.

2. Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

3. Disclosure to the department of inspections and appeals for matters in which it is performing services or functions on behalf of the agency.

4. Transfers of information within the agency, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.

5. Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the agency is operating a program lawfully.

6. Any disclosure specifically authorized by the statute under which the record was collected or maintained.

201—5.11(17A,22) Consensual disclosure of confidential records.

5.11(1) *Consent to disclosure by a subject individual.* To the extent allowed by law, the subject may consent in writing to agency disclosure of confidential records as provided in rule 201—5.7(17A,22).

5.11(2) *Complaints to public officials.* A letter from a subject of a confidential record to a public official which seeks the official's intervention on behalf of the subject in a matter that involves the agency may, to the extent permitted by law, be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

5.11(3) *Obtaining information from a third party.* The department is required to obtain information to assist in making decisions regarding classification, programming, security, and administrative management operational decisions. Requests to third parties for this information may involve the release of confidential information about individuals. Except as provided by law, the department may make these requests only when the individual has authorized the release on department of corrections Form No. IN-V-24, F2.

201—5.12(17A,22) Release to subject.

5.12(1) The subject of a confidential record may file a written request to review confidential records about that person. However, the department need not release the following records to the subject:

a. The identity of a person providing information to the agency need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code sections 22.7(18) and 904.602.

b. Records need not be disclosed to the subject when they are the work product of an attorney or are otherwise privileged.

c. Peace officers' investigative reports may be withheld from the subject, except as required by the Iowa Code.

d. As otherwise authorized by law.

5.12(2) Where a record has multiple subjects with interest in the confidentiality of the record, the department may take reasonable steps to protect confidential information relating to another subject.

201—5.13(17A,22) Availability of records.

5.13(1) *Open records.* Department records are open for public inspection and copying unless otherwise provided by current rule or law.

5.13(2) *Confidential records.* The following records may be kept confidential. Records are listed by category, according to the legal basis for withholding them from public inspection.

a. Sealed bids received prior to the time set for public opening of bids. (Iowa Code section 72.3);

b. Tax records made available to the agency. (Iowa Code sections 422.17, 422.20);

c. Minutes of closed meetings of a government body. (Iowa Code section 21.5(4));

d. Identifying details in final orders, decisions, and opinions to the extent required to prevent a clearly unwarranted invasion of personal privacy or trade secrets under Iowa Code section 17A.3(1)*"d."*

e. Those portions of agency staff manuals, instructions, or other statements issued which set forth criteria or guidelines to be used by agency staff in auditing, in making inspections, in settling commercial disputes, or negotiating commercial arrangements, or in the selection or handling of cases, such as operational tactics or allowable tolerances or criteria for the defense, prosecution or settlement of cases, when disclosure of these statements would:

(1) Enable law violators to avoid detection;

(2) Facilitate disregard of requirements imposed by law; or

(3) Give a clearly improper advantage to persons who are in an adverse position to the agency. (Iowa Code sections 17A.2, 17A.3)

f. Records which constitute attorney work product, attorney-client communications, or which are otherwise privileged. Attorney work product is confidential under Iowa Code sections 22.7(4), 622.10 and 622.11, Iowa R.C.P. 122(c), Fed. R. Civ. P. 26(b)(3), and case law. Attorney-client communications are confidential under Iowa Code sections 622.10 and 622.11, the rules of evidence, the Code of Professional Responsibility, and case law.

g. Other records made confidential by law.

h. Current Iowa Administrative Code, 291—5.1(2), *"a"* through *"o"*; 5.1(5), 5.1(6), 5.1(10), and 5.1(11).

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

5.14(1) This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by the agency by personal identifier in record systems as defined in this rule. For each record system, this rule describes the legal authority for the collection of that information, the means of storage of that information and indicates whether a data processing system matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information in another record system.

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 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	N/A

b. Institutions

Description of Record	Type of Record	Legal Authority	Storage	Comparison
1. Inmate Records				
a. Demographic Data/Action Section	O, C, D	904	Hard Copy Automated	Partial
b. Admission Documents	C, D	904	Hard Copy	N/A
c. Classification and Release Documents	O, C, D	904	Hard Copy Automated	Partial
d. Time Computation	O, C, D	904	Hard Copy Automated	Partial
e. Clinical and Medical	O, C, D	904	Hard Copy Automated	Partial
f. Correspondence and Visiting	O, C	904	Hard Copy Automated	Partial
g. Legal Documents	O, C	904	Hard Copy Automated	Partial
2. Inmate Accounts	O, C, D	904	Hard Copy Automated	Partial
3. Security Records				
a. Disciplinary Records	C	904	Hard Copy Automated	Partial
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	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 Automated	Partial
7.	Inmate Movement	O	904	Hard Copy	N/A
8.	Meeting Minutes	D	22, 904	Hard Copy Automated	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 Automated	Partial
12.	Press Releases	O	904	Hard Copy	N/A
13.	Inmate Grievances	C	904	Hard Copy Automated	Partial
14.	Miscellaneous	O	904	Hard Copy Automated	Partial

c. Community 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
B. Acceptance	C, D	904.602	Hard Automated	Partial
C. Rejection	C, D	904.602	Hard Automated	Partial
D. Progress	C, D	904.602	Hard	N/A
E. Violations	C, D	904.602	Hard Automated	Partial
F. Discharge Request	C, D	904.602	Hard	N/A
G. Other Closures	C, D	904.602	Hard Automated	Partial
Presentence Investigation Request	Prevent			
H. Presentence Investigation	C	904.602	Hard	N/A
Absconder Tracking				
I. Parole Violators	O, C, D	904.602	Hard Automated	Partial
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
B. Status Reports	O, C, D	904.602	Hard Automated	Partial
C. Charge/Disposition	O, C, D	904.602	Hard Automated	Partial
III. Work Release				
A. Progress Reports	C, D	904.602	Hard	N/A
B. Violation Reports	C, D	904.602	Hard	N/A

	C. Discharge Reports	C, D	904.602	Hard	N/A
	D. Disciplinary Records	C	904.602	Hard	N/A
	E. Time Computation	O, C, D	904.602	Hard	N/A
	F. Legal Documents	O, C	904.602	Hard	N/A
	G. Incident Reports	C	904.602	Hard	N/A
	H. Demographic Data/Action Section	O, C, D	904.602	Hard Automated	Partial
	I. Admission Documents	C, D	904.602	Hard Automated	N/A
	J. Classification and Release Documents	O, C, D	904.602	Hard	Partial
	K. Clinical and Medical	O, C, D	904.602	Hard	N/A
	L. Correspondence and Visiting	O, C	904.602	Hard	Partial
IV.	Client Complaints	C	904.602	Hard	N/A
V.	Jail Inspections	O, C, D	904.602	Hard	N/A

d. Iowa state industries

Description of Record	Type of Record	Legal Authority	Storage	Comparison
1. Customer Lists	C	22, 904	Hard Copy Automated	Partial
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	Partial
4. Cost Calculations for Sealed Bids	C	22, 904	Hard Copy	N/A
5. Yearly Audits	O	22, 904	Hard Copy	N/A

5.14(4) *Litigation files.* These files or records contain information regarding litigation or anticipated litigation, which includes judicial and administrative proceedings. The records include briefs, depositions, docket sheets, documents, correspondence, attorneys' notes, memoranda, research materials, witness information, investigation materials, information compiled under the direction of the attorney, and case management records. The files contain materials which are confidential as attorney work product and attorney-client communications. Some materials are confidential under other applicable provisions of law or because of a court order. Persons wishing copies of pleadings and other documents filed in litigation should obtain these from the clerk of the appropriate court which maintains the official copy.

5.14(5) *Personnel files.* The agency maintains files containing information about employees, families and dependents, and applicants for positions with the agency. The files include payroll records, biographical information, medical information relating to disability, performance reviews and evaluations, disciplinary information, information required for tax withholding, information concerning employee benefits, affirmative action reports, and other information concerning the employer-employee relationship. Some of this information is confidential under Iowa Code section 22.7(11).

201—5.15(17A,22) Other groups of records available for public inspection — policies and procedures (excluding security) meeting minutes. This rule describes groups of records maintained by the department other than record systems as previously defined. These records are routinely available to the public. However, the department's files of these records may contain confidential information, as discussed in rule 5.13(17A,22). The following records are stored both as hard copy and in automated data processing systems unless otherwise noted.

1. *Rule making.* Rule-making records may contain information about individuals making written or oral comments on proposed rules. This information is collected pursuant to Iowa Code section 17A.4.

2. *Board meeting records.* Agendas, minutes, and materials presented to the department are available from the office of the director except those records concerning closed sessions which are exempt from disclosure under Iowa Code section 21.5(4), or which are otherwise confidential by law. Board meeting records contain information about people who participate in meetings. This information is collected pursuant to Iowa Code section 21.3. This information is not retrieved by individual identifier.

3. *Publications.* News releases, annual reports, project reports, department newsletters, etc., are available from the office of the director. Brochures describing various department programs are available at local offices of the department. Department news releases, project reports, and newsletters may contain information about individuals, including department staff or members of department councils or committees. This information is not retrieved by individual identifier.

4. *Statistical reports.* Periodic reports of the department for various department programs are available from the director. Statistical reports do not contain personally identifiable information.

5. *Grants.* Records on persons receiving grants for various projects or programs are available through the office of the director. These records may contain information about employees of a grantee. This information is not retrieved by individual identifier and is not stored on an automated data processing system. The information is collected under the authority of Iowa Code section 904.

6. *Published materials.* The department uses many legal and technical publications in its work. The public may inspect these publications upon request. Some of these materials may be protected by copyright law. These records are hard copy only.

7. *Policy manuals.* The department employees' manual, containing the policies and procedures describing the department's regulations and practices, is available in every office of the department. Subscriptions to all or part of the employees' manual are available at the cost of production and handling. Requests for subscription information should be addressed to the director. Policy manuals do not contain information about individuals.

8. *Other records.* All other records that are not exempted from disclosure by law.

201—5.16(17A,22) Applicability. This chapter does not:

5.16(1) Require the agency to index or retrieve records which contain information about individuals by that person's name or other personal identifier.

5.16(2) Make available to the general public records which would otherwise not be available under the public records law, Iowa Code chapter 22.

5.16(3) Govern the maintenance or disclosure of, notification of, or access to, records in the possession of the agency which are governed by the regulations of another agency.

5.16(4) Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs, unless otherwise provided by law or agreement.

5.16(5) Make available records compiled by the agency in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings shall be governed by applicable legal and constitutional principles, rules of discovery, evidentiary privileges, and applicable regulations of the agency.

These rules are intended to implement Iowa Code section 22.11.

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CHAPTER 6
PERSONNEL
[Prior to 2/20/91, Corrections Department[291]]

201—6.1(904) Background investigations. A background investigation will be conducted on individuals applying for employment with the department of corrections. The director or designee will determine the class of employees upon whom a background investigation will be conducted. The following information may be obtained during the investigation. For any specific applicant, the director or designee will determine which information on this list is to be obtained.

1. Physical examination,
2. Division of criminal investigation, department of public safety fingerprint check,
3. FBI fingerprint check,
4. Military records check,
5. Past employment check with one or several previous employers,
6. Character reference check,
7. Check with law enforcement agencies from locales in which applicant/employee has resided in the past,
8. Check with educational institutions to confirm degree or hours of concentration (for positions requiring degree or specialty hours),
9. Successful completion of psychological and cognitive tests as administered by department personnel. This battery of tests is required of all correctional officers after January 1, 1985;
10. Test for use of chemical substance (correctional officers only, after June 1988).

The investigation need not be completed prior to offering an applicant a position, but any offer of employment is contingent on successful completion of the required tests and checks.

This rule is intended to implement Iowa Code section 904.108.

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CHAPTER 7
WAIVERS AND VARIANCES

201—7.1(904) Definition. For purposes of this chapter, a "waiver or variance" means an action by the department which suspends, in whole or in part, the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person. For simplicity, the term "waiver" shall include both a "waiver" and a "variance."

201—7.2(904) Scope of chapter. This chapter outlines generally applicable standards and a uniform process for the granting of individual waivers from rules adopted by the department in situations where no other more specifically applicable law provides for waivers. To the extent another more specific provision of law governs the issuance of a waiver from a particular rule, the more specific provision shall supersede this chapter with respect to any waiver from that rule.

201—7.3(904) Applicability. The department may grant a waiver from a rule only if the department has jurisdiction over the rule and the requested waiver is consistent with applicable statutes, constitutional provisions, or other provisions of law. The department may not waive requirements created or duties imposed by statute.

201—7.4(904) Criteria for waiver or variance. In response to a petition completed pursuant to rule 7.6(904), the department may, in its sole discretion, issue an order waiving, in whole or in part, the requirements of a rule if the department finds, based on clear and convincing evidence, all of the following:

1. The application of the rule would impose an undue hardship on the person for whom the waiver is requested;
2. The waiver from the requirements of the rule in the specific case would not prejudice the substantial legal rights of any person;
3. The provisions of the rule subject to the petition for a waiver are not specifically mandated by statute or another provision of law; and
4. Substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested.

201—7.5(904) Filing of petition. A petition for a waiver must be submitted in writing to the department as follows:

7.5(1) *Contested cases.* If the petition relates to a pending contested case, the petition shall be filed in the contested case proceeding using the caption of the contested case.

7.5(2) *Other.* If the petition does not relate to a pending contested case, the petition may be submitted to the department's director.

7.5(3) *File petition.* A petition is deemed filed when it is received in the department's office. A petition should be sent to the Department of Corrections, Policy and Legal Services, 420 Watson Powell Jr. Way, Des Moines, Iowa 50309. The petition must conform to the form specified in rule 7.17(904).

201—7.6(904) Content of petition. A petition for waiver shall include the following information where applicable and known to the requester:

1. The name, address, and telephone number of the entity or person for whom a waiver is requested; the case number of or other reference to any related contested case; and the name, address, and telephone number of the petitioner's legal representative, if any.
2. A description and citation of the specific rule from which a waiver is requested.
3. The specific waiver requested, including the precise scope and duration.
4. The relevant facts that the petitioner believes would justify a waiver under each of the four criteria described in rule 7.4(904). This statement shall include a signed statement from the petitioner attesting to the accuracy of the facts provided in the petition and a statement of reasons that the petitioner believes will justify a waiver.

5. A history of any prior contacts between the department and the petitioner relating to the regulated activity affected by the proposed waiver.

6. Any information known to the requester regarding the department's action in similar cases.

7. The name, address, and telephone number of any public agency or political subdivision which also regulates the activity in question or which might be affected by the granting of a waiver.

8. The name, address, and telephone number of any entity or person who would be adversely affected by the granting of a petition.

9. The name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver.

10. Signed releases of information authorizing persons with knowledge regarding the request to furnish the department with information relevant to the waiver.

201—7.7(904) Additional information. Prior to issuing an order granting or denying a waiver, the department may request additional information from the petitioner relative to the petition and surrounding circumstances. If the petition was not filed in a contested case, the department may, on its own motion or at the petitioner's request, schedule a telephonic or in-person meeting between the petitioner and the department's director or designee.

201—7.8(904) Notice. The department shall acknowledge a petition upon receipt. The department shall ensure that all persons to whom notice is required by any provision of law, including the petitioner, receive notice, within 30 days of the receipt of the petition, that the petition is pending and a concise summary of its contents. In addition, the department may give notice to other persons. To accomplish this notice provision, the department may require the petitioner to serve the notice on all persons to whom notice is required by any provision of law and provide a written statement to the department attesting that notice has been provided.

201—7.9(904) Hearing procedures. The provisions of Iowa Code sections 17A.10 to 17A.18A regarding contested case hearings shall apply to any petition for a waiver filed within a contested case and shall otherwise apply to agency proceedings for a waiver only when the department so provides by rule or order or is required to do so by statute.

201—7.10(904) Ruling. An order granting or denying a waiver shall be in writing and shall contain a reference to the particular person and rule or portion thereof to which the order pertains, a statement of the relevant facts and reasons upon which the action is based, and a description of the precise scope and duration of the waiver if one is issued.

7.10(1) *Department discretion.* The final decision on whether the circumstances justify the granting of a waiver shall be made at the sole discretion of the department upon consideration of all relevant factors. Each petition for a waiver shall be evaluated by the department based on the unique, individual circumstances set out in the petition.

7.10(2) *Burden of persuasion.* The burden of persuasion rests with the petitioner to demonstrate by clear and convincing evidence that the department should exercise its discretion to grant a waiver from a department rule.

7.10(3) *Narrowly tailored.* A waiver, if granted, shall provide the narrowest exception possible to the provisions of a rule.

7.10(4) *Administrative deadlines.* When the rule from which a waiver is sought establishes administrative deadlines, the department shall balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all similarly situated persons.

7.10(5) *Conditions.* The department may place on a waiver any condition that the department finds desirable to protect the public health, safety, and welfare.

7.10(6) *Time period of waiver.* A waiver shall not be permanent unless the petitioner can show that a temporary waiver would be impracticable. If a temporary waiver is granted, there is no automatic right

to renewal. At the sole discretion of the department, a waiver may be renewed if the department finds that grounds for a waiver continue to exist.

7.10(7) *Time for ruling.* The department shall grant or deny a petition for a waiver as soon as practicable but, in any event, shall do so within 120 days of its receipt, unless the petitioner agrees to a later date. However, if a petition is filed in a contested case, the department shall grant or deny the petition no later than the time at which the final decision in that contested case is issued.

7.10(8) *When deemed denied.* Failure of the department to grant or deny a petition within the required time period shall be deemed a denial of that petition by the department. However, the department shall remain responsible for issuing an order denying a waiver.

7.10(9) *Service of order.* Within seven days of its issuance, any order issued under this chapter shall be transmitted to the petitioner or the person to whom the order pertains, and to any other person entitled to such notice by any provision of law.

201—7.11(904) Public availability. All orders granting or denying a waiver petition shall be indexed, filed, and available for public inspection as provided in Iowa Code section 17A.3. Petitions for a waiver and orders granting or denying a waiver petition are public records under Iowa Code chapter 22. Some petitions or orders may contain information the department is authorized or required to keep confidential. The department may accordingly redact confidential information from petitions or orders prior to public inspection.

201—7.12(904) Summary reports. Semiannually, the department shall prepare a summary report identifying the rules for which a waiver has been granted or denied, the number of times a waiver was granted or denied for each rule, a citation to the statutory provisions implemented by these rules, and a general summary of the reasons justifying the department's actions on waiver requests. If practicable, the report shall detail the extent to which the granting of a waiver has affected the general applicability of the rule itself. Copies of this report shall be available for public inspection and shall be provided semiannually to the administrative rules coordinator and the administrative rules review committee.

201—7.13(904) Cancellation of a waiver. A waiver issued by the department pursuant to this chapter may be withdrawn, canceled, or modified if, after appropriate notice and hearing, the department issues an order finding any of the following:

1. The petitioner or the person who was the subject of the waiver order withheld or misrepresented material facts relevant to the propriety or desirability of the waiver; or
2. The alternative means for ensuring that the public health, safety, and welfare will be adequately protected after issuance of the waiver order have been demonstrated to be insufficient; or
3. The subject of the waiver order has failed to comply with all conditions contained in the order.

201—7.14(904) Violations. Violation of a condition in a waiver order shall be treated as a violation of the particular rule for which the waiver was granted. As a result, the recipient of a waiver under this chapter who violates a condition of the waiver may be subject to the same remedies or penalties as a person who violates the rule at issue.

201—7.15(904) Defense. After the department issues an order granting a waiver, the order is a defense within its terms and the specific facts indicated therein only for the person to whom the order pertains in any proceeding in which the rule in question is sought to be invoked.

201—7.16(904) Judicial review. Judicial review of the department's decision to grant or deny a waiver petition may be taken in accordance with Iowa Code chapter 17A.

201—7.17(904) Sample petition for waiver. A petition for waiver filed in accordance with this chapter must meet the requirements specified herein and must substantially conform to the following form:

BEFORE THE DEPARTMENT OF CORRECTIONS

Petition by (name of petitioner) for the waiver/variance of (insert rule citation) relating to (insert the subject matter).	PETITION FOR WAIVER/VARIANCE

1. Provide the name, address, and telephone number of the petitioner (person asking for a waiver or variance). Also provide the name, address, and telephone number of the petitioner's legal representative, if applicable, and a statement indicating the person to whom communications concerning the petition should be directed.

2. Describe and cite the specific rule from which a waiver is requested.

3. Describe the specific waiver requested, including the precise scope and time period for which the waiver will extend.

4. Explain the relevant facts and reasons that the petitioner believes justify a waiver. Include in your answer all of the following:

- Why applying the rule would result in undue hardship to the petitioner;
- Why waiving the rule would not prejudice the substantial legal rights of any person;
- Whether the provisions of the rule subject to the waiver are specifically mandated by statute or another provision of law; and
- How substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested.

5. Provide a history of any prior contacts between the department and petitioner relating to the regulated activity that would be affected by the waiver.

6. Provide information known to the petitioner regarding the department's action in similar cases.

7. Provide the name, address, and telephone number of any public agency or political subdivision that also regulates the activity in question or that might be affected by the granting of the petition.

8. Provide the name, address, and telephone number of any person or entity that would be adversely affected by the granting of the waiver or variance.

9. Provide the name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver.

10. Provide signed releases of information authorizing persons with knowledge regarding the request to furnish the department with information relevant to the waiver.

I hereby attest to the accuracy and truthfulness of the above information.

_____ _____

Petitioner's signature Date

These rules are intended to implement Iowa Code sections 17A.9A and 904.108.

[Filed 4/11/01, Notice 2/21/01—published 5/2/01, effective 6/6/01]

CHAPTERS 8 and 9
Reserved

CHAPTER 10
RULE MAKING
[Prior to 3/20/91, Corrections Department[291]]

201—10.1(17A,904) Commencement of rule making. The department shall give notice of its intention to adopt, amend or repeal a rule by publishing the text of the proposed change, or a summary of the issues and subject matter to be considered and the time, place and manner in which interested persons may comment upon the proposal, in the Iowa Administrative Bulletin. The notification shall state either the text of the proposed rule or the subject matter of the proposed rule, a summary of changes from the existing rule, if any, and the location and telephone number where people may obtain the actual text. The notice shall also include the name and address of a person to whom interested persons may present written views and arguments, and the deadline by which these submissions may be submitted.

201—10.2(17A) Exemption from rule making. The department finds that policies, procedures and statements which relate only to inmates of a penal institution shall be exempted from the rule-making process as provided in Iowa Code section 17A.2(7)*"k."*

Policies and procedures governing activities of incarcerated inmates are located in the departmental manual and in institutional manuals.

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. 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.

201—10.4(17A) Oral presentations. When requested by the persons or groups enumerated in Iowa Code section 17A.4(1)*"b,"* an opportunity for an oral presentation shall be scheduled. The request must be received at the department office within 20 days of the publication of the notice of intended action and must identify the proposed rule subject to the request by ARC number and by the specific citation to the proposed rule upon which presentations are to be made. A separate request shall be made for proposed rule(s) under each notice.

10.4(1) *Notice.* When so requested under the provisions of this rule or in the director's discretion, the director shall schedule an opportunity for oral presentations by publishing a notice of the opportunity in the Iowa Administrative Bulletin, which shall refer to the ARC number and citation of the proposed rule, and which shall give the public not less than 20 days' notice of the date, time and place of the meeting. Additional notice shall be mailed to all persons who have requested the opportunity for an oral presentation and to the news media when requested.

10.4(2) *Conduct of meetings.* The director or designee shall serve as the presiding officer at the meetings. At the commencement of the meeting, any person wishing to make an oral presentation shall advise the presiding officer of the person's name, address and affiliation.

a. At the commencement of the meeting the presiding officer shall give a brief synopsis of the proposed rule, a statement of the statutory authority and the reasons for the proposed rule. The presiding officer may limit individual presentations to five minutes each.

b. The presiding officer may open the floor to questions or general discussion to facilitate the exchange of information, but is not required to do so.

c. Persons who disrupt or obstruct the meeting either by their behavior or by the use of a camera or recording device beyond what is reasonably required to operate the camera or recording device shall be requested to cease such behavior or to cease using the camera or device. The presiding officer shall exclude any person who fails to comply with the request.

d. The presiding officer shall, when practical, receive all relevant physical and documentary evidence presented by witnesses. All such evidence becomes the property of the department.

e. A record shall be prepared consisting of the minutes or verbatim record, and all evidence submitted. The presiding officer shall then prepare a summary of the content of all comments received at the meeting. The summary, and when practical the entire record, shall be forwarded to the director for further consideration.

201—10.5(17A) Conferences or consultation. In addition to the required rule-making procedures, the director or designee may obtain viewpoints or advice concerning proposed rule making through informal conferences or consultation as the director or designee may deem desirable.

201—10.6(17A,904) Adoption. At a regularly scheduled meeting held not less than 35 days after the publication of notice, the board shall meet to consider final action on the proposed rule. Once the proposed rule has been adopted by the board in final form, it shall be made effective pursuant to the provisions of Iowa Code section 17A.5.

201—10.7(17A) Statement of reasons. If so requested by any interested person, pursuant to the provisions of Iowa Code section 17A.4(1) and upon adoption of any proposed rule, the director shall prepare a statement of principal reasons for and against the proposed rule, containing the reasons for overruling considerations urged against the rule.

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. 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
DES MOINES, IOWA 50309

Petition by _____(Name)_____ to (Amend, Adopt, or Repeal) Rules Relating to (state subject matter)	PETITION FOR RULE MAKING

(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) *Procedure after petition is filed.* Upon filing of the petition, the director or designee shall inspect the petition to ensure substantial compliance with the recommended form. If the petition does not contain the text or substance of the proposed amendment or any reasons for the proposed amendment

or fails to include copies of any cited statute, rule or evidence, the petition may be rejected and returned to the petitioner along with the reasons for the rejection. Petitioner may then correct the reasons for the rejection and refile the petition. A petition in substantial compliance with the recommended form shall be filed and stamped.

10.8(2) *Department action.* Within 60 days of the filing of a petition, the director shall grant the petition and commence rule making, or deny the petition and notify the petitioner in writing of the grounds for the denial.

These rules are intended to implement Iowa Code sections 17A.3, 17A.4, 17A.6, 17A.7 and 904.108.

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[Filed emergency 2/20/91—published 3/20/91, effective 2/20/91]

CHAPTER 11
DECLARATORY RULINGS
[Prior to 3/20/91, Corrections Department[291]]

201—11.1(17A) General. Any interested person may solicit oral or written advice from the director concerning the application or interpretation of any statute or administrative rule dealing with the department of corrections. However, unless the request is made pursuant to Iowa Code section 17A.9, petition for declaratory ruling, any such advice is not binding upon the department. Petitioners for a declaratory ruling must have a real and direct interest in a specific fact situation which may affect their legal rights, duties or responsibilities under statutes or regulations administered by the department.

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. 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
DES MOINES, IOWA 50309

Petition by _____(Name)_____ For a Declaratory Ruling on (state statute, rule citation to be ruled on)	PETITION FOR DECLARATORY RULING

(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)

201—11.3(17A) Procedure after petition is filed.

11.3(1) *Initial review.* Upon filing of the petition, the director shall inspect the petition for substantial compliance with the recommended form, and may, in the director's discretion, reject a petition which fails to contain one or more of the required statements. The director may request that the petitioner provide additional facts or provide greater specificity and detail in the questions posed. A request shall be made within 5 days of the filing of the petition. If the requested information is not provided within 30 days of the receipt of the request, the petitioner will be deemed to have withdrawn the petition.

11.3(2) *Declaratory ruling.* Within 30 days of the receipt of the petition or additional information, whichever is later, the director shall issue a declaratory ruling or decline to rule. Declination to rule may be based upon one or more of the following grounds:

a. The issue in question is currently involved in a rule making, contested case or judicial proceeding.

b. The petition does not contain sufficient facts to demonstrate that the petitioner will be aggrieved or adversely affected by failure to issue a declaratory ruling.

c. The petitioner presents issues or facts which are unclear, overbroad or otherwise inappropriate as a basis upon which to issue a declaratory ruling.

d. The petition indicates the petitioner seeks to obtain approval to engage in activities so borderline as to be of dubious legality, although perhaps marginally proper.

e. The issue in question has been rendered moot by a change in circumstances, fact or law.

f. The issue in question depends upon peculiar facts which cannot be predicted or accurately described in advance.

g. Other good and sufficient reasons, which shall be detailed in writing.

11.3(3) *Effect of declaratory ruling.* A declaratory ruling is binding upon both the department and the petitioner on the questions of law dealt with in the ruling.

These rules are intended to implement Iowa Code section 17A.9.

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CHAPTER 12
CONTESTED CASES
[Prior to 3/20/91, Corrections Department[291]]

201—12.1(17A) Notice of noncompliance. When the appropriate division director of the department of corrections determines that an agency or facility accredited by the department is not in compliance with state standards, or when an order of closure is issued under 201—subrule 50.5(6), the appropriate administrator shall be notified of the noncompliance status. The notice shall specify:

1. The statute(s) and any rule(s) alleged to have been violated.
2. The deficiencies cited.
3. The time period allowed for submission of an acceptable plan of compliance if submission of a plan is permitted.

The administrator of the facility or agency may submit the plan of compliance within the appropriate time limitation or may request a hearing pursuant to rule 12.3(17A).

201—12.2(17A) Informal settlement. The director or the respondent may request that an informal conference be held to determine whether the noncompliance matter can be resolved in a just manner in furtherance of the public interest. Neither the director nor respondent is required to use this informal procedure. If the director and respondent agree to negotiate a settlement, the various points of the settlement, including a stipulated statement of facts, shall be set forth in writing and shall be binding on both parties.

201—12.3(17A) The right to request hearing. A hearing shall be granted to any agency or facility aggrieved by action of the department of corrections when the right to a hearing is granted by the state or federal law or constitution except as limited herein. A hearing will not be granted when a state or federal law or regulation provides for a different forum for appeals. A prematurely filed appeal may be dismissed.

201—12.4(17A) Order for hearing. Upon a determination that a plan of compliance is not sufficient to effectuate compliance, or upon request by the agency or facility pursuant to rule 12.3(17A), the department shall issue an order fixing the time and place for hearing. A written notice of hearing together with a statement of the charges shall be mailed to the administrator of the agency or facility at the business address at least ten days prior to the hearing by certified mail with return receipt requested or may be served as in the manner of original notices. Delivery of personal notice to the agency or facility or refusal by the agency or facility to accept certified mailing may constitute commencement of the contested case proceedings.

201—12.5(17A) Notice of hearing. The notice of hearing shall state:

12.5(1) The date, time and place of hearing.

12.5(2) A statement that the party may be represented by legal counsel at all stages.

12.5(3) A statement of the legal authority and jurisdiction under which the hearing is to be held.

12.5(4) A reference to the statutes and rules involved.

12.5(5) A short and simple statement of the deficiencies cited.

12.5(6) A statement that the respondent has the right to appear at a hearing and be heard.

12.5(7) A statement requiring the respondent to submit an answer, as outlined in rule 12.6(17A).

12.5(8) A statement requiring the respondent within the period of five days after the receipt of the notice of hearing to:

a. Acknowledge receipt of the notice of hearing on the form provided with the notice.

b. State whether the respondent requests a change in the date and time of hearing.

c. Furnish the director with a list of potential witnesses and their current addresses which the respondent intends to have called. The department of corrections shall not pay witness expenses.

201—12.6(17A) Form of answer. The answer shall be captioned "BEFORE THE IOWA DEPARTMENT OF CORRECTIONS", and shall be titled: "ANSWER". The answer shall contain the following information:

1. The name, address and telephone number of the respondent.
2. Specific statements regarding any or all areas of noncompliance which shall be in the form of admissions, denials, explanations, remarks or statements of mitigating circumstances.
3. Any additional facts or information the respondent deems relative to the issue at hand and which may be of assistance in the ultimate determination of the case.

201—12.7(17A) Continuances. A party has no automatic right to a continuance or delay of the hearing procedure or schedule. However, a party may request a continuance no later than ten days prior to the date set for hearing. Within ten days of the date set for hearing, no continuance shall be granted except for extraordinary, extenuating or emergency circumstances. The administrative law judge shall have power to grant or deny request for continuances.

201—12.8(17A) Prehearing conference. The administrative law judge, either on the administrative law judge's own motion or at the request of the respondent, may hold a prehearing conference. The prehearing conference shall be for the purpose of identifying and premarking exhibits and other documents as well as determining stipulations or other means of limiting the issues of the hearing. Neither the department nor respondent shall be required to stipulate to any issues. The prehearing conference, if held, may be done through a telephone conference call, with all parties being involved.

201—12.9(17A) Appearance. The administrator of the agency or facility shall have the right to appear in person and have legal counsel before the administrative law judge at the facility or agency administrator's expense.

201—12.10(17A) Subpoena powers. After service of the notice of hearing, the following procedures are available to the parties:

1. Subpoenas for persons, books, papers, records and other real evidence shall be issued to a party or for a party upon request. Applications should be made to the director and the director shall issue all subpoenas for both parties upon request.
2. Discovery procedures applicable to civil actions are available to the parties in proceedings under these rules.
3. Evidence obtained by subpoena or through discovery shall be admissible at the hearing under rule 12.16(17A) or by statute.
4. The evidence outlined in Iowa Code section 17A.13(2) where applicable and relevant may be available to a party upon request.

201—12.11(17A) Refusal to obey subpoena. In the event of a refusal to obey a subpoena, the director may petition the district court for its enforcement.

The administrative law judge may also administer oaths and affirmations, take or order that depositions be taken and grant immunity to a witness from disciplinary procedures initiated by the director which might otherwise result from the testimony to be given by the witness.

201—12.12(17A) Failure of a respondent to appear. If a respondent, upon whom a proper notice of hearing has been served, fails to appear in person at the hearing, the administrative law judge may proceed to conduct the hearing and the respondent shall be bound by the results of such hearing to the same extent as if the respondent were present.

201—12.13(17A) Record of proceedings. Oral proceedings shall be recorded either by mechanical or electrical means, or by certified shorthand reporters. Oral proceedings or any part thereof shall be transcribed at the request of any party at the expense of the requesting party. The recording or the stenographic notes of oral proceedings or the transcription thereof shall be filed and maintained in

accordance with the provisions of Iowa Code section 17A.12(7). Any party to a proceeding may record at the party's own expense, stenographically or electronically, any portion or all of the proceedings.

201—12.14(17A) Hearings. A hearing may be conducted before an administrative law judge in accordance with Iowa Code section 17A.11. The administrative law judge shall be in control of the proceedings and shall have the authority to administer oaths, to admit or exclude testimony or other evidence and to rule on all motions and objections. The administrative law judge has the right to conduct a direct examination of the testimony of a witness at the time the testimony is given or at a later stage during the proceeding. Direct examination and cross-examination by the administrative law judge are subject to objections properly raised in accordance with the rules of evidence noted in subrules 12.16(1) and 12.16(2).

201—12.15(17A) Order of proceedings. Before testimony is presented, the record shall show the identity of the administrative law judge, the identity of the primary parties and their representatives, and of the fact that all testimony is being recorded. Hearings shall generally be conducted in the following order, subject to the modification at the discretion of the administrative law judge conducting the proceedings.

1. The presiding officer or designee may read a summary of the charges and answers thereto, and other responsive pleadings filed by the respondent prior to the hearing.
2. The assistant attorney general or other person representing the state or department interest before the administrative law judge shall make a brief opening statement which will be a summary of the charges and the witnesses and documents to support such charges.
3. The respondent or respondents shall each be offered the opportunity to make an opening statement, including the names of any witnesses the respondent(s) desires to call in defense. A respondent may elect to make the opening statement just prior to the presentation of evidence by the respondent.
4. Presentation of evidence on behalf of the department.
5. The presentation of evidence on behalf of the respondent(s).
6. Rebuttal evidence on behalf of the state or department, if any.
7. Rebuttal evidence on behalf of the respondent(s), if any.
8. Closing arguments first on behalf of the state or department, then on behalf of the respondent, and then on behalf of the state or department, if any.

201—12.16(17A) Rules of evidence—documentary evidence—official notice.

12.16(1) Irrelevant, immaterial and unduly repetitious evidence should be excluded. A finding will be based upon the kind of evidence upon which reasonably prudent persons are accustomed to rely for the conduct of their serious affairs, and may be based upon such evidence even if it would be inadmissible in a jury trial. The administrative law judge will base the findings upon substantial evidence.

12.16(2) Objections to evidentiary offers may be made and shall be noted in the record. Motions and offers to amend the pleadings may also be made at the hearing and shall be noted in the record together with the rulings thereon.

12.16(3) Subject to above requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be submitted in writing in certified form, e.g., affidavit, sworn statements or certified documents.

12.16(4) Documentary evidence may be received in the form of copies if the original is not readily available. Documentary evidence may be received in the form of excerpts if the entire document is not relevant. Accurate copies of any document should be provided at the time of the hearing. Upon request, the parties shall be given the opportunity to compare the copy with the original, if available.

12.16(5) Witnesses at the hearing, or persons whose testimony has been submitted in written form, if available, shall be subject to cross-examination by any party as necessary for a full and true disclosure of the facts.

12.16(6) Official notice may be taken of all facts of which judicial notice may be taken and of other facts within the specialized knowledge of the department. Parties shall be notified at the earliest practical time, either before or during the hearing or by reference in preliminary reports, preliminary decisions or otherwise, of the facts proposed to be noticed and their source, including any staff memoranda or data, and the parties shall be afforded an opportunity to contest such facts before the decision is announced unless the administrative law judge determines as part of the record or decision that fairness of the parties does not require an opportunity to contest such facts.

201—12.17(17A) Proposed decision.

12.17(1) The decision rendered by the administrative law judge is a proposed decision and subject to the review provisions of rule 12.19(17A).

a. A proposed decision shall be in writing and shall consist of the following parts.

(1) Findings of fact. A party may submit proposed findings of fact and where this is done, the decision shall include a ruling on each proposed finding.

(2) Conclusions of law. The conclusions shall be supported by cited authority or reasoned opinion.

(3) Order. The decision or order which sets forth the action to be taken or the disposition of the case.

b. The decision may include any of the following conclusions.

(1) The plan of compliance is adequate.

(2) The plan of compliance is not adequate, however, a specified time period will be allowed for specified conditions to be met.

(3) Compliance is not adequate and the appropriate action is to be taken by the department.

12.17(2) Reserved.

201—12.18(17A) Notification of proposed decision. All parties to a proceeding herein will be promptly furnished with a copy of any proposed decision or order.

201—12.19(17A) Review of proposed decision—procedures and requirements.

12.19(1) A party dissatisfied with a proposed decision may request the director to review or modify the decision. The department may request review if it is dissatisfied with the proposed decision. The request for review is begun by serving on the director, either in person or by certified mail, a notice of the request for review within ten days after the service of the proposed decision or order on the appealing party.

12.19(2) Within ten days after serving notice of appeal, the requesting party shall serve copies of the exceptions, if any, together with any brief and arguments on the department and all other parties, if any. Other parties shall have ten days after service of exceptions and briefs on the director to file a responsive brief and argument. Except for the request for review, the above time requirements will be extended by stipulation of the parties and may be extended upon application approved by the director.

12.19(3) Oral argument of the request for review is discretionary but may be required by the director upon the director's own motion. At the times designated for filing briefs and arguments, either party may request oral argument. If a request for oral argument is granted or required, the director shall notify all parties of the date, time and place for an oral presentation, if any.

12.19(4) The record on appeal shall be the entire record made before the administrative law judge. The director is not bound by any proposed findings of fact, conclusions of law or order but is free to accept, affirm, modify or reject such proposed findings, conclusions or order. The director may consider other evidence or information, with notice to all parties, which was not originally presented at the hearing. The director may give such new evidence or information whatever value or weight the director desires.

201—12.20(246) Motion for rehearing.

12.20(1) Within 20 days after issuance of a proposed decision, any party may file an application for a rehearing. The application shall state the specific grounds for rehearing and the relief sought. Within 20 days after issuance of a proposed decision, any party may file an application for a rehearing upon

the director and all other parties who are not joining in the application. The application shall state the specific grounds for rehearing and the relief sought.

12.20(2) Upon a rehearing, the director shall consider facts not presented in the original proceeding, if:

a. Such facts arose after the original proceedings; or

b. The party offering such evidence could not reasonably have provided such evidence at the original proceeding; or

c. The party offering the additional evidence was misled by any party as to the necessity of offering such evidence at the original proceeding, except that this subrule shall not relieve any party of its own obligation to control its own evidence and defense.

12.20(3) The decision made upon rehearing may incorporate by reference any and all parts of the decision made upon the conclusion of the original proceeding.

201—12.21(17A) Final decision. The final decision shall be made by the director. The final decision shall be in writing and shall consist of the parts as outlined in subrule 12.17(1). A copy of the decision and order shall immediately be sent by certified mail return receipt requested to the administrator of the facility or agency at the business address or may be served as in the manner of original notices upon the facility or agency. The proposed decision becomes final ten days after issuance if review is not requested.

201—12.22(17A) Judicial review and appeal. Judicial review of the director's action may be sought in accordance with the Iowa Administrative Procedure Act, from and after the date of the director's order.

201—12.23(17A) Ex parte communications—bias. Unless required for the disposition of ex parte matters, specifically authorized by statute, no party to a contested case or person with a personal interest in that case may communicate directly or indirectly with the administrative law judge, nor shall the presiding officer communicate directly or indirectly with that party or person, concerning any issues of fact or law in that case. When such a communication occurs, each party shall be given written notice of the communication, containing either the text of a written communication or a summary of an oral communication, and the time, place and means of the communication. After the notice all parties have the right, upon written demand, to respond to the communication at a hearing convened especially for that purpose.

12.23(1) *Inclusive in the record.* Any ex parte communication prohibited by Iowa Code section 17A.17(2) received by the administrative law judge shall be included in the record. If written, the text shall be entered into the record; if oral, the administrative law judge shall summarize the communication and enter that summary into the record.

12.23(2) *Penalties.* If a party knows or reasonably should know that the communication was prohibited by Iowa Code section 17A.17(2), the director may censure that person or suspend or revoke that person's right to practice before that agency. In the case of prohibited communication which has a substantial and adverse impact upon the opposing party's case, the director may enter a decision against the party making the communication. Any administrative law judge who violates the provisions of section 17A.17 or of this rule may be censured, suspended or dismissed by the director of the department of corrections.

201—12.24(17A) Emergency action. If the agency finds that public health, safety or welfare imperatively requires emergency action, and incorporates the finding to that effect in the order, summary suspension of a license may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

These rules are intended to implement Iowa Code sections 17A.10 to 17A.19.

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CHAPTERS 13 to 19
Reserved

TITLE II
INSTITUTIONS

CHAPTER 20
INSTITUTIONS ADMINISTRATION

[Prior to 10/1/83, Social Services[770] Ch 16]
[Prior to 3/20/91, Corrections Department[291]]

201—20.1(904) Application of rules. The rules in this chapter apply to all adult correctional institutions unless otherwise stated. The institutions covered by these rules are the Iowa state penitentiary, Fort Madison, the Anamosa state penitentiary, Anamosa, the Iowa correctional institution for women, Mitchellville, the Iowa medical and classification center, Oakdale, the Newton correctional facility, Newton, the Mt. Pleasant correctional facility, Mt. Pleasant, the Clarinda correctional facility, Clarinda, the north central correctional facility, Rockwell City, and the Fort Dodge correctional facility, Fort Dodge.

201—20.2(904) Title II definitions.

"Class I Disciplinary Report" means the same as a major report and is defined in department policy IN-V-36.

"Class II Disciplinary Report" means the same as a minor report and is defined in department policy IN-V-36.

"Contraband" means weapons, alcohol, drugs, money, obscene materials, or materials advocating disruption of or injury to offenders, employees, programs, or physical facilities. It shall also include anything which is illegal to possess under federal or state law, 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.

"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 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 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 assistant employed by the department.

"Obscene material" means the same as that described in 20.6(4).

"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 is to make restitution. The plan may include legal financial obligations. The plan is to reflect the offender'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 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 successful completion of furloughs within the furlough rules and facilitate the return of the offender 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."*

201—20.3(904) Visits to offenders. Visiting is a privilege which allows offenders 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.

"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 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 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 were raised as cohabiting siblings.

"Offender" 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 "violator" 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 will designate the time for visiting on certain days/holidays and advise the offenders. The offender 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. This visiting list remains valid when the offender 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 other individuals or groups who are the offender'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 shall also be allowed to visit under the immediate supervision of any adult on the offender's approved visiting list.

c. Limitation. An individual on the approved visiting list of one offender shall not be on the approved visiting list of another offender, regardless of the location(s) of the offenders. 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. 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 visiting list except with the permission of the warden/superintendent 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 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 visiting list until the offender has completed the sex offender treatment program. After the offender's completion of the treatment program, a minor victim of the offender may be added to the offender'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 visiting list after the offender'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 or designee.

a. The offender'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 by the warden/superintendent or designee after consultation with the supervising parole/probation officer. The warden/superintendent or designee may authorize either contact or noncontact visiting.

b. The warden/superintendent 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 and seeks to be added to the visiting lists of only those offenders.

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

d. A former department employee or volunteer who is not an immediate family member of an offender 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 or designee.

e. An offender 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.

20.3(6) *Application process.*

a. Visitor application forms shall be provided to offenders at each institution. Offenders are responsible for mailing visitor application forms to prospective visitors, who may then apply to be added to the offender'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 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 visiting list.

c. Written notification. Written notification of denial of a visitor application will be given to both the offender 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. The offender is responsible for notifying the approved visitor.

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

(1) Applicants may appeal to the warden/superintendent 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 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 wishes to have a visitor removed from the offender's visiting list, the offender 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. Once a visitor has been removed from a visiting list, six months must elapse before reapplication by the removed visitor.

20.3(8) *Searches.* Approved visitors shall be subject to search. In accordance with 20.3(14), the search may include a pat down, search by an electronic detection device, or visual search.

20.3(9) *Identification.* All visitors shall present proper identification upon entrance to the institution. Photo identification is preferred, but any identification presented shall identify personal characteristics, such as color of hair and eyes, height, weight, and birth date.

a. Signature cards may be required from visitors.

b. All visitors may be required to be photographed for future identification purposes only.

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; 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. Background checks are not required, and attorneys shall not be counted as a friend on an offender's visiting list as set forth in 20.3(3)*"b."*

Attorneys shall present proof of identity upon entrance to the institution. The offender 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 and approved by the warden/superintendent 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; 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. Background checks are required. Ministers shall not be counted as a friend on an offender's visiting list as set forth in 20.3(3)*"b."*

Ministers shall present proof of identity upon entrance to the institution. The offender must express a desire to visit 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 and approved by the warden/superintendent 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 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 fails to follow the established rules and procedures of the institution.

c. The visitor and offender 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 or visitor.

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

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

20.3(12) *Noncontact visiting.* The warden/superintendent 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 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) *Clothing.* Visitors shall be properly attired prior to entering a correctional setting. All visitors shall wear shoes. Visitors wearing miniskirts, shorts, muscle shirts, see-through clothing or halter tops will not be allowed to visit. Visitors wearing clothing with slogans, pictures, or words intended to deprecate race, sex, or cultural values will not be allowed entry. Visitors may be required to remove for the duration of the visit outerwear such as, but not limited to, coats, hats, gloves, or sunglasses. A medical need for sunglasses must be verified by prescription.

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 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 or designee in writing. The decision of the warden/superintendent 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. Staff may request that local law enforcement search visitors if search procedures or an electronic testing device shows that there is a clear, reliable reason to believe a particular visitor is attempting to smuggle contraband into the facility. If the search reveals drugs or illegal contraband, the item shall be confiscated and preserved by local law enforcement. Visitors found in possession of contraband shall be referred by local law enforcement to the county attorney for prosecution.

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) *Money orders and cashier's checks.* Money orders and cashier's checks for deposit in the offender's account must be made payable to the Iowa Department of Corrections Central Bank and sent to: Fort Dodge Correctional Facility, 1550 L Street, Suite B, Fort Dodge, Iowa 50501, and must include the offender's name and ID number and the sender's name and address. Personal checks and cash will not be accepted. Suspected abuse of money requests from the public by an offender 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) *Limits.* Each institution, according to its facilities and conditions, shall limit the number of visitors an offender may have at any one time and the length of visits.

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

20.3(20) *Special visits.* The warden/superintendent 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 or designee. When ruling on such visits, the warden/superintendent or designee shall consider appropriate factors including the uniqueness of the circumstances involved for both the offender and the visitor; security, order, and administrative needs of the institution; and available alternatives to a special visit. The decision of the warden/superintendent or designee in these cases constitutes final agency action.

20.3(21) *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.

201—20.4(904) Mail. Constructive, unlimited correspondence with family, friends, and community sources will be encouraged and facilitated. Inmates 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 inmate use of the mail.

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 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. Confidential mail, as defined in this rule, will not be read or censored.

b. Confidential mail will be opened and inspected for contraband and to ensure that the contents are from the return addressee, only in the presence of the inmate.

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. Confidential letters may be written to: (the sender's name and address must be appropriately identified on the envelope)

(1) Officers of federal, state, or municipal courts (judges, judges' law clerks, prosecuting attorneys, court administrators).

(2) Federal agencies chief administrative officer, elected or appointed officials.

(3) State agencies chief administrative officer, elected or appointed officials.

(4) Clerk of court.

(5) The sentencing state department of corrections chief executive officer, deputy directors.

(6) Sentencing state board of parole.

(7) Attorney.

(8) The citizens' aide office.

(9) Any additional exception by law or policy.

(10) Civil rights commission.

d. Envelopes containing confidential correspondence shall be marked as "confidential" by the sender.

20.4(3) *General.*

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

b. When sending confidential mail, inmates 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 inmates or inmates writing to persons in the public. All letters mailed by inmates will be left unsealed for inspection of the contents only. Envelopes shall contain letters to the addressee only.

d. All other nonconfidential correspondence and packages, both incoming and outgoing, shall be opened for inspection to remove items of contraband.

To facilitate institutional inspection of first-class mail, writers should avoid enclosures other than the written correspondence. Traditional items such as snapshots of appropriately clothed individuals and clippings from published material may be permitted. Each institution shall have guidelines for the amount and type allowed.

e. With the exception of weekends and holidays, incoming and outgoing mail will not be retained for more than 24 hours prior to delivery unless unusual circumstances exist such as staff shortage, suspected correspondence violations, disturbance, or similar constraints.

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

g. Inmates/offenders under correctional supervision or detention will not be allowed to correspond with other inmates/offenders 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.

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

i. All outgoing mail must be sent directly to the individual that the correspondence is written to, and all incoming mail must be sent directly from the individual that wrote the correspondence.

j. No limit will be placed on the number of letters mailed for inmates able to pay the mailing costs. Inmates that are unable to pay mailing costs 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 inmate.

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 inmate 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 inmate that 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 inmate 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.

n. All outgoing parcel post items will be packed and sealed by the mail room and postage charged to the inmate.

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 inmate (exceptions may be made by the warden/superintendent).

p. The sender's name shall be signed in full at the end of the letter. The sender's name and address shall appear in the upper left-hand corner of the envelope.

q. The inmate's name, 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 inmate name and number as well as the institution, address, and zip code.

s. Reasonable size restrictions of envelopes may be imposed.

t. Each institution shall have written procedures for disposition (safekeeping and preservation) of contraband.

u. Only first-class letters and packages will be forwarded after an inmate's transfer or release.

v. An individual may deposit funds in an inmate's account by sending only bank drafts or money orders payable to (warden or superintendent's name) for (inmate's name). Identification of the sender

and a cover letter shall accompany the bank draft or money order. These funds may be enclosed with a letter to the inmate but shall not be enclosed with a package.

w. Misuse of mails will result in institution discipline and be reported to the United States Postal Inspector or other state or federal agencies for action.

201—20.5(904) Money orders and cashier's checks for offenders. Money orders and cashier's checks only will be accepted for deposit into an offender's account by mail. Money orders and cashier's checks must be made payable to the Iowa Department of Corrections Central Bank and sent to: Fort Dodge Correctional Facility, 1550 L Street, Suite B, Fort Dodge, Iowa 50501, and must include the offender's name and ID number and the sender's name and address. Personal checks and cash will not be accepted. Suspected abuse of money requests from the public by an offender may be cause for limits or restrictions on the amounts of money which can be received and from whom money can be received.

201—20.6(904) Publications. The institution shall allow inmates access to publications when consistent with institutional goals of maintaining internal order, safety, security, and rehabilitation.

20.6(1) Publications include periodicals, newspapers, books, and other printed matter. All publications shall be unused and sent directly from a reputable publishing firm or book store which does mail order business. Any exceptions must be authorized by the warden or superintendent. No publication will be denied approval 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(2) All publications not on the approved list shall be reviewed by a publication review committee for approval or denial.

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

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

20.6(3) The following procedures shall be used when reviewing a publication not on the approved list:

a. The committee shall approve or deny publications within 15 working days of receipt of the publication.

b. When a publication is denied, the committee shall send a written notice to the inmate, stating the publication involved, the reason for denial, and the inmate's available appeal process.

c. The inmate shall have five days to notify the designated institution staff where to send the material at the inmate's expense or notify the institution that the decision is being appealed.

d. A list of approved publications shall be maintained.

20.6(4) A publication may be denied when the publication presents a danger to the security or order of an institution or is detrimental to the rehabilitation of the inmate. Authorized reasons for denying a publication are that the publication:

a. Is likely to be disruptive or produce violence.

b. Contains material which portrays a minor (any person 17 years of age or younger) engaged in or simulating any of the following:

(1) An act which involves sexual contact between two or more persons by penetration of penis into the vagina or anus, by contact between the mouth and the genitalia or by contact between the genitalia of one person and the genitalia or anus of another person, or by the use of artificial sexual organs or substitutes therefor in contact with the genitalia or anus.

(2) An act of bestiality involving a minor.

(3) Fondling or touching the pubes or genitals of the minor.

(4) Fondling or touching the pubes or genitals of a person by a minor.

(5) Sadomasochistic abuse of a minor for the purpose of arousing or satisfying sexual desires of the person who may view a depiction of the abuse.

(6) Sadomasochistic abuse of a person by a minor for the purpose of arousing or satisfying the sexual desires of the person who may view a portrayal of the abuse.

(7) Nudity of a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a portrayal of the nude minor.

c. Contains material portraying bestiality, sadomasochism, or excretory functions or lewd exhibition of the genitals as prohibited by Iowa Code section 728.1(2).

d. Contains information relating to escapes or formulating escape plans.

e. Contains information relating to provoking a riot or disturbance.

f. Contains information relating to obtaining an emotional or behavioral state comparable to those produced by a controlled substance, by using aerosols, glue, or other chemical materials.

g. Contains materials which illustrate, explain, describe, or teach martial arts, or other manufacture of weapons or explosives, or advocate behavior contrary to duly established institution rules or Iowa statutes. Contains materials which illustrate, explain, describe, or teach ability to frustrate crowd or riot control methods. Contains materials which illustrate, explain, describe, or teach ability to sabotage or disrupt communications networks, including a prison's internal and external communications and automated information systems.

h. Contains information concerning criminal activities.

i. Contains encoded material. This shall not automatically include foreign language publications not otherwise prohibited in these rules.

j. May violate postal regulations, such as threats, blackmail, contraband, or similar violations.

20.6(5) Portrayal of fellatio, cunnilingus, masturbation, ejaculation, sexual intercourse, male erection, or other sexually explicit materials will be denied to those inmates when the material is detrimental to the rehabilitation of an individual inmate, based on psychological/psychiatric recommendation.

20.6(6) Publications which contain material portraying fellatio, cunnilingus, masturbation, ejaculation, sexual intercourse or male erection and are not prohibited by 20.6(4)*"b,"* 20.6(4)*"c,"* or 20.6(5) above will be controlled for the security and order of the institution and to assist in enabling its control from those inmates denied access by 20.6(5) above. Institutional procedures shall be established for the inmate to reserve time in a designated controlled area and obtain the material for reading during specified times. The publication will be secured until the inmate makes arrangements for further review of the material. An inmate 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 inmate's expense, or destroyed or taken with the inmate upon release.

20.6(7) An inmate may appeal the committee's decision or the denial of a publication for treatment reasons within ten days of receipt of the decision by filing written objections to the Director, Department of Corrections, Capitol Annex Building, 523 East 12th Street, Des Moines, Iowa 50319. The director's decision shall be final.

201—20.7(904) Interviews and statements.

20.7(1) When inmates are selected to be interviewed and photographed within the institution, either singly or as part of a group, identifiable interviews or pictures shall have the written consent of the inmate 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.

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) Any guest must agree to comply with the policy and procedures of the institution when signing in at the control center.

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.

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 inmate only when it serves the best interests of the inmate as determined by the warden, superintendent, or designee.

20.8(5) All contacts with inmates 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.

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 director, division of adult corrections.

201—20.10(904) Incarceration fees. Effective July 1, 1997, an incarceration fee of up to $5 per month will be assessed to all inmates who are financially able to pay. The ability to pay will be determined by an inmate's medical, physical, and mental status as well as security and program levels.

20.10(1) Deductions will occur on the first workday of each month provided all other legal and department financial obligations have been met including personal hygiene items and postage. Legal obligations include, but may not be limited to, Iowa Code section 904.108 as amended by 1997 Iowa Acts, chapter 190; Iowa Code sections 904.508, 904.702, 904.809 and 904.909; Iowa Code chapters 610 and 610A; and Iowa Rules of Civil Procedure section 80(b). Federal obligations include but are not limited to United States Code Title 28, Section 1915(b), and Federal Rules of Civil Procedure, page 54, and United States Code Title 31, Section 3713.

20.10(2) For those inmates determined to be able to pay, the first deduction will occur on the first workday in August and on the first workday of each subsequent month thereafter until the release of the inmate.

20.10(3) If an inmate is determined to be able to pay but there are insufficient funds in the inmate's account at the time of the deduction, the amount will be deducted from subsequent credits to the account.

20.10(4) Inmates assigned to a violator program at ICIW or NCF, in accordance with Iowa Code section 904.207, or inmates employed in private sector jobs, in which case federal regulations apply in accordance with Iowa Code section 904.108 as amended by 1997 Iowa Acts, chapter 190, are excluded from deductions as required by rule.

20.10(5) The director may temporarily delay or suspend the collection of these fees or may modify the method or source of collections to minimize related administrative burdens.

This rule is intended to implement Iowa Code section 904.108 as amended by 1997 Iowa Acts, chapter 190.

201—20.11(904,910) Restitution.

20.11(1) Every inmate 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 inmate'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) The warden/superintendent or designee shall approve each restitution plan or modified plan and send a copy to the clerk of court.

20.11(5) Initial inmate complaints regarding restitution plans of payment or modifications may be addressed via the inmate grievance procedure.

20.11(6) The staff shall explain the restitution plan and plan of payment to the inmate. Each inmate shall receive a copy of the restitution plan and plan of payment.

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

a. An amount, assessed by the warden/superintendent 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 inmate's expense.

b. An amount, assessed by the warden/superintendent 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. An amount as assessed by the appropriate authority specifically for transportation fees as a result of work release/OWI violations or compact transfers. The same percent as established in the restitution plan will be deducted from any amount over the total amount assessed.

d. An account transfer from one institution to another.

e. Refunds from outside vendors or institution commissaries.

f. Property tort claims.

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

20.11(8) Restitution deductions shall be forwarded to the clerk of court in the county of commitment on a quarterly basis.

20.11(9) When the department of corrections has knowledge of other income or assets the district court clerk of the sentencing county shall be so notified.

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

20.11(11) The restitution plan of payment may be modified through each level of commitment. (This includes preinstitutional services and postinstitutional services.)

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

201—20.12(904) Furloughs. The furlough program is designed to provide an opportunity for the following:

1. To maintain or strengthen family relationships if specific reasons or objectives are documented and verified.
2. To obtain training programs or community services not available in the institution.
3. To seek employment and housing prior to release.
4. For correctional staff to examine the inmate's capacity to abide by the guidelines of the furlough policy and establish productive release programming. This enables staff to assess the inmate's ability to function in a less restrictive setting such as parole or work release.

Furloughs are a privilege earned by overall responsible behavior and are subject to rules contained in the Iowa Administrative Code and department policies. Furloughs are a privilege, not a right, and may be denied or canceled at any time for reasons deemed sufficient by the warden/superintendent or designee. Reasons for denial or cancellation shall be given to the inmate. Upon request these reasons shall be in writing. If a furlough is canceled after approval and the inmate is restricted from telephone usage, the institution shall notify the transporting party.

When uniformity of furlough rules for all institutions is not possible or not prudent, rules shall be published in the respective institution chapters.

Circumstances not covered in the furlough rules will require approval by the warden/superintendent or designee.

The overall criteria and approval for furlough participation shall emphasize community safety, positive institutional performance and future planning.

20.12(1) *Minimum eligibility requirements for community visit furlough.* These are minimum eligibility requirements and do not automatically confer approval of a furlough plan. For community services furloughs, further requirements shall be met consistent with the furlough level system. These requirements must be met prior to furlough consideration and may be subject to additional requirements by the wardens/superintendents.

a. Inmates serving a Class "A" felony shall not be eligible for furlough unless the sentence has been commuted to a term of years.

b. Inmates who escape from the institution, escape while on furlough, or commit a felony on furlough during the present commitment will not be eligible for furloughs. Commission of an escape or a felony in this context shall be defined as a finding of guilty by the institutional disciplinary committee or a finding of guilty in a criminal court of law. An exception to this rule may be made when an inmate is authorized a parole or work release.

c. Only minimum security live-out inmates are eligible for furloughs. An inmate must be in minimum live-out status for 91 days or in a prerelease program for two days prior to participating in the furlough.

d. Inmates with detainers are ineligible for furloughs unless the detaining authority provides written authorization for furlough privileges.

e. Inmates serving a mandatory minimum sentence will not be eligible until completion of the mandatory minimum requirement.

f. Inmates with Class I disciplinary reports, to include pending reports and reports in any step of the appeal process, are ineligible for furloughs. This shall include Class II disciplinary reports which have resulted in a loss of furlough privileges.

g. Major and minor disciplinary reports can result in loss of furlough privileges as part of the disciplinary process. Inmates must be sanction free for at least 28 days prior to applying for furlough. This time frame may be extended for serious rule infractions at the discretion of the warden/superintendent.

h. Inmates serving time for a felony conviction, other than a Class "A," shall have served a minimum of one-sixth of the sentence or four months, whichever is greater, in an institution, from the date of commitment to discharge date.

i. Rescinded 3/20/91.

j. Inmates shall have sufficient funds to cover the cost of the furlough including transportation costs.

k. Inmates with pending work release or parole revocation or rescission hearings are not eligible for furlough.

l. Inmates who are suspended from their work assignment or confined to the housing area are not eligible.

m. Inmates with pending transfer referrals to a more secure classification are not eligible.

n. Any inmate having committed murder, rape, or sexual abuse of a child which resulted in a conviction, reduction in charge, plea bargain, or dismissal, or possesses a risk assessment requiring more than three votes for release, shall not be eligible for furlough until the parole board has recommended gradual release and the following procedures are completed:

(1) Classification committee reviews/approves and forwards to the warden/superintendent.

(2) Warden/superintendent reviews/approves and forwards to the deputy director of institutions.

(3) Deputy director makes final approval.

Other than classification appeals to the warden/superintendent, if any step denies the recommendation, that decision is final and the inmate is not entitled to further review. Reasons for denial shall be documented. The denying authority shall state when the case may again be submitted for review. This process will take place on an individual and case-by-case basis.

o. Inmates who have been revoked from work release parole will not be eligible for furlough until six months (182 days) from the date of return to IMCC.

20.12(2) *Furlough plan requirements.*

a. Law enforcement officials in the community to which the inmate plans to furlough shall be advised of the inmate's intention to furlough. Community input will be taken into consideration during the approval process.

b. Except for community service furloughs, inmates taking furloughs are required to be under the supervision of a responsible person as defined in Title II definitions. A responsible person may be required to have a prefurlough interview with staff when requested and may be required to provide three character references.

c. The furlough plan must be submitted for approval and review before and after the furlough and shall include but not be limited to the following:

(1) Purpose of furlough which shall include specific reasons and objectives for the furlough.

(2) Furlough destination to include name, address, telephone number, and relationship of responsible person.

(3) Complete and adequate transportation plan including means of transportation which must be:

With anyone on the inmate's visiting list;

By public transportation. When public transportation is not available from the community in which the institution is located, the warden/superintendent or designee may approve other means of transportation to the public transit site.

(4) Activity schedules to include dates, times, telephone numbers and locations, law enforcement check-ins, estimated departure, arrival times, purpose of the activity, and any further information deemed necessary by the warden/superintendent or designee. Activity schedules will be verified by staff prior to departure and after return. Unspecified or unaccounted for time on furlough will not be permitted.

(5) Names and relationship to all persons with whom the inmate will be in contact.

(6) Whether or not the furlough residence is equipped with a call-forwarding device.

Inmates will not be permitted to have married individuals of the opposite sex (other than immediate family members) as responsible persons unless both husband and wife are listed as responsible persons. Married inmates will not be permitted to have any individuals of the opposite sex (other than immediate family) as responsible persons.

d. The warden/superintendent or designee may impose additional requirements in the furlough plan.

20.12(3) *Furlough conditions.* Following are minimum conditions and restrictions placed on inmates during their absence from the institution while on furlough:

a. The inmate shall, in person, report to the local law enforcement agency upon arrival at the furlough destination, as indicated in the plan, and have law enforcement personnel sign the form, including the date and time. Additional check-ins may be required in the plan.

b. Only one inmate on furlough shall be permitted at a residence at any given time. Exceptions may be made when the inmates are immediate family members. Additional exceptions may be made only by the warden/superintendent or designee. Inmates are prohibited from participating in activities together on furlough unless specifically authorized in the plan.

c. The inmate and the responsible person shall be in the furlough residence from the hours of 10 p.m. to 6 a.m. Travel to and from the furlough destination is not permitted between the hours of 10 p.m. and 6 a.m. unless it is not feasible to reach the furlough destination from the institution by 10 p.m. or to reach the institution from the furlough destination without traveling during the restricted hours. This shall be reflected in the furlough plan.

d. Inmates on furlough must be available for telephone checks. Random telephone checks will be made to ensure that the inmate is in the place of assignment designated in the furlough plan.

e. Unspecified or unaccounted for time on furlough is not permitted. A maximum of five hours on any given day will be considered for activities during which the inmate is unavailable by telephone during community visit furlough. Time away from a telephone may be used to go to private businesses, churches, make law enforcement check-ins, or participation in approved treatment. These activities and locations must be listed on the furlough plan. Time away from a telephone is not permitted during visits or recreation.

f. Inmates on furlough are not permitted to use call forwarding devices. The plan shall reflect whether or not the furlough residence is equipped with call forwarding.

g. Inmates are not permitted to drive motor vehicles while on furlough. Exceptions shall be made only by the warden or superintendent.

h. Inmates are not allowed to hitchhike while on furlough.

i. Inmates must abide by all laws and institution rules while on furlough. Inmates may not enter establishments whose primary business is the sale of alcoholic beverages. Inmates are prohibited from consuming any alcoholic beverages or controlled substances.

j. An inmate must call the institution to request permission for any change in the furlough plan. Calls received collect to the institution will be charged to the inmate's account.

k. Out-of-state furloughs are not permitted except in a verified emergency, and only with the approval of the director of the department of corrections and the governor or designee (department policy out-of-state travel for inmates).

l. Furloughs for federal offenders are subject to any additional rules and policies as outlined in the federal manual.

m. If the inmate returns to the institution from furlough during visiting hours, a visit may be requested.

20.12(4) *Approval process.*

a. Staff shall verify all aspects of the furlough plan and eligibility requirements.

b. Each institution shall have written policy describing the process by which the plan, once submitted by the inmate, is reviewed prior to the final decision by the warden/superintendent or designee and shall include time frames for submission.

c. The following information will be considered in determining an inmate's readiness to meet furlough requirements.

(1) Information contained in the plan.

(2) Any recommendations received from local law enforcement in response to furlough notification.

(3) Institutional performance, including conduct, attitude, program participation, and overall adjustment.

(4) Work reports.

(5) Psychiatric/psychological information.

(6) Nature of the instant offense.

(7) Criminal history.

(8) Any other information which may have impact on the successful completion of the furlough.

d. The warden/superintendent or designee shall review each furlough plan and make the final decision to approve or deny the furlough. When the furlough is denied, the inmate will be informed of the reason(s). Upon request, these reasons shall be given in writing. If a furlough is canceled after approval and the inmate is restricted from telephone usage, the institution shall notify the transporting party.

20.12(5) *Types of furloughs.* Long furloughs may be allowed when a holiday occurs consecutive to a weekend. In this case, the furlough may begin after work on the last work day prior to the holiday weekend and end by 10 p.m. on the last nonworking day of the holiday weekend. Exceptions of this nature shall be made only with the approval of the warden/superintendent or designee.

a. *Emergency furlough.* Emergency furloughs will be considered in the event of a death or serious illness in the immediate family. Up to three days may be granted for an emergency furlough. In the event of extenuating circumstances, seven days may be granted with the approval of the warden/superintendent or designee.

b. *Community placement furloughs.* Inmates shall meet minimum eligibility requirements of Level 3 and be within one month of discharge with approval of warden/superintendent or designee.

Discharge. Develop community resources, seek employment and appropriate housing. Up to a maximum of four calendar days may be granted.

c. Community services furloughs. Inmates shall meet the requirements of Level 2 of the furlough level system. Inmates may apply for furloughs to obtain verified needed services or treatment specified in the individual's treatment plan that is not provided by the institution and cannot be completed by telephone or mail. This includes: education, vocational training, driver's license, medical, family, marital and premarital counseling, psychological treatment, and legal matters of a civil nature. Furloughs may be approved as needed and for the time required to meet treatment or legal needs or to provide services or work that benefits the community.

d. Community visit furloughs. Inmates shall meet the minimum eligibility requirements and the requirements of Level 3. Community visit furloughs may be granted to provide inmates the opportunity to maintain family relationships, to reestablish contact with the community and prepare for release, and to provide staff the opportunity to examine the inmate's capacity to abide by the guidelines of the furlough policy and establish productive relationships in order to assess the inmate's ability to function in a less restrictive setting such as parole or work release. The number of eligible hours may be reduced at the discretion of the warden/superintendent or designee.

20.12(6) *Furlough level system.* The furlough level system, as published herein allows inmates the opportunity to progress from minimum to maximum privileges available in the furlough program. Progression through the level system is not automatically conferred and is subject to approval of the warden/superintendent or designee. Minimum security institutions in the furlough level system means the Iowa Correctional Institution for Women and the Correctional Release Center. Satellite facilities in the furlough level system means Luster Heights satellite of the Iowa State Men's Reformatory and Montrose (Farm No. 3) and Augusta (Farm No. 1) satellites of the Iowa State Penitentiary.

Due to the structural, staffing, programmatic and geographical differences between the institutions offering furlough programs, it may be necessary to publish in the respective institutional IAC chapters rules which are institution-specific. Levels 2 and 3 shall apply to satellite facilities and minimum security institutions. Levels 4 and 5 shall apply only to prerelease programs in minimum security institutions.

Inmates transferring between furloughing institutions shall maintain their previous furlough level status following a 14-day period at the receiving institution provided that the eligibility requirements continue to be met and provided that level is available at the receiving institution.

a. Level 1.

(1) Type of furlough: Emergency.

(2) Frequency: As requested and upon special approval.

(3) Duration: Three days maximum with special approval up to seven days.

(4) Time scheduled away from telephone: Up to four hours per furlough day.

(5) Criteria: Medium/Minimum out or minimum live-out status, with no time limit in that status, verified death or life-threatening illness in immediate family. Inmates in these custody levels by override will require approval of DOC deputy director for institutions or designee.

b. Level 2.

(1) Type of furlough: Community service.

(2) Frequency: As needed to complete treatment or legal need.

(3) Duration: As needed to complete treatment or legal need up to 14 days.

(4) Time scheduled away from telephone: To be determined on furlough application.

(5) Entrance criteria: Twenty-one days in minimum live-out status at the institution from which the inmate is requesting furlough. Satisfactory or above performance evaluations. Inmates in minimum live-out status by override will require approval of DOC deputy director for institutions or designee.

c. Level 3.

(1) Type of furlough: Community visit.

(2) Frequency: Up to one per every 56-day cycle.

(3) Duration: Up to 48 hours (may be extended for holiday weekends).

(4) Time scheduled away from telephone: Up to three hours per furlough day.

(5) Entrance criteria: Ninety-one days in minimum live-out status; satisfactory or above weekly performance evaluations. Inmates in minimum live-out status by override will require approval of the DOC deputy director for institutions or designee.

d. *Level 4 (Prerelease programs only).*

(1) Type of furlough: Community visit.

(2) Frequency: One per 28-day cycle.

(3) Duration: Up to 55 hours (may be extended for holiday weekends).

(4) Time scheduled away from telephone: Up to four hours per furlough day.

(5) Entrance criteria: Minimum live-out status. Prerelease program placement for 42 days. Satisfactory or above performance evaluations. Inmates in minimum live-out status by override require approval of the DOC deputy director for institutions or designee.

e. *Level 5. (Prerelease).*

(1) Type of furlough: Community visit.

(2) Frequency: Up to two per 28-day cycle.

(3) Duration: Up to 55 hours (may be extended for holiday weekends).

(4) Time scheduled away from telephone: Up to five hours per furlough day.

(5) Entrance criteria: Minimum live-out status. Twenty-eight days at Level 4. Freedom from any disciplinary report other than reprimand for the past 56 days. Satisfactory or above performance evaluations. Inmates in minimum live-out status by override require approval of the DOC deputy director for institutions or designee.

20.12(7) *Furlough discipline.* Inmates are required to be at scheduled residences. Disciplinary reports for unauthorized absence and violation of a condition of leave will be written in instances where the inmate is not at the assigned/scheduled residence. Disciplinary reports for unauthorized absence and violation of a condition of leave will be written if an inmate cannot be reached by telephone check in a 30-minute period.

A discipline report for violation of a condition of leave and unauthorized absence will be written if an inmate fails to return to the institution by the stated return time.

This rule is intended to implement Iowa Code section 904.108.

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 inmates. 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 inmate'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), 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 inmate. This may be reflected in the background investigation report which shows the individual having a record of carrying concealed weapons, irresponsible or illegal use of a controlled substance, previous violation of institutional rules, or similar behavior.

c. Individuals on probation, work release or parole.

d. Individuals who have been convicted of incidents of aiding an escape or introducing contraband in any detention or supervised correctional setting.

e. Individuals who intentionally give false information.

f. Ex-felons.

g. When the interview is held inside the institution proper, no children under the age of 18 are allowed.

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

a. Written notification of approval or denial will be given to the requester.

(1) When approved, the requester shall be informed on the notification:

1. That the attendee may be subject to a search (subrule 20.13(3), paragraph *"f"*) when a staff member has an articulable reason to believe that the attendee is concealing contraband;

2. That the search may include a pat down, a strip search, or a visual body cavity probe search; and

3. That the requester need not submit to a strip search although refusal may result in the forfeiture of attendance.

(2) When denied, the applicant shall be apprised of the reasons for denial.

b. All requesters shall present proper identification upon entrance to the institution. Photo identification is preferred, but all identification shall identify personal characteristics, such as color of hair and eyes, height, weight and birth date.

(1) Signature cards may be required from requesters.

(2) All requesters may be required to be photographed for future identification purposes only.

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

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

(2) The attendee fails to follow the established rules and procedures of the institution.

(3) The attendee and inmate directly exchange any object or article.

(4) The attendee talks or communicates with an inmate.

(5) The effect of alcohol or narcotic drugs is detected on the attendee before or during the interview.

(6) There is detriment to the health of the inmate or attendee.

(7) The attendee does not manage children.

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. Attendees shall be properly attired as would be expected in a public meeting place. Adults and teenagers shall wear shoes and may not wear miniskirts, shorts, muscle shirts, see-through clothing, halter tops, clothing with obscene or lewd slogans, pictures or words, and similar apparel. Attendees may be required to remove, for the duration of the interview, outerwear such as, but not limited to, coats, hats, gloves, and sunglasses. A medical need for sunglasses must be verified by prescription.

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) 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) Strip search means having a person remove or arrange some or all of their clothing so as to permit an inspection of the genitalia, buttocks, anus, female breasts, or undergarments of that person or a physical probe of any body cavity. Personal search means a pat down search on top of the attendee's clothing.

(2) The search will be to the degree deemed appropriate or necessary. A strip search will be conducted only when the following conditions exist:

1. The search is conducted in a place where it cannot be observed by persons not conducting the search.

2. The search is conducted by a person of the same sex as the visitor, unless conducted by a medical practitioner or licensed registered nurse. A second correctional employee of the same sex as the attendee shall also be present during the search. In addition, the attendee may request a third person of the same sex as the attendee to be present during the search.

3. A visual search or probing of any body cavity shall be performed under sanitary conditions. A physical probe of a body cavity other than the mouth, ear, or nose shall be performed only by a medical practitioner. In the absence of a medical practitioner, a licensed registered nurse will conduct the search and report the findings to the on-call medical practitioner.

4. It will be permissible and not considered a body cavity search to request that a female attendee remove a sanitary napkin or tampon.

(3) An attendee accompanied by a minor child has the option of not having the child present during a strip search or pat down. The child will be attended by a staff person. When attendee refuses to leave the child with a staff person and does not want the child present during the search, attendance will be denied. At all times when a minor child is searched, the supervising adult may be present in the room.

(4) When an attendee is arrested, the attendee may be searched for weapons which may inflict harm on the arresting officer.

(5) Records shall be kept of all strip searches and shall include the name of the person subjected to the search, the names of the persons conducting and in attendance at the search, 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.

(6) Attendees found in possession of contraband shall be referred to the county attorney for prosecution.

20.13(4) The space provided for the parole interviews shall have a posted maximum capacity set by the fire marshal. The number of individuals in the room shall not exceed the maximum capacity. Individuals will be admitted on a first-come, first-serve basis.

20.13(5) Cameras and recording devices are permitted with the following exceptions:

a. Media equipment is subject to search prior to admittance and at any time said equipment is inside the institution. Search shall be conducted in the presence of the photographer.

b. Should the attendees be required to pass through areas of the institution where for reasons of security or right to privacy media equipment is disallowed, the use of such equipment is prohibited in those areas.

20.13(6) Interviews may be temporarily modified or suspended in the following circumstances: riot, disturbance, fire, labor dispute, space restriction, natural disaster, or other extreme emergency.

20.13(7) Refer to Iowa Administrative Code, Parole Board[205] for rules governing conduct at the hearings as required by the Iowa Board of Parole.

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

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

201—20.14(80A) Offender transportation.

20.14(1) Companies under contract to county or state agencies to transport Iowa offenders 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 2331.

20.14(2) To comply with the exemption in Iowa Code section 80A.2 as amended by 1998 Iowa Acts, Senate File 2331, the following requirements shall apply:

a. A company(ies) 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 essential to accomplishing safe and secure movement of offenders.

b. A company contracting to provide offender transportation 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 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. All transporting personnel shall possess appropriate and valid driver's licenses as required by the regulatory agencies.

e. All transporting vehicles shall be licensed under the appropriate Interstate Commerce Commission (ICC) regulations and the state where the vehicle is registered.

f. All transmitting/receiving radios and communication equipment shall comply with Federal Communications Commission (FCC) regulations.

g. This exemption applies only to offender transportation companies. 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 2331.

201—20.15(910A) Victim notification.

20.15(1) Definitions.

"Notification" means mailing by regular mail or providing for hand delivery of appropriate information or papers. However, this notification procedure does not prohibit an agency from also providing appropriate information to a registered victim by telephone.

"Registered" means having provided the appropriate office, agency, or department with the victim's written request for notification and current mailing address and telephone number.

"Victim" means a person who has suffered physical, emotional, or financial harm as the result of a public offense, other than a simple misdemeanor, committed in this state. The term also includes the immediate family members of a victim who died or was rendered incompetent as a result of the offense or who was under 18 years of age at the time of the offense.

"Violent crime" means a forcible felony, as defined in Iowa Code section 702.11, and includes any other felony or aggravated misdemeanor which involved the actual or threatened infliction of physical or emotional injury on one or more persons.

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 is to be released in any of the following situations:

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

c. *Escape.* Date of escape will be provided.

d. *Expiration of sentence.* Date of discharge from an institution will be provided.

e. *Recommendations for parole.* The institution has submitted a recommendation for parole.

f. *Parole.* Approximate date of release and whether the inmate is expected to return to the community where the victim resides.

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

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

20.15(5) Assistance for registering may be obtained through the county attorney or contacting the director of corrections at (515)281-4811.

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

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

20.15(8) 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 inmate(s) parole/work release hearing either personally or by counsel.

b. The parole board notifies victims of any scheduled parole/work release hearings where the board will interview the inmate 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 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 or designee, the victim(s) presents a threat to the security and order of the institution.

e. If a victim is denied attendance at a hearing, the parole board shall be notified immediately.

f. The security director or designee should consider separation of victim(s) and family/friends in attendance at the same hearing. If there are any signs of conflict between victims and family/friends of inmates, the victims 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.

201—20.16 Reserved.

201—20.17(904) Institutional community placement.

20.17(1) *Home care program.* This program allows for selected inmates to be released from institutional confinement for a set period of time for the purpose of caring for the inmate's immediate family. Release may be to a community correction residential facility/halfway house or to the inmate'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 inmate must be the natural parent or legal guardian of the child/children.

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

(3) The child/children must be minor(s).

(4) The inmate must have been the primary caretaker of the child/children prior to incarceration.

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

(6) The proposed living arrangements shall provide a suitable environment for the inmate and dependents.

(7) The physical structure of the residence shall provide for adequate space, meet sanitary, health and safety requirements, and be in good repair. A functional telephone must be maintained in the residence at all times.

(8) It will be verified that the inmate, 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 inmate 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 inmate and dependents.

(11) Dependent care for an adult member of the inmate'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 inmate. Where such dependents are not yet in school, child care may be considered as full-time employment.

(2) Child care/adult dependent care. Child care shall be provided in the home. Therefore, the residence will be considered as the designated place of assignment. Deviations from same shall be reported to staff in advance.

20.17(2) *Work program—eligibility criteria.* This program allows for selected inmates 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 inmate'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 inmate must show a substantial need and interest for participation in the program.

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

c. Suitable employment and verification must be obtained by staff prior to consideration.

20.17(3) *Educational program—eligibility criteria.* This program allows for selected inmates 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 inmate'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 inmate must show a substantial need and interest for participation in the program.

b. The inmate 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 inmates are subject to and held accountable for all provisions of this policy as well as the specific program plan.

b. Institutional progress and recommended program participation must reflect an average or above rating.

c. Inmates must be furlough-eligible in accordance with furlough eligibility standards in DOC policy IN-V-44 and administrative rule 20.12(904).

d. If applicable, community corrections residential/halfway house rules and regulations will apply as well as institutional rules including all program plan rules.

e. Local authorities will be contacted to determine possible concerns (correctional services, county attorney, law enforcement).

f. The inmate 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. All activity will be monitored by community corrections staff and institutional staff as agreed.

h. All employment and educational earnings, less payroll deductions including education grants and expenses, shall be surrendered to the residential facility/halfway house staff according to established procedures or to the institution business manager, whichever applies, according to the program plan. Employment earning deductions will be prioritized in accordance with Iowa Code section 904.905 for all levels of placement.

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 inmate is meeting requirements of the program plan.

j. Special needs. In situations where inmates 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. Travel. Supervisory staff may grant permission for travel within the state. Standard policy will apply to out-of-state travel.

l. Temporary absence. Inmates 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. Applications must be made to the present institutional classification committee (utilizing Form 1).

b. The application must contain all pertinent information and resources for the requested program.

c. The classification committee shall review each case considering all standards and criteria.

d. The classification committee's recommendation must be approved by the warden/superintendent.

e. If approved by the warden/superintendent, the recommendation and all pertinent information shall be forwarded to the deputy director for final approval.

f. If the recommendation is approved by the deputy director, the inmate 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. Each level of review has the authority to deny the application or to make changes in the program plan including level of placement, i.e., institutional, residential/halfway house, home, as well as electronic monitoring devices.

h. Inmates 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) *Violations.*

a. Violation of any rule set forth in the program plan including any additional rules set forth by any authority listed in this policy may constitute the revocation of participation in either program at any level.

b. Revocation may also occur for improper care of children or dependents, inadequate earnings, failure to maintain employment or unacceptable employment conduct, rule violations, or failure to meet program expectations.

20.17(7) *Program activity.* This rule does not create any liberty interest in the inmate'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 inmate to participate in any of the programs at any level listed under this rule, the inmate 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 inmate'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.

201—20.18(904) Violator/shock probation programs. The department of corrections provides violator/shock probation programs at three institutions: 30 beds for females at the Iowa correctional institution for women (ICIW) at Mitchellville, 80 beds for males at the correctional release center (CRC) at Newton, and up to 150 beds for male youthful offenders in the RIVERS program at the Fort Dodge correctional facility (FDCF). These programs provide up to a six-month intensive intervention for probation, parole, and work release offenders that have violated conditions of supervision and would otherwise have been returned to or sent to prison. Additionally, offenders sentenced to the custody of the department of corrections that have been identified as potential shock probation candidates are eligible for program participation.

20.18(1) The violator/shock probation programs provide up to a six-month intensive, highly structured treatment program designed to divert certain offenders from long-term incarceration.

20.18(2) Definitions.

"Redirecting inmate values, energy, relationships and skills (RIVERS)" means a structured therapeutic community environment that allows offenders who complete the program to be considered for early release.

"Shock probation" means reconsideration of a felon's or misdemeanant's sentence to confinement when the court may review its previous action and grant probation as a result of suspension or a change of the previous sentence to the custody of the department of corrections in accordance with Iowa Code sections 902.4 and 903.2.

"Violator" means probationer, parolee, or work releasee not having community status revoked but found to have violated conditions of supervision by the appropriate jurisdiction having statutory authority to revoke.

"Youthful offender" means probationer, parolee, or work releasee 25 years of age and younger not having community status revoked but found to have violated conditions of supervision by the appropriate jurisdiction having statutory authority to revoke. Additionally, offenders 25 years of age and younger sentenced to the custody of the department of corrections that have been identified as potential shock probation candidates are eligible for program participation.

20.18(3) Offenders will be committed to a violator/shock probation program pursuant to Iowa Code sections 904.207, 902.4 and 903.2.

20.18(4) All probation offenders committed to a violator/shock probation program shall be admitted to the Iowa medical and classification center (IMCC) reception unit. Upon admittance to IMCC, the transporting authority shall provide the receiving officer with a court order disposing of the violation (including commitment to the custody of the director and stating violator program participation is a condition of probation), mittimus, case origination documents, indictment or information documents, minutes of testimony, and judgment entry.

20.18(5) All parole or work release offenders committed to a violator/shock probation program shall enter the program through the IMCC reception unit.

The violator/shock probation program shall be a condition of release, and the offender will remain in the custody of the department of corrections under the terms of the offender's original commitment.

20.18(6) Admission standards.

a. Reception process at IMCC, including medical intake screen, will normally be completed within seven days.

b. If further medical testing or treatment is necessary, transfer to the violator/shock probation program may be delayed until additional testing or treatment is completed and the offender's health status permits transfer.

c. The department may deny admission to a violator/shock probation program if the offender is medically unable to complete the program or if an offender's mental health status prohibits participation.

d. Offenders will not be allowed any personal property with the exception of clothing being worn at the time of admission to the IMCC reception unit. Other property will not be accepted by the IMCC receiving officer.

20.18(7) Release standards.

a. Upon successful completion of a violator/shock probation program, violator offenders will be referred to the sending or supervising judicial district department of correctional services.

b. A violator offender that does not successfully complete the violator program will be returned to the sending or supervising judicial district department of correctional services for disposition, with the exception of parole or work release offenders as reviewed by the board of parole.

c. Shock probation offenders will be referred for sentence review to the sentencing court upon successful or unsuccessful completion of a violator/shock probation program. The department of corrections will submit a report to the court that provides a full accounting of the shock probation offender's program participation, progress and recommended plan of action.

20.18(8) An offender placed in a violator/shock probation program will not be granted all the privileges and rights or may not be subject to certain requirements established in Iowa Administrative

Code 201—Chapter 20. The following paragraphs establish which rules of Iowa Administrative Code 201—Chapter 20 that violators will or will not be subject to:

a. Rule 20.1(904)—Application of rules. Will not apply to violator/shock probation programs except as otherwise stated.

b. Rule 20.2(904)—Title II definitions. Will apply only where listed in the following applicable rules.

c. Rule 20.3(904)—Visits to offenders. Offenders will not be allowed visits except individuals determined by staff and only in conjunction with participation in the family treatment component. Attorney and clergy visits must be scheduled in advance so as to not conflict with program schedules. Exceptions may be authorized by the warden/superintendent or designee.

d. Rule 20.4(904)—Mail. Offenders will be allowed mail privileges pursuant to rule 20.4(904) with the following exceptions:

(1) There will be no limit on the amount of incoming mail although program policy may limit the amount of mail that can be stored or maintained in the living area.

(2) Offenders will not receive an allowance. Therefore, offenders will be provided writing materials and postage for two letters per week.

(3) Packages and publications will not be allowed.

e. Rule 20.5(904)—Money orders/cashier's checks for offenders. Money orders/cashier's checks for offenders are allowed but will be subject to a restitution plan, child support orders, fines, court costs and fees.

f. Rule 20.6(904)—Publications. Offenders will not be granted any of the privileges or rights of rule 20.6(904).

g. Rule 20.7(904)—Interviews and statements. This rule may apply only as stated "with prior consent of the warden, superintendent or designee."

h. Rule 20.8(904)—Guests of institution. This rule is not applicable since this rule has no impact on the violator/shock probation program.

i. Rule 20.9(904)—Donations. This rule is not applicable since this rule has no impact on the violator/shock probation program.

j. Rule 20.11(904,910)—Restitution. This rule will be temporarily suspended while offenders are in the program. Restitution plans will be maintained, and the plan of payment will be reinstated upon release from the program.

k. Rule 20.12(904)—Furloughs. This rule will only apply in family emergency situations in accordance with 20.12(5)*"a"* and 20.12(6)*"a,"* although the criteria for eligibility are waived, and these furloughs will only be granted at the discretion of the warden/superintendent or designee with approval of the regional deputy director.

l. Rule 20.13(904)—Board of parole interviews. This rule is not applicable since this rule has no impact on the violator/shock probation program.

m. Rule 20.15(910A)—Victim notification. This rule will not apply to the violator/shock probation program.

n. Rule 20.17(904)—Institutional community placement. This rule will not apply to the violator/shock probation program.

20.18(9) Earned time.

a. Iowa Code chapter 903A will not apply to probationers and parolees.

b. Iowa Code chapter 903A will apply to work releasees in accordance with work release policies and procedures.

20.18(10) Clothing, transportation, and release moneys. The provisions of Iowa Code section 906.9 will not apply to violator/shock probation programs.

20.18(11) Any exceptions to these rules must be specifically approved by the warden/superintendent or designee.

This rule is intended to implement Iowa Code section 904.207.

201—20.19 Reserved.

201—20.20(904) Offender telephone commissions.

20.20(1) *Definitions.*

"Corrections board" means the department of corrections board.

"Deputy director of administration" means the person responsible for budgeting and planning.

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

"Regional deputy director" 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" 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 central office. The deputy director 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.

20.20(3) *Request for funds.* Each warden/superintendent 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 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. 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. 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.

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

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◊ Two or more ARCs

CHAPTER 21
IOWA STATE PENITENTIARY
[Prior to 10/1/83, Social Services[770] Ch 17]
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CHAPTER 22
IOWA STATE MEN'S REFORMATORY
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[Prior to 3/20/91, Corrections Department[291]]
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CHAPTER 23
IOWA CORRECTIONAL INSTITUTION FOR WOMEN
[Prior to 10/1/83, Social Services[770] Ch 19]
[Prior to 3/20/91, Corrections Department[291]]
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CHAPTER 24
MEDIUM SECURITY FACILITY
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CHAPTER 25
CORRECTIONAL TREATMENT UNIT
[Prior to 3/20/91, Corrections Department[291]]
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CHAPTER 26
NORTH CENTRAL CORRECTIONAL FACILITY
[Prior to 3/20/91, Corrections Department[291]]
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CHAPTER 27
IOWA MEDICAL AND CLASSIFICATION CENTER
[Prior to 10/1/83, Social Services[770] Ch 20]
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CHAPTER 28
NEWTON CORRECTIONAL FACILITY
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CHAPTER 29
FORT DODGE CORRECTIONAL FACILITY

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CHAPTER 30
Reserved

CHAPTERS 30 and 31
Reserved

CHAPTERS 30 to 32
Reserved

CHAPTERS 30 to 33
Reserved

CHAPTERS 30 to 34
Reserved

CHAPTERS 30 to 35
Reserved

CHAPTERS 30 to 36
Reserved

CHAPTER 37
IOWA STATE INDUSTRIES

[Prior to 10/1/83, Social Services[770] Ch 23]
[Prior to 3/20/91, Corrections Department[291]]

201—37.1(904) Sale of products.

37.1(1) Iowa state industries shall sell products to any tax-supported institution or governmental subdivision in any level of government which includes state, county, city or school. Iowa state industries may sell products to employees of such entities.

37.1(2) Iowa state industries may sell products to nonprofit organizations such as parochial schools, churches, or fraternal organizations and employees of such nonprofit organizations.

37.1(3) Iowa state industries may sell products to nonprofit health care facilities serving Medicaid or social security patients.

37.1(4) Sales will not generally be solicited from the general public. However, the division director may determine with the advice of the prison industries advisory board that limited public sales will be made when the sales to political subdivisions are insufficient to justify continued operation of a shop.

This rule is intended to implement Iowa Code section 904.815.

201—37.2(904) Catalogues. Catalogues are available at the Sales Office, Division of Correctional Institutions, Department of Social Services, Lucas State Office Building, Des Moines, Iowa or the Industries Office located at the Iowa State Men's Reformatory, Anamosa, Iowa and the Iowa State Penitentiary, Fort Madison, Iowa.

201—37.3(904) Direct purchasing. This rule is to implement Iowa Code section 904.813, which provides in part for direct purchases from vendors of raw materials and capital items used for the manufacturing process of Iowa state industries.

37.3(1) *Definitions.*

"Competition" is the effect of three or more parties actually engaged independently to obtain a contract with industries to provide capital items or raw materials in the most advantageous conditions or terms. "Advantageous conditions" shall include but not be limited to price, qualitative and quantitative vendor performance, timely execution of contract, meeting specifications, and delivery of items per contract provisions.

"Department" means Iowa department of corrections.

"Director" means director of the division of Iowa state industries, Anamosa, Iowa.

"Industries" means the division of Iowa state industries, Des Moines, Iowa.

"Manager" means the business manager of Iowa state industries, Anamosa, Iowa.

37.3(2) *Methods of procurement.*

a. *"Advertising"* means purchasing by competitive bids to include the following procedures:

1. Developing specifications and proposals outlining the requirements of industries.

2. Appropriate publication in ample time to permit bidders to prepare and submit bids before the exact set time of public opening of said bids.

3. Subject to bid evaluation awarding a contract to the bidder meeting specifications that are in the most advantageous conditions to industries.

b. *"Solicitation"* means procurement by obtaining two or more quotations via writing, telegraphic, telephonic, or any other means industries deem acceptable and documentable.

c. *"Negotiation"* means a method of procurement other than advertising and solicitation.

d. *Other.* The department or industries reserve the right to include in their procurement other methods including, but not limited to, life-cycle costing, point systems, or present value formulas. Under these circumstances, industries shall explicitly note in their bid proposal(s) such methods to be used to assure all bidders of same.

37.3(3) *Procurement policy.* It shall be the policy of the department to procure capital items and raw materials in the most efficient and economical manner possible and in a competitive manner of interest to all parties.

a. Advertising. The advertising method of procurement shall be used whenever this method is feasible and practicable under existing circumstances and conditions and the amount of purchase exceeds $10,000.

b. Solicitation. This method of procurement may be used if advertising is not practical in essence of time or advantageous to costs and the amount of purchase is less than $10,000.

c. Negotiation. This method may be used if advertising or solicitation is not practicable or in any of the following circumstances:

(1) Procurement is determined to be necessary in the public interest due to disaster or emergency.

(2) Amount of purchase is limited and less than $1,000.

(3) Items to be purchased are sole source.

(4) Competition is precluded because of patent rights, copyrights, confidential processes, etc.

(5) Bids or quotations have been solicited, and no responsive or acceptable bids or quotations have been received.

(6) Bids or quotations received do not cover quantity requirements or meet other specifications.

(7) The procurement is for a part or component as a replacement of existing equipment specially designed by the manufacturer.

d. Advertising procedures:

(1) The industries manager shall maintain current bidders' lists.

(2) Bidders' lists shall be obtained from various sources to include, but not limited to, technical publications, telephone books, trade journals, vendors' registers, and targeted small businesses certified by the department of economic development and other state departments.

(3) Any firm legally doing business in Iowa may be placed on the bid list by a written request to: Industries Manager, Iowa State Industries, Anamosa, Iowa 52205.

(4) Subject to concurrence of the attorney general's office, a bidder's name may be refused or taken off the bidders' lists for any of the following reasons:

1. Bidder has attempted to improperly influence any state employee involved in procurement processes.

2. Reasonable grounds of collusion exist.

3. Determination by the civil rights commission that the bidder conducts discriminatory practices.

4. Bidder has failed to meet specifications and performance of a previous contract.

e. Proposals. Industries shall prepare request for proposals complete with bidding documents, specifications, and instructions to bidders.

(1) Subject to special circumstances, e.g., the purchase of new products or equipment, the request proposal may be marked "preliminary" requesting bidder(s) to review the proposal to determine their ability to bid or suggestions bidders may have.

(2) Written requests for variations, delivery times, or approved equal substitutions to the proposal shall be accepted, evaluated, and answered by industries.

(3) Proposals may be amended by industries to incorporate approved changes. All changes shall be sent to prospective bidders.

(4) Methods to be used by industries in evaluating bids shall be disclosed in the request for proposals or before bid opening.

(5) Proposals shall be sent to a sufficient number of prospective bidders to promote competition whenever possible.

(6) Industries shall publicize the procurement by advertising in appropriate publications to include date and time of bid opening, general description of term(s) to be purchased, and name and address of the person to contact to obtain a copy of the bidding proposal.

(7) Minority and small business enterprises shall be encouraged to participate in bidding.

f. Instructions to bidders. Each bidder shall prepare bidding documents in the manner prescribed.

(1) Bid preparation: Bids shall be signed in ink or typewritten on bidding documents prescribed. Telegraphic or telephonic bids are not acceptable.

(2) If applicable, the bidder shall designate brand, manufacturer's name, model number and other information to assist in identifying each item.

(3) Where requested, the unit and total price of each item and total of all items shall be provided on the bidding document. Alternate prices may be submitted by attaching an addendum to the bidding documents. In case of error, the unit price shall prevail.

(4) Bidders shall not quote discount price. No discounts shall be considered in making awards.

(5) No escalator clauses shall be considered unless specifically noted in the bid proposal by industries.

(6) Industries are exempt from payment of federal and state taxes. These taxes should not be included in the bid. An exemption certificate shall be furnished upon request.

(7) The bidder shall show the earliest date which delivery can be made. Delivery dates may be used in awarding bids.

(8) No ties or reservations are permitted. These stipulations are grounds for rejection of bid(s).

(9) All bids shall be submitted in sufficient time set by industries prior to the opening of bids. Bids received shall be dated by industries indicating date and hour received.

(10) All bidders agree the contents of the bid proposal and related specifications shall become a part of the contract if bidder receives the award.

(11) A proposal guaranty may be required as security that the bidders will execute the contract if awarded to the bidder. When required, each bid shall be supported by a guaranty in the form prescribed. Bids not so supported shall not be accepted.

(12) Bids may be modified or withdrawn prior to the time set for opening of bids. No bid may be withdrawn or modified after opening.

(13) Bids shall be opened publicly and read aloud at the time stipulated in the proposal.

(14) Bid tabulations shall be sent to all bidders prior to contract award.

(15) Industries reserve the right to accept or reject any or all bids. Likewise, bids may be rejected for any of the following reasons:

1. Evidence of unfair bidding practices.
2. Financial insolvency of bidder.
3. Noncompliance of proposal, specifications, or requirements of these rules.

g. Contract provisions.

(1) Unless otherwise specified by industries in the proposal, an award shall be within 30 days after bid opening. If an award is not made within the applicable time frame, the procurement shall be canceled unless an extension of time is mutually agreed by industries and apparent successful bidder.

(2) Tie bids which are equal in all aspects shall be resolved as follows:

1. In event one of the tied bidders had a contract the previous year for the same item and same location and the contract was performed satisfactorily, the prior contract shall receive the award.
2. If the tie involves both Iowa and out-of-state bidders, the contract shall be awarded to the Iowa bidder. In case a tie involves Iowa bidders, the award shall be determined by lot.
3. In the event no Iowa bidders are involved in tie bids, award shall be determined by lot.
4. In the event awards are determined by lot, bidders may be present or appoint a representative to witness the award by lot.
5. All proposal guaranties of unsuccessful bidders shall be returned by industries after award is made. The proposal guaranty of the successful bidder shall be returned following execution of contract. However, in the event a successful bidder fails to execute a contract within 15 days after award, the award may be annulled and guaranty forfeited to industries.

(3) The successful bidder shall enter into a formal contract with industries within 15 days after award.

(4) A performance bond or certificate of liability or both, and property damage insurance may be required. In the event a bond or insurance is required, the bond or insurance shall be filed with industries within 15 days after award. Failure to file these documents will be cause for cancellation of contract and retention of the proposal guaranty by industries.

(5) A contractor may not assign a contract to another party without written approval from industries.

(6) In the event a contractor's business or source of supply has been disrupted by a strike, lockout, or act of God, the contractor shall notify industries which may elect to cancel the contract without penalty.

(7) Unless otherwise stipulated in the contract, progress and final payment shall be made promptly upon acceptance and completion of the items provided and receipt of an original invoice.

(8) Industries may provide for a liquidated damage clause in their contract(s) for failure to complete a contract within the specified contract period.

(9) Subject to time frame, administrative costs, market projections of available source, and cost of raw materials, industries may extend contracts subject to approval of the existing contractor.

(10) Protest of recommended contract shall be in writing to the industries manager at least three days prior to contract award.

(11) Requests for further interpretation or clarification of Iowa state industries policies or administrative rules should be directed to the Director, Iowa State Industries, Des Moines, Iowa 50319.

(12) Information regarding the administration of these rules should be directed to the Manager, Iowa Prison Industries, Anamosa, Iowa 52205.

37.3(4) *Appeal process.* Vendors may appeal actions by Iowa state industries under these rules as follows:

a. Appeals shall be filed in writing to the industries manager within five working days of notification of the action being appealed.

b. If the appeal is not resolved, it may be further appealed to the Director of Iowa State Industries, Des Moines, Iowa 50319.

c. An unresolved appeal shall be referred to the Director of the Department of Corrections, Des Moines, Iowa 50319.

This rule is intended to implement Iowa Code section 904.813.

201—37.4(904) Prison industries advisory board.

37.4(1) *Rules of procedure.* The seven-member industries board is represented by five appointees of the governor, one appointee of the parole board, and one appointee of the director, division of adult corrections. Its principal duties are to promulgate and adopt rules and to advise the director, division of adult corrections, regarding the management of Iowa state industries.

a. A quorum shall consist of five members.

b. Where a quorum is present, a position is carried by a majority of the members of the board.

c. Copies of the minutes are kept on file in the office of the director, division of adult corrections, department of social services. Minutes are available from the director's office to interested persons upon request. Organizations may request to be placed on a mailing list.

d. The board will meet at least once per calendar quarter. The meetings will be held at the seat of government unless notification is given otherwise. Other meetings shall be held at the call of the chairperson or of any three members when necessary for the board to discharge its duties.

(1) The communications media shall be notified at least two weeks in advance of such meetings.

(2) When it is necessary to hold an emergency meeting, the communications media shall be notified as far in advance of the meeting as time allows. The nature of the emergency shall be stated in the minutes.

e. In cases not covered by these rules, Robert's Rules of Order shall govern.

37.4(2) *Meetings.* All meetings will be open to the public unless specifically allowed to be closed under Iowa Code chapter 21.

a. Persons wishing to make a presentation shall make such request to the director, division of adult corrections, department of social services, or to any member of the board at least one week in advance of the scheduled meeting.

b. Persons making a presentation are requested to submit one written copy of their remarks for the record.

c. Persons who have not made previous arrangements to speak at a meeting may be given the floor at the discretion of the chairperson.

This rule is intended to implement Iowa Code section 904.803.

201—37.5(904) Private sector employment projects.

37.5(1) *Definitions.*

"Advisory board" means the prison industries advisory board.

"Deputy director of prison industries" means the department of corrections deputy director responsible for the day-to-day operations of prison industries including private sector individuals.

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

"Workforce development board" means the state workforce development board.

"Workforce development director" means the chief executive officer of the department of workforce development.

37.5(2) *Preapplication requirement.* Prior to submitting an application to the deputy director of prison industries for a private sector employment project, the employer shall place a job order with a duration of at least 30 days with the nearest workforce development center. The job order will contain the prevailing wage determined by workforce development. The job order shall be listed statewide in all centers and on the department of workforce development's jobs Internet site.

37.5(3) *Employer application.*

a. Private sector employers requesting offender labor must submit the following to the deputy director of prison industries:

1. Work program, including job description;
2. Proposed wage rate;
3. Description of job site;
4. Duration of the work; and
5. Copy of the job order listing with workforce development.

b. Upon receiving a written proposal to use offenders in a private sector work program, the deputy director of prison industries shall provide a copy of the private sector work proposal including job descriptions and proposed wages to the workforce development director.

c. The deputy director of prison industries shall send a letter to the department of workforce development requesting verification of the employer's 30-day job listing, the average wage rate for the job(s) the offenders will perform, the current unemployment rate in the county where the employer is located, and the current employment level of the company that will employ the offenders.

d. The deputy director of prison industries and the warden/superintendent at the proposed institution shall review the proposed projects with the board of supervisors and the sheriff in the county where the project will be located.

37.5(4) *Verification.* The workforce development director shall verify the employment levels and prevailing wages paid for similar jobs in the area and provide to the deputy director of prison industries in writing:

1. Verification of the employer's 30-day job listing;
2. The number of qualified applicant referrals and hires made as a result of the job order;
3. The average wage rate for the proposed job(s);
4. The wage range;
5. The current unemployment rate for the county where the employer is located; and
6. The current employment levels of the company that will employ the offenders based upon the most recent quarter for which data is available.

37.5(5) *Prevailing wages.* The deputy director of prison industries shall obtain employment levels in the locale of the proposed job(s) and the prevailing wages for the job(s) in question from the department of workforce development prior to authorizing any private sector work program. The deputy director of prison industries will consider the average wage rate and wage range from the department of workforce development for the appropriate geographic area for which occupational wage information is available. The appropriate geographic area may be statewide.

To reduce possible displacement of civilian workers, the deputy director of prison industries shall advise prospective employers and eligible offenders of the following requirements:

1. Offenders shall not be eligible for unemployment compensation while incarcerated.

2. Before the employer initiates work utilizing offender labor, the deputy director of prison industries shall provide the baseline number of jobs as established by the department of workforce development.

3. In January and July of each year, the deputy director of prison industries shall receive from the department of workforce development the actual number of civilian workers by employer and shall compile a side-by-side comparison for each employer. A copy of the side-by-side comparison will be provided to the advisory board and workforce development director semiannually.

37.5(6) *Ineligible projects.* The deputy director of prison industries shall evaluate the information from the department of workforce development to verify nondisplacement of civilian workers. Employment of offenders in private industry shall not displace employed workers, apply to skills, crafts, or trades in which there is a local surplus of labor, or impair existing contracts for employment or services.

37.5(7) *Notification.* The deputy director of prison industries shall provide a copy of the private sector work proposal and the department of workforce development review of the private sector work proposal to the following:

1. Governor's office;
2. Speaker of the house;
3. President of the senate;
4. Warden/superintendent at the proposed work site;
5. Local labor organization(s);
6. Director of workforce development; and
7. Department of Justice, Washington, DC.

Within 14 calendar days of receiving the department of workforce development review, the deputy director of prison industries will consolidate the recommendations for review and approval by the director of corrections.

37.5(8) *Prison industries advisory board review.* Following approval by the director of corrections, the deputy director of prison industries shall forward the final proposal to the prison industries advisory board with the recommendation to approve or disapprove the work program, including all correspondence from the department of workforce development, the Department of Justice, and any local official who has offered comments.

The deputy director of prison industries shall provide written documentation to the prison industries advisory board confirming that the proposed work project will not displace civilian workers. If displacement occurs, the deputy director of prison industries shall advise the private employer that the employer will be given 30 days to become compliant or the department of corrections will terminate the use of offender labor.

37.5(9) *Disputes.* Anyone who believes that the private sector work program violates this rule shall advise the department of workforce development. A written complaint may be filed in accordance with workforce development board rule 877—1.5(84A). The workforce development director shall consult with the deputy director of prison industries before the workforce development board makes a final recommendation(s) to resolve any complaint.

The deputy director of prison industries will assist the department of workforce development in compiling all information necessary to resolve the dispute. The workforce development board shall notify the deputy director of prison industries and interested parties in writing of the recommended action to resolve a complaint, which will be binding on all parties.

This rule is intended to implement Iowa Code section 904.809.

201—37.6(904) Utilization of offender labor in construction and maintenance projects.

37.6(1) *Definitions.*

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

"Employer" means a contractor or subcontractor providing maintenance or construction services under contract to the department of corrections or under the department of general services.

"Workforce development director" means the chief executive officer of the department of workforce development.

37.6(2) *Scope.* Utilization of offender labor applies only to contractors or subcontractors providing construction or maintenance services to the department of corrections. The contract authority for providing construction or maintenance services may be the department of general services.

37.6(3) *Employer application.* Employers working under contract with the state of Iowa may submit an application to the department of corrections to employ offenders. Requests for such labor shall not include work release offenders assigned to community-based corrections under Iowa Code chapter 905.

a. Prior to submitting an application, the employer shall place with the nearest workforce development center a job order with a duration of at least 30 days. The job order will contain the prevailing wage determined by the department of workforce development. The job order shall be listed statewide in all centers and on the department of workforce development's jobs Internet site.

b. The employer's application shall include:

1. Scope of work, including type of work and required number of workers;
2. Proposed wage rate;
3. Location;
4. Duration; and
5. Reason for utilizing offender labor.

c. The department of corrections shall verify through the department of workforce development the employer's 30-day job listing, the average wage rate for the job(s) the offenders will perform, the current unemployment rate in the county where the employer is located, and the current employment level of the employer that will employ the offenders.

37.6(4) *Verification.* The director of workforce development shall verify the employment levels and prevailing wages paid for similar jobs in the area and provide to the director, in writing:

1. Verification of the employer's 30-day job listing;
2. The number of qualified applicant referrals and hires made as a result of the job order;
3. The average wage rate for the proposed job(s);
4. The wage range;
5. The prevailing wage as determined by the U.S. Department of Labor;
6. The current unemployment rate for the county where the employer is located;
7. The current employment levels of the employer that will employ the offenders based upon the most recent quarter for which data is available.

37.6(5) *Safety training.* The employer shall document that all offenders employed in construction and maintenance projects receive a ten-hour safety course provided free of charge by the department of workforce development or by a trainer with the appropriate authorization from the Occupational Safety and Health Administration Training Institute.

37.6(6) *Prevailing wages.* The director will not authorize an employer to employ offenders in hard labor programs without obtaining from the department of workforce development employment levels in the locale of the proposed jobs and the prevailing wages for the jobs in question. The average wage rate and wage range from the department of workforce development will be based on the appropriate geographic area for which occupational wage information is available. The appropriate geographic area may be statewide.

To reduce any potential displacement of civilian workers, the director shall advise prospective employers and eligible offenders of the following requirements:

1. Offenders will not be eligible for unemployment compensation while incarcerated.
2. Before the employer initiates work utilizing offender labor, the director shall provide the baseline number of jobs as established by the department of workforce development.
3. If the contract to employ offender labor exceeds six months, the director shall request and receive from the workforce development director the average wage rates and wage ranges for jobs currently held by offenders and current employment levels of employers employing offenders and shall compile a side-by-side comparison of each employer.

37.6(7) *Disputes.* Anyone who believes that the employer's application violates this rule shall present concerns in writing to the workforce development board. A written complaint may be filed with the workforce development board for any dispute arising from the implementation of the employer's application in accordance with the workforce development board's rule 877—1.6(84A). The workforce development board shall consult with the director prior to making recommendations. The director will assist the workforce development board in compiling all information necessary to resolve the dispute. The workforce development board shall notify the director and interested parties in writing of the corrective action plan to resolve the dispute, which will be binding on all parties.

This rule is intended to implement Iowa Code section 904.701.

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◊ Two or more ARCs

1 Prior to 3/20/91, see Prison Industries Advisory Board 635—Chapter 1

CHAPTER 38
SEX OFFENDER MANAGEMENT AND TREATMENT

201—38.1(692A,903B) Application of rules. The following rules apply to sex offender registration and hormonal intervention therapy.

201—38.2(692A,903B) Definitions.

"Aggravated offense" means a conviction for any of the following offenses:

1. Sexual abuse in the first degree in violation of Iowa Code section 709.2.
2. Sexual abuse in the second degree in violation of Iowa Code section 709.3.
3. Sexual abuse in the third degree in violation of Iowa Code section 709.4, subsection 1.
4. Lascivious acts with a child in violation of Iowa Code section 709.8, subsection 1.
5. Assault with intent to commit sexual abuse in violation of Iowa Code section 709.11.
6. Burglary in the first degree in violation of Iowa Code section 713.3, subsection 1, paragraph *"d."*
7. Kidnapping, if sexual abuse as defined in Iowa Code section 709.1 is committed during the offense.
8. Murder, if sexual abuse as defined in Iowa Code section 709.1 is committed during the offense.

"Criminal offense against a minor" means any of the following criminal offenses or conduct:

1. Kidnapping of a minor, except for the kidnapping of a minor in the third degree committed by a parent.
2. False imprisonment of a minor, except if committed by a parent.
3. Any indictable offense involving sexual conduct directed toward a minor.
4. Solicitation of a minor to engage in an illegal sex act.
5. Use of a minor in a sexual performance.
6. Solicitation of a minor to practice prostitution.
7. Any indictable offense against a minor involving sexual contact with the minor.
8. An attempt to commit an offense enumerated in this rule.
9. Incest committed against a minor.
10. Dissemination and exhibition of obscene material to minors in violation of Iowa Code section 728.2.
11. Admitting minors to premises where obscene material is exhibited in violation of Iowa Code section 728.3.
12. Stalking in violation of Iowa Code section 708.11, subsection 3, paragraph *"b,"* subparagraph (3), if the fact finder determines by clear and convincing evidence that the offense was sexually motivated.
13. Sexual exploitation of a minor in violation of Iowa Code section 728.12, subsection 2 or 3.
14. Enticing away a minor in violation of Iowa Code section 710.10, subsection 1.
15. An indictable offense committed in another jurisdiction which would constitute an indictable offense under numbered paragraphs "1" through "13" of this definition.

"Hormonal intervention therapy" means a comprehensive treatment program inclusive of education, counseling, and pharmaceutical applications to control sexual deviant behavior.

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

"Other relevant offense" means any of the following offenses:

1. Telephone dissemination of obscene materials in violation of Iowa Code section 728.15.
2. Rental or sale of hard-core pornography in violation of Iowa Code section 728.4.
3. Indecent exposure in violation of Iowa Code section 709.9.
4. A criminal offense committed in another jurisdiction which would constitute an indictable offense under numbered paragraphs "1" through "3" of this definition if committed in this state.

"Serious sex offense" means a criminal offense as defined in Iowa Code section 903B.1(4).

"Sexual exploitation" means sexual exploitation by a counselor or therapist under Iowa Code section 709.15.

"Sexually violent offense" means any of the following indictable offenses:

1. Sexual abuse as defined under Iowa Code section 709.1.
2. Assault with intent to commit sexual abuse in violation of Iowa Code section 709.11.
3. Sexual misconduct with offenders in violation of Iowa Code section 709.16.
4. Any of the following offenses, if the offense involves sexual abuse or attempted sexual abuse: murder, attempted murder, kidnapping, burglary, or manslaughter.
5. A criminal offense committed in another jurisdiction which would constitute an indictable offense under numbered paragraphs "1" through "4" of this definition if committed in this state.

201—38.3(692A) Sex offender risk assessment.

38.3(1) *Risk assessment instrument.*

a. All required risk assessments shall be conducted utilizing the risk assessment instruments outlined below as approved by the department of corrections, the division of criminal investigation of the department of public safety (DCI), and the department of human services:

(1) Static-99. Designed for adult male sex offenders aged 18 and over and juvenile male offenders waived to adult court who have a specific identified victim.

(2) ISORA-8. Designed for adult male and female sex offenders aged 18 and over who may or may not have a specific identified victim.

b. Upon request, risk assessment instrument documents will be made available by the department of corrections.

c. The risk assessment score will be determined following a review of the following documents: the presentence investigation report, court documents, clinical assessments, treatment records, polygraph reports, plethysmograph reports, employee records, school records, military records, and child protection services records of the department of human services. The risk assessment score is used to determine the level of risk to reoffend.

38.3(2) *Offenses requiring completion of a risk assessment.* The department of corrections, the department of human services, and the division of criminal investigation of the department of public safety shall complete the risk assessment on every offender under each agency's authority who is required to register under Iowa Code chapter 692A on or after July 1, 2005, who has committed a criminal offense against a minor, or an aggravated offense, sexually violent offense, or other relevant offense that involved a minor in this state or in another state, or in a federal, military, tribal, or foreign court, or on a person required to register in another state under the state's sex offender registry. The risk assessment should be completed within 45 days prior to the offender's release from custody or upon the offender's placement on probation, parole, or work release.

38.3(3) *Risk assessment completion procedures.*

a. *Institution risk assessments.* Risk assessments should be conducted on offenders and forwarded to DCI within 45 days prior to (and only if) the offender is being released from the institution. Risk assessments conducted for any other purpose should not be forwarded to DCI.

b. *Judicial district risk assessments on probationers.* Judicial district departments should complete risk assessments on probation offenders within 45 days of receipt of the case and forward the assessments to DCI. Additional risk assessments conducted during the supervision period, including those completed when an offender is discharged or revoked, should not be forwarded to DCI unless the offender's risk level has changed. However, when any offender is revoked or discharged, the probation officer shall notify DCI that the offender is either incarcerated or no longer under supervision in the community.

c. *Parole/work release risk assessments.* Risk assessments should be conducted by the institution prior to an offender's release on parole or work release. Parole officers are not required to reassess an offender unless they believe the risk level has changed. If the risk assessment is not included in the Iowa Corrections Offender Network (ICON) database, the officer should contact the institution to determine whether one has been completed. If, for some reason, a risk assessment was not completed prior to the offender's release, the supervising probation/parole officer in conjunction with institution staff shall complete the risk assessment.

38.3(4) *Notification of right to appeal.*

a. When a risk assessment has been completed by an institution, the department of corrections shall notify, or cause to be notified, the offender of the finding, by providing to the offender copies of the risk assessment and the "Notice of Risk Assessment Findings" and "Appeal Form."

Notice is deemed provided even if the offender refuses delivery.

b. When a risk assessment has been completed by a judicial district department of correctional services (DCS), the probation/parole officer shall notify the offender by personal delivery or certified mail of the risk assessment finding. The notification shall include the risk assessment and the "Notice of Risk Assessment Findings" and "Appeal Form." No additional notice is required.

Notice is deemed provided even if the offender refuses delivery or if mail is undeliverable because the offender has not complied with registry requirements to provide a current address. If the notice is returned to the DCS as undeliverable, the assessment shall be forwarded to the DCI sex offender registry within 48 hours.

c. The notice shall contain the following information:

(1) A copy of the completed risk assessment.

(2) The result of the risk assessment.

(3) That the offender may appeal the risk assessment decision by filing a written appeal and mailing or serving it on the department of corrections at an address prescribed on the notice, so that it is received by 4:30 p.m. on or by the date specified in the notice.

(4) That the appeal shall be in writing and shall fully address each issue challenged. The appeal shall be limited to the following issues:

1. Whether the risk assessment factors have been properly applied; or
2. Accuracy of the information relied upon to support the assessment findings; or
3. Errors in the procedure.

d. If the department does not receive a written appeal within the time guidelines set forth in this rule, the department or DCS shall notify the division of criminal investigation of the results of the risk assessment by providing a copy of the risk assessment and "Notice of Risk Assessment Findings" to the division of criminal investigation.

38.3(5) *Appeal process.*

a. When the department receives a written appeal, the department shall refer the matter to an administrative law judge or a designated presiding officer pursuant to Iowa Code section 17A.11. In addition to the written appeal, the department shall submit all written documents supporting the initial findings to the administrative law judge or presiding officer. The administrative law judge or presiding officer shall set a hearing within seven calendar days after receiving the application for hearing from the department and shall provide notice to the parties along with the documentary evidence received from the department. However, the hearing may be continued for good cause.

b. Any document that is confidential pursuant to statute, rule, regulation, or other authority shall be considered confidential and may be subject to a protective order by motion of any party to the proceeding or by the administrative law judge on the administrative law judge's own motion. Any portion of the hearing may be conducted in camera.

c. Rule 201—12.16(17A), which governs the introduction and consideration of evidence, shall apply to proceedings under this rule. The administrative law judge or presiding officer may conduct the appeal hearing at any location and may use facsimile machines, telephones, two-way interactive video or other electronic means to conduct any or all of the hearings. An electronically produced document shall have the same force and effect as an original document.

d. The hearing shall be mechanically recorded. The recording thereof shall be filed and maintained by the department of corrections for at least five years from the date of the hearing.

e. The department shall have the burden of proof by a preponderance of the evidence to support the result of the risk assessment.

f. If a party fails to appear at the date and time specified in the hearing notice or fails to participate after proper service of notice, the administrative law judge or presiding officer may enter a default decision in the absence of the party.

g. After hearing the evidence and argument of the parties, the administrative law judge or presiding officer shall issue a written order affirming, reversing, or modifying the result of the risk assessment within 14 calendar days. The order shall contain concise findings of fact and conclusions of law. A copy of the order shall be promptly mailed to each party.

h. The registrant, attorney general, or the agency may appeal the administrative law judge's or presiding officer's order to the director of the department of corrections or the director's designee. Appeal must be served in writing within 14 calendar days from the date of the order. If the order is not appealed within the 14-day time period, it shall be considered a final decision.

i. The director of the department of corrections or the director's designee shall consider an appeal on the record made before the administrative law judge or presiding officer. The director or designee shall not consider any additional facts on appeal. The director or designee may, at the director's or designee's discretion, request written briefs or oral argument in an appeal. The director or designee shall issue a written decision affirming, reversing, or modifying the order of the administrative law judge or presiding officer. A copy of the decision shall be promptly mailed to each party. The decision of the director or the director's designee constitutes final agency action.

j. Upon disposition of the appeal or 20 days after the final decision of the administrative law judge or presiding officer, all information including the risk assessment, "Notice of Risk Assessment Findings," appeal information, and any other documentation shall be forwarded to the department of public safety sex offender registry program.

38.3(6) *Training requirements.* All agency personnel conducting sex offender risk assessments shall complete the training program as developed and provided cooperatively by the responsible agencies.

38.3(7) *Reporting requirements.* The completed assessment and the results of any appeals will be forwarded to the department of public safety sex offender registry program.

a. The following documentation shall be submitted:

(1) The completed original Static-99 or ISORA-8;

(2) Form F-1 (Notification of Sex Offender Risk Assessment Findings);

(3) Forms F-2 and F-3 if applicable (Appeal and Appeal Response forms); and

(4) Pertinent assessment/appeal findings documentation.

b. The documentation required in paragraph *"a"* shall be forwarded to:

Iowa Division of Criminal Investigation
Attn: Iowa Sex Offender Registry
Wallace State Office Building
Des Moines, Iowa 50319
(515)281-4976; fax (515)281-4898

38.3(8) *Records maintenance.*

a. Original sex offender registration and risk assessment documents shall be sent to the department of public safety sex offender registry program.

b. Copies of the sex offender registration and risk assessment documents shall be permanently maintained by the responsible agency.

c. Results of the risk assessment shall be communicated to criminal and juvenile justice agencies for law enforcement, prosecution or public notification purposes.

38.3(9) *Additional rules.* The department of public safety's rules regarding the Iowa sex offender registry are published in Division III of 661—Chapter 83.

201—38.4(903B) Hormonal intervention therapy.

38.4(1) *Affected offenders.* All offenders 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 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.

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.

38.4(3) *Assessment of affected offenders.*

a. *Psychosexual assessment.* A psychosexual assessment shall be conducted on all "affected" offenders, 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.

(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 meets the experience and educational requirements of the Iowa department of personnel or Iowa community-based corrections psychologist classification.

(2) The psychosexual assessment shall include:

- Tests of emotional and mental stability.
- I.Q. to measure capability.
- Measure of denial of deviant sexual characteristics.
- Plethysmography (optional).

(3) The assessment shall follow the department of corrections 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 shall receive a medical assessment to determine biological factors as related to hormonal intervention therapy.

38.4(4) *Pharmaceuticals and distribution.* The director of corrections may contract the purchase and distribution process to reduce pharmaceutical costs and ensure effective distribution and management of all pharmaceuticals related to the hormonal therapy program.

38.4(5) *Educational/treatment programming.*

a. Hormonal intervention therapy is to be utilized in conjunction with a sex offender educational/treatment program (SOTP). The offender 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 shall meet the 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 is sentenced.

1. If the offender 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 from custody.

2. If the offender 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 when the aforementioned criteria are not met shall be reviewed for consideration by the agency of jurisdiction.

(4) At any time during the course of supervision, the agency of jurisdiction may conduct a reassessment to determine if hormonal therapy should be considered or reconsidered as part of the treatment plan.

b. *Monitoring/termination of hormonal therapy.*

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

(2) Termination. Hormonal therapy may be discontinued only by the medical authority, with consent of the supervising officer. Termination requires a reassessment conclusion that the therapy has been determined ineffective or is no longer necessary.

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

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

These rules are intended to implement Iowa Code chapter 692A.

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CHAPTER 39
Reserved

TITLE III
COMMUNITY-BASED CORRECTIONS

CHAPTER 40
COMMUNITY-BASED CORRECTIONS ADMINISTRATION

[Prior to 3/20/91, Corrections Department[291]]

201—40.1(905) Title III definitions.

"Accreditation" shall mean certifying that a judicial district department of correctional services is in compliance with applicable state and federal laws and with applicable portions of the Iowa Administrative Code, which compliance is determined by the department of corrections reviewing the bylaws, policies, procedures and practices of the judicial district department of correctional services.

"Board of directors" shall mean the same as district board as defined in Iowa Code section 905.3.

"Community service" shall mean unpaid public service as a condition of probation established pursuant to Iowa Code chapter 907 or in lieu of restitution as authorized in Iowa Code chapter 910.

"Conditions of probation" shall mean the same as defined in Iowa Code section 907.6.

"Contraband" shall mean weapons, alcohol, drugs, money, obscene materials, or material advocating disruption of or injury to clients, employees, programs, or physical facilities. It shall also include anything which is illegal to possess under the law, or materials which are used in the production of drugs or alcohol or used in conjunction with the taking of illicit drugs.

"Curfew hours" means those hours between 12 midnight and 6 a.m.

"Deferred judgment, deferred sentence or suspended sentence" shall mean the same as defined in Iowa Code section 907.3.

"Deputy director" shall mean the respective regional deputy director of the department of corrections.

"District department" shall mean the judicial district department of correctional services as defined in Iowa Code section 905.2.

"District director" shall mean the director of a judicial district department of correctional services.

"Executive committee" shall mean the same as defined in Iowa Code section 905.3(2).

"*Immediate family*" means spouse, child, parent, sibling, natural grandparent, stepparent, legal guardian, or an individual with whom the offender lived and who was responsible for the offender while the offender was a minor for a period of at least one year.

"Medical practitioner" means medical doctor, osteopathic physician or physician's assistant.

"Ongoing site visits" shall mean any visit by the deputy director, designee or representatives of the office of the state auditor which shall be to assure continuing compliance with the Code of Iowa and the Iowa Administrative Code, and which may be conducted at any time during the two-year interim following the most recent team review.

"Parole" means the same as defined in Iowa Code section 906.1.

"Parole agreement" shall mean the same as defined in Iowa Code section 906.11.

"Parole plan" means a document listing place of employment, residence and the supervising parole officer.

"Presentence investigations" shall mean the same as defined in Iowa Code sections 901.2 and 901.3.

"Pretrial release" shall mean the same as defined in Iowa Code section 811.2.

"Probation" shall mean the same as defined in Iowa Code chapter 907.

"Probation agreement" shall mean the same as defined in Iowa Code section 907.6.

"Probation service" shall mean the same as defined in Iowa Code section 907.2.

"Rehabilitative objectives or purposes" means activities designed to further the reintegration of the offender into the community as a productive, law-abiding citizen. Activities deemed to serve rehabilitative objectives shall include, but not be limited to, family visits, seeking employment, supervised recreational activities, shopping trips, counseling/consultation sessions, educational programs and activities, vocational training and religious activities.

"Residential services" shall mean housing facilities providing 24-hour supervision operated pursuant to Iowa Code section 905.7(1).

"Restitution plan of payment and plan of restitution" shall mean the same as defined in Iowa Code chapter 910.

"Supervision" shall mean supervision during the probationary period as defined in Iowa Code section 907.8.

"Team review" shall mean a biennial review of overall program, policies and procedures for compliance with the Code of Iowa and the Iowa Administrative Code by one or more persons designated by the deputy director.

"Technical violation" means a noncriminal violation of the conditions of parole.

This rule is intended to implement Iowa Code section 905.7.

201—40.2(905) Accreditation.

40.2(1) The deputy director of the department of corrections shall be the accrediting authority. The decisions of the deputy director shall be final except as provided in Iowa Code chapters 17A and 905.

40.2(2) The deputy director shall conduct or assign staff the responsibility to conduct the biennial team review for accreditation purposes.

40.2(3) The deputy director shall make or assign staff to make ongoing site reviews during the two-year interim following the most recent team review.

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

a. District department structure as provided in Iowa Code chapter 905.

b. Bylaws, policies and procedures of the board and the district department.

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, i.e., domestic abuse, sex offender treatment, and intensive supervision program.

d. Business practices of the district department including the use of acceptable accounting procedures and the receipt and expenditure of funds. Any reports of the office of the state auditor and recommendations contained in those reports, as well as evidence of compliance with those recommendations.

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. The accreditation and program specific standards, and any changes in the standards, shall be made available to the district departments at least 90 days before the biennial review.

40.2(5) The results of any biennial team review will be reported to the deputy director who shall review the results and when a district is in adequate compliance with the Code of Iowa, the Iowa Administrative Code and the accreditation standards, the deputy director shall issue a certificate of accreditation for the following two years. When a district is not in adequate compliance as provided in the accreditation standards, the deputy director will notify the chairperson of the district board and the district director of the specific deficiencies and allowable time frames for correcting the deficiencies. At the end of the period of time for bringing the deficiencies into compliance, the deputy director shall award a certificate of accreditation or shall notify the district board and proceed as provided in Iowa Code section 905.9.

40.2(6) The ongoing site review shall include periodic assessments of the district departments and its programs as set out in 40.2(4) and shall be designed to provide evidence of continuing compliance. If at any time during the two-year period, following the most recent team reviews, the deputy director, through information gathered in ongoing site reviews, concludes that the district department is no longer in adequate compliance may conduct or order an interim team review. If in the team review the evidence indicates serious noncompliance, the deputy director may proceed as provided in 40.2(5).

This rule is intended to implement Iowa Code sections 905.7 and 905.9.

201—40.3(904) Investigations. The deputy director of the department of corrections may investigate charges of abuse, neglect, or mismanagement on the part of a judicial district department of correctional services and its employees. The deputy director may request the director of the department to exercise authority pursuant to Iowa Code sections 904.402 to 904.405.

This rule is intended to implement Iowa Code sections 904.402 to 904.405.

201—40.4(905) District board of directors.

40.4(1) The board of directors shall adopt bylaws as prescribed in Iowa Code section 905.4(1).

40.4(2) The board of directors shall establish minimum qualifications for the position of the district director which shall include, but not be limited to, those set out in Iowa Code section 905.6.

40.4(3) The board of directors shall select the district director of the overall community-based corrections program, who shall serve at the board's pleasure and the board shall set the director's salary consistent with Iowa Code section 905.4(2).

40.4(4) The board of directors shall set policies and ensure procedures are developed governing the expenditures of funds which are in compliance with the requirements of the department of corrections and the Code of Iowa.

40.4(5) The board of directors shall set policies and ensure procedures are developed governing the personnel employed by the judicial district department of correctional services.

40.4(6) The board of directors shall establish policies and ensure procedures are developed governing formal communications between the board and the staff.

40.4(7) The board of directors shall establish policies and ensure procedures are developed governing the training of staff.

40.4(8) The board of directors shall approve a table of organization reflecting current staffing of the judicial district department of correctional services.

40.4(9) The board of directors shall annually approve the budget and action plan of the judicial district department of correctional services which shall include the projected expenditures by program and identify the following source of revenue: (a) state purchase of services contract, (b) federal and local grants or contracts, (c) residential client fees, (d) county support, (e) interest, (f) other miscellaneous revenues.

40.4(10) One or more project advisory committees shall be established in accordance with Iowa Code chapter 905. The functions of the advisory committee(s) shall include, but need not be limited to, participation in and review of the district department's planning and program activities.

40.4(11) The judicial district board of directors shall decide whether to allow employees of the judicial district department of correctional services to carry a firearm while in performance of official duties. If the board allows employees to carry firearms, the judicial district board shall establish policies and ensure that procedures are developed governing the authorization of probation/parole officers and reserve peace officers subject to Iowa Code chapter 80D to carry a firearm while in performance of their duties. Policy shall specify when the possession of a weapon is appropriate and who may approve authorization to carry a weapon.

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. Probation/parole officers and reserve peace officers subject to Iowa Code chapter 80D must have successfully completed the Iowa law enforcement academy curriculum prior to receiving authorization to carry a firearm. Probation/parole officers authorized to carry firearms prior to February 9, 2005, will be exempt from this paragraph.

b. An officer will not be given permission to carry a weapon unless the officer has successfully completed the requirements of Iowa Code chapter 724.

(1) In addition, the officer must show proficiency in the actual firing of a firearm as required for qualification on a qualified training course firing range.

(2) Officers holding valid permits to carry firearms shall requalify annually.

c. Weapons shall not be exhibited or used except in a perilous, life-threatening situation. Drawing, pointing, or discharging a weapon for effect or warning is prohibited.

d. The judicial district director shall maintain a list of all officers granted permission to carry a weapon. The list shall include the officer's name, permit number, dates of permit, place and dates of training, and caliber of weapon.

e. Permission granting an officer the right to carry a judicial district-purchased weapon shall be in writing.

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

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 compliance with the requirements of the department of corrections and the Code of Iowa.

40.5(2) The director shall acquire current copies of 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 manual which shall include, but not be limited to, the following:

a. The written bylaws of the board of directors of the department of correctional services,

b. All departmental policies and procedures,

c. Written standard operating procedures governing the staff in the provision of services to clients,

d. A table of organization reflecting all positions employed within the department of correctional services,

e. Job descriptions of all positions employed within the department of correctional services,

f. A current pay plan.

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. The district department shall have written policies and procedures which ensure that the district complies with the Iowa Division of Labor's "Right to Know" rules, chapter 140.

b. The district department shall enter and maintain information required by the department of corrections statewide database application (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) Written procedures shall exist concerning the security, maintenance, accessibility and destruction of case records.

40.5(5) The director shall ensure that there are written procedures governing the handling and dissemination of client file information, including access by the client, and the confidentiality of client records which comply with applicable state and federal laws.

40.5(6) The director shall maintain current documentation of inspection reports for all buildings under the director's purview which shall include when applicable, fire, building and health reports.

40.5(7) All reports required by the department of corrections shall be prepared and submitted on time in accordance with Iowa Code section 905.7.

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. 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.

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 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. Applicants must satisfactorily complete psychological and cognitive testing approved by the department of corrections prior to hire. In addition, a background investigation and criminal records check will be completed on all hires.

201—40.6 Infectious disease standard. Rescinded. IAB 3/20/91.

These rules are intended to implement Iowa Code chapters 905 and 907 and sections 908.11 and 910.5.

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[1] Effective date of subrule 40.4(11) delayed 70 days by the Administrative Rules Review Committee at their February 11, 1988, meeting.

[2] Subrules 40.4(11) and 40.4(12) published as Notice of Intended Action, IAB 10/17/90.

CHAPTER 41
PRECONVICTION SERVICE
[Prior to 3/20/91, see Corrections Department[291]]

201—41.1(811,905) Pretrial services.

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

41.1(2) The district department shall establish a system of communications with law enforcement and the judiciary regarding the availability of pretrial services throughout the entire districts.

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

41.1(4) The district department shall have written policies establishing criteria for screening pretrial release candidates which require consideration of those items contained in Iowa Code section 811.2.

41.1(5) The district department shall have written policies and procedures which ensure that a case record is maintained on each active case under supervised release.

41.1(6) The district department shall have written policies and procedures which establish criteria for reporting violations of conditions of release to the court.

41.1(7) The district department shall have written policies and procedures governing the supervision of persons released to assure 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.

41.1(9) The district department shall have written policies which establish a grievance procedure for all clients under supervision.

201—41.2(901,905) Presentence investigation.

41.2(1) The district department shall be responsible for conducting all presentence investigations ordered by the court.

41.2(2) The district department shall have written policies and procedures which ensure that all information required by the Code of Iowa is included in the presentence investigation report.

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.

41.2(4) The district department shall have written policies and procedures which ensure the timely transmittal of the presentence report to the appropriate court official.

41.2(5) The district department shall have written policies and procedures which ensure the confidentiality of the presentence report in accordance with the Code of Iowa and state regulations, insofar as department handling of the report is concerned.

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 misdemeanor.

These rules are intended to implement Iowa Code chapters 901 and 905.

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CHAPTER 42
PROBATION SERVICES
[Prior to 3/20/91, Corrections Department[291]]

201—42.1(907,908,910) Probation.

42.1(1) The district department shall have written policies and procedures which ensure the delivery of probation services throughout the district.

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

42.1(3) The district department shall have 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 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 use the statewide case management system to ensure that offender risk and criminogenic needs are identified and 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 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 quality assurance. 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) The district department shall have written policies and procedures which establish grievance procedures for all clients under supervision and details a method which ensures that all clients are notified of the procedure.

42.1(6) The district department shall have written policies and procedures for reporting violations of probation and recommending revocation of probation to the court.

42.1(7) The district department shall have written policies and procedures for requesting a discharge from probation and shall require a recommendation for discharge when it is clear that the client has met court obligations, is no longer a threat to the community or cannot benefit substantially from further supervision.

42.1(8) The district department shall have written policies and procedures to assist staff to determine under what circumstances an arrest may be made or a client should be taken into custody.

42.1(9) The district department shall have written policies and procedures governing the searching of probationers or the searching and seizure of their property which meet the requirements of the court.

42.1(10) The district department shall have written policies and procedures governing the preparation, submission, review and modification of the restitution plan of payment in accordance with Iowa Code chapter 910.

42.1(11) The district department shall have written policies and procedures governing the preparation, submission, review and modification of the plan of community service in accordance with Iowa Code chapters 907 and 910.

42.1(12) The district department shall establish conditions of probation which meet the approval of the chief judge of the judicial district, which apply to each person under probation supervision, and shall have written procedures for assuring that each client receives those conditions in writing which include written documentation of receipt by the probationer.

42.1(13) The district department shall have written policies and procedures governing the preparation, submission, review, modification, collection and retention of supervision enrollment fees, in accordance with Iowa Code section 905.14. Payments shall be made directly to the supervising judicial district department.

42.1(14) The district department shall have written policies and procedures governing the waiver of collection of supervision enrollment fees for persons determined to be unable to pay, in accordance with Iowa Code section 905.14.

42.1(15) The district department shall have written policies and procedures governing the collection and retention of supervision enrollment fees for persons transferring to another judicial district. Fees will be collected and retained by the supervising judicial district department.

42.1(16) The district department shall have written policies and procedures governing the collection of supervision enrollment fees for persons who receive additional supervisions.

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

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CHAPTER 43
RESIDENTIAL FACILITIES
[Prior to 3/20/91, Corrections Department[291]]

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

43.1(1) The facility shall admit residents only on an order of the court or in accordance with a 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 shall obtain written documentation from the resident that these matters were discussed.

43.1(3) The district department shall have written policies and procedures governing when and how a resident's property is inventoried and recorded, and the same shall be utilized for all residents.

43.1(4) The district department shall have written policies and procedures which ensure a case record is maintained on each resident of the facility.

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) The district department shall have written policies which establish facility rules, possible sanctions, and appeal procedures for all residents.

43.1(7) 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) 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) 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) 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) The district department staff shall assure 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) The district department shall provide 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) 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) The district department shall have written policies and procedures governing the method of handling prescription and nonprescription drugs.

43.1(15) The district department shall have policies and procedures which assure 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) 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 or local restaurant inspection unit.

43.1(17) The district department shall have written policies and procedures for recommending the revocation of resident status at the facility.

43.1(18) 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) 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 use the statewide case management system to ensure that offender risk and criminogenic needs are identified and addressed in an effort to lower risk and reduce victimization. The system should be designed to focus the majority of resources on moderator- 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 quality assurance. 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.

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CHAPTER 44
WORK RELEASE

[Prior to 10/1/83, Social Services[770] Ch 24]
[Prior to 3/20/91, Corrections Department[291]]

201—44.1(904) Administration.

44.1(1) *Supervision.* Persons committed to the director of the department of corrections and approved for work release by the board of parole shall be supervised and housed by the judicial district departments of correctional services in accordance with the purchase of service agreement between the district departments and the department of corrections.

44.1(2) *Facility requirements.*

a. The facility staff shall assure 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. The district departments shall have written policies which establish facility rules, possible sanctions and appeal procedures for all residents. The final appeal step on any reports resulting in the loss of time or removal from the honor roll shall be the deputy director of the department of corrections or designee.

d. The district departments shall have written policies and procedures for searching work release residents and their property and for seizure of resident property or contraband.

e. The district departments shall have written policies and procedures which conform to appropriate statutes and regulations governing and reporting the use of physical force by work release facility staff.

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

g. District department staff shall not purchase, directly or indirectly, property or services belonging to or being sold by any person under supervision except as specifically allowed under department of corrections policy.

h. The district departments shall have written policies which establish a grievance procedure for work release residents for activities other than disciplinary action.

44.1(3) *Admission.*

a. The district departments shall admit residents in accordance with a contract 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 shall obtain written documentation from the resident that these matters were discussed.

44.1(4) *Earned time.* Earned time shall be awarded in accordance with department of corrections policy.

44.1(5) *Records.*

a. The district department shall maintain records for state work release clients as required by the department of corrections.

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, (7) disciplinary reports, (8) hold orders, (9) transfer reports, (10) parole progress reports, (11) signed release of information forms, (12) inventory sheets, and (13) 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 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 use the statewide case management system to ensure that offender risk and criminogenic needs are identified and 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 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 quality assurance. 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.

201—44.2(904) Provision of services.

44.2(1) *Contingency plan.* The district department shall have contingency plans that will ensure proper continuation of the program in the event of an emergency.

44.2(2) *Food service.*

a. The district department shall have policies and procedures which assure 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 or local restaurant inspection unit.

44.2(3) *Medical service.*

a. The district department shall provide 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. The district department shall have written policies and procedures which govern the medical care of work release residents in case of emergencies, sudden illnesses, accidents, or death.

c. The district department shall have written policies and procedures governing the method of handling prescription and nonprescription drugs.

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.

44.2(4) *Visitation.* The district department shall have 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) *Transportation.* District department staff may provide transportation for residents in order to facilitate program objectives or to transport residents for security purposes.

201—44.3(910) Restitution.

44.3(1) *Restitution plan of payment.* There shall be a 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:

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. The work releasee shall submit payments in a timely manner to the clerk of court or district department.

b. If payments are made to the clerk of the district court, the work releasee shall provide the district department proof of payments.

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

201—44.4(904) Resident finances.

44.4(1) Residents shall surrender earnings to the facility in accordance with Iowa Code section 904.905.

44.4(2) The district departments of correctional services shall provide for proper accounting for the receipt and disbursement of resident earnings, in accordance with fiscal requirements established in 201—subrule 40.5(8).

201—44.5(904) Furloughs. The district departments shall administer furlough programs for work release clients in accordance with the department of corrections work release manual.

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) *Postplacement violation.* Work release violations may be classified as technical, minor, or major in accordance with state policy depending on the seriousness and frequency. Such classification shall determine the sanction or range of sanctions to correspond with the violation(s).

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.

44.6(4) *Out of place/escape.* Residents who are out of place of assignment are considered in serious violation of work release rules and possibly guilty of a felony under Iowa Code section 719.4. Escapes shall be reported to designated authorities in accordance with department of corrections work release policy and critical incident policy.

44.6(5) *Reimbursement for transportation.* Transportation costs incurred due to a work releasee escaping or absconding shall be assessed against the work releasee. The amount of reimbursement shall be the actual cost incurred by the department of corrections or the judicial district department and shall be credited to the support of correctional services account from which the billing occurred. Actual cost shall mean the following:

1. Actual salary, to include overtime, of all personnel required to return the work releasee.
2. Actual personal expenses of personnel involved.

3. Ground mileage at the rate paid to state employees.

4. Actual cost of any common carrier fare for personnel and the work releasee. Air fare shall be booked at regular coach.

44.6(6) *Transfer hearings.* The district department shall petition the state department of corrections for a transfer review on residents guilty of serious work release violations. Designated state staff shall determine whether or not the resident is to be transferred to a secure institution.

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

201—44.7(904) Discharge. Under no circumstances shall work release supervision extend beyond the expiration of a work releasee's sentence.

201—44.8(904) Federal contracts for work release. In order to qualify nonfederal work release clients for employment in the performance of federal contracts, under presidential Executive Order 11755, each judicial district department of corrections shall ascertain:

44.8(1) That the rate of pay and other conditions of employment shall be at a similar rate and mode to others employed in like duties;

44.8(2) That employment of the work release client will not result in the displacement of other persons already employed; will not be utilized where a surplus of labor exists; will not harm existing contracts; and

44.8(3) Representatives of affected unions will have been consulted.

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 of correctional institutions to return to their homes and care for dependent children under the age of 18.

44.9(1) *Administration.*

a. Supervision. Persons committed to the director of the department of corrections and approved for home work release by the board of parole shall be supervised by the judicial district departments of correctional services in accordance with contractual provisions between the district departments and the department of corrections.

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 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. Admission.

(1) The district departments shall assume supervision of home work releasees in accordance with a contract with the department of corrections or federal correctional agencies.

(2) At the time of supervision, the staff shall discuss with each home work releasee program goals, services available, rules governing conduct, disciplinary procedures, the home work releasee's fiscal management, responsibilities, rights and communication privileges and shall obtain written documentation from the home work releasee that these matters were discussed.

d. Travel. Supervisory staff may grant permission for travel within the state. Standard policy will apply to out-of-state travel.

e. Earned time. Earned time shall be awarded in accordance with department of corrections policy.

f. Records.

(1) The district department shall maintain records for state home work release clients as required by the department of corrections.

(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,
7. Disciplinary reports,
8. Hold orders,
9. Transfer reports,
10. Parole progress reports,
11. Signed release of information forms,
12. Inventory sheets, and
13. 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 assessment of client needs and resources utilized to meet those needs.

44.9(2) *Restitution.*

a. Restitution plan of payment. There shall be a restitution plan of payment developed on those home 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 present income, employment, physical and mental health, education, financial situation and 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.

b. Compliance.

(1) The home work releasee shall submit payments in a timely manner to the clerk of court or the district department.

(2) If payments are made to the clerk of the district court, the home work releasee shall provide the district department proof of payments.

(3) The district department will provide statements to the appropriate clerks of court when community service is ordered in lieu of financial restitution.

44.9(3) *Home work releasee finances.* The home work releasee shall assume total financial responsibility, including medical expenses, for their care and the care of their 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 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. Postplacement violation. Work release violations may be classified as technical, minor, or major in accordance with state policy depending on the seriousness and frequency. Such classification shall determine the sanction or range of sanctions to correspond with the violation(s).

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.

d. *Out of place/escape.* Home work releasees who are out of place of assignment are considered in serious violation of work release rules and possibly guilty of a felony under Iowa Code section 719.4. Escapes shall be reported to designated authorities in accordance with department of corrections work release policy.

e. *Reimbursement for transportation.* Transportation costs incurred due to a home work releasee escaping or absconding shall be assessed against the home work releasee. The amount of reimbursement shall be the actual cost incurred by the department of corrections or the judicial district department and shall be credited to the support of correctional services account from which the billing occurred. Actual cost shall mean the following:

(1) Actual salary, to include overtime, of all personnel required to return the work releasee.

(2) Actual personal expenses of personnel involved.

(3) Ground mileage at the rate paid to state employees.

(4) Actual cost of any common carrier fare for personnel and the home work releasee. Air fare shall be booked at regular coach.

f. *Transfer hearings.* The district department shall petition the department of corrections for a transfer hearing on home work releasees found guilty of serious work release violations. The hearing officer shall determine whether or not the home work releasee is to be transferred to the designated security institution.

g. *Special transfers.* Transfers to another residential facility or to an institution may be allowed in special circumstances with the approval of the department of corrections.

44.9(5) *Discharge.* Under no circumstances shall home work release supervision extend beyond the expiration of a home work releasee's sentence.

These rules are intended to implement Iowa Code sections 904.901 to 904.909.

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CHAPTER 45
PAROLE

[Prior to 10/1/83, Social Services[770] Ch 26]
[Prior to 3/20/91, Corrections Department[291]]

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 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 45.2(906) and shall contain the parolee's reporting instructions.

b. 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 use the statewide case management system to ensure that offender risk and criminogenic needs are identified and 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 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 quality assurance. 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.

45.1(3) *Earned and honor time.* Earned and honor time shall be awarded in accordance with department of corrections policy.

45.1(4) *Furlough.* Parolees may be granted a community placement furlough to their prospective parole area upon request by the assigned supervising parole officer pursuant to 201—subparagraph 20.12(5)*"b"*(2). The district departments shall have written policy and procedures on furloughs.

45.1(5) *Parole release funds.* Offenders 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) *Hospitalization.* The director of the department of corrections may send indigent parolees to the university hospitals at the University of Iowa for needed medical services without the court order required in other cases pursuant to Iowa Code section 255.29.

45.1(7) *Pharmaceuticals.* Except in an emergency pursuant to Iowa Code section 613.17, the district department personnel shall not administer or dispense any prescription drugs, including antabuse, to parolees.

45.1(8) *Grievance procedure.* The district department shall have a written grievance procedure for all parolees which shall include the method by which all parolees are notified of the procedure.

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

201—45.2(906) Conditions of parole.

45.2(1) *Standard conditions.* The following are standard conditions of parole supervision 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 condition 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. The district supervisor and the board of parole shall be immediately informed of the deletion in writing.

b. *Additions.* Additional conditions may be imposed. The additional conditions shall be clearly indicated on all copies of the parole agreement and shall be signed and dated by the parolee and the supervising agent. The department of corrections and the parole board shall be notified of additional conditions in writing.

201—45.3(910) Restitution.

45.3(1) *Restitution plan of payment.* There shall be a restitution plan of payment developed on those parolees 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:

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.

45.3(2) *Compliance.*

a. The parolee shall submit payments in a timely manner to the clerk of court or district department.

b. If payments are made to the clerk of the district court, the parolee shall provide the district department proof of payments.

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

201—45.4(908) Violations.

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 days of receipt of knowledge of the commission of certain violations, listed below, 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.

45.4(2) *Detention.* A parole officer, with supervisory approval, may arrest a parolee when there is probable cause to believe the parolee has violated conditions of parole which may result in parole revocation. The arresting agent may request temporary detention of the parolee in a local detention facility. In such cases all actions of the agent shall be in accordance with Iowa Code sections 908.1 and 908.2. A parole officer may also proceed without arrest by filing a complaint with the Iowa board of parole pursuant to Iowa Code section 908.8. When a parolee is arrested the agent shall immediately notify the board of parole.

A complaint, which is a preliminary parole violation information, shall be filed with the magistrate at the time of the initial appearance.

45.4(3) *Absconding from supervision.* Upon receipt of information that a parolee has absconded from supervision, a preliminary parole violation information shall immediately be filed with a judge, an associate judge, or a magistrate and a warrant for arrest requested.

201—45.5(906) Voluntary return to institution. A parolee may be returned 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 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.

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. Public offenses committed by the parolee while under supervision.

c. Violation of any parole conditions set by the board of parole.

d. Abuse of alcohol or drugs while on parole.

e. Restitution accomplished by the parolee.

f. The reasons why the discharge is appropriate.

45.6(2) Upon discharge, the parole officer shall give the discharged parolee the standard form 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 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) After 60 days an ex-parolee may request restoration of citizenship by contacting the governor's office to request Executive Clemency forms.

201—45.7(905) Supervision enrollment fees.

45.7(1) The district department shall have written policies and procedures governing the preparation, submission, review, modification, collection, and retention of supervision enrollment fees, in accordance with Iowa Code section 905.14(3). Payments shall be made directly to the supervising judicial district department.

45.7(2) The district department shall have written policies and procedures governing the waiver of collection of supervision enrollment fees for persons determined to be unable to pay, in accordance with Iowa Code section 905.14(3).

45.7(3) The district department shall have written policies and procedures governing the collection and retention of supervision enrollment fees for persons transferring to another judicial district. Fees will be collected by the supervising judicial district department.

45.7(4) The district department shall have written policies and procedures governing the collection of supervision enrollment fees for persons who receive additional supervisions.

These rules are intended to implement Iowa Code sections 255.29, 905.14, 906.9 to 906.11, 906.15, 906.16, 908.1, 908.2, 908.8 and 910.5.

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CHAPTER 46
SUPERVISION UNDER INTERSTATE COMPACT

[Prior to 10/1/83, see Social Services[770] Ch 27]
[Prior to 3/20/91, Corrections Department[291]]

201—46.1(913) Compact agreement. The interstate compact for the supervision of parolees and probationers is a legally binding agreement under which all 50 states, Puerto Rico, and the Virgin Islands serve as each other's agents in the supervision of certain parolees and probationers. The compact provides a simple legal method whereby parolees and probationers may move to better rehabilitative environments outside the state without losing the advantages of supervision or escaping from the jurisdiction of the state in which such person was sentenced.

201—46.2(913) Compact administrator.

46.2(1) The compact administrator may appoint up to two deputy compact administrators to serve as active members of the Parole and Probation Compact Administrator's Association and who shall be responsible for day-to-day operation of the interstate compact.

46.2(2) The compact administrator shall be responsible for the administration of the compact between this state and other contracting states. The compact administrator or the designated deputy shall serve as Iowa's representative in the parole and probation compact administrator's association.

201—46.3(913) Sending a person out of Iowa under the compact.

46.3(1) Local parole and probation officials requesting to transfer a parolee or probationer to another state shall work through the office of the state compact administrator. All persons using the compact shall comply with the official rules and regulations promulgated by the compact administrators under authority of article 5 of the compact.

46.3(2) Whenever a person is accepted in another state for supervision, Iowa shall, when available, send to the receiving state two recent photographs and one photostatic copy of the fingerprints or fingerprint classification of subject.

46.3(3) All moneys which Iowa desires to collect from the parolee or probationer either for family support, support of children, restitution, reparation, court costs, or fines, or otherwise, shall be sent directly by the parolee or probationer to the appropriate authority in the sending state (Iowa) and the receiving state agrees to use its best endeavor to ensure that the parolee or probationer sends such moneys as requested.

46.3(4) The parolee or probationer shall sign Compact Form III, Application for Compact Services and Agreement to Return, in triplicate, furnished by the parole or probation officer, before leaving the sentencing state. By signing Compact Form III, the parolee or probationer waives the right to formal extradition proceeding and agrees not to contest any effort to return the parolee or probationer to the sending state.

201—46.4(913) Receiving cases in Iowa under the interstate compact.

46.4(1) The state of Iowa through the appropriate authorities shall accept supervision of out-of-state cases when a parolee or probationer meets the requirements of the interstate compact.

46.4(2) The state of Iowa shall exercise the same care and treatment and supervision standards that are given to Iowa cases, and shall notify the sending state promptly about any violations, antisocial behavior that may occur or the placement of any legal hold against the individual.

46.4(3) The receiving state shall submit semiannual progress reports in reference to the parolee and probationer and such reports shall cover present residence of the parolee or probationer, name of employer, with type and character of employment, and the parolee's or probationer's general conduct and progress, as well as attitude toward supervision. Such reports shall not be a substitute for financial or other written reports the sending state may require the parolee or probationer to send to it at periodic intervals on such forms as the sending state may furnish the parolee or probationer.

46.4(4) The receiving state shall promptly upon parole violation notify the sending state. In the case of serious violations the board of parole liaison officer, who is an attorney, will conduct a probable cause hearing for the compact administrator according to the board of parole procedures 205—7.5(909).

46.4(5) In the transfer of supervision of all probation and parole cases to or from other states, the judicial district departments of correctional services established pursuant to Iowa Code chapter 905, shall abide by these rules, the provisions of the compact and department of corrections policies and procedures.

46.4(6) Out-of-state cases transferred to the state of Iowa shall be responsible for payment of supervision enrollment fees directly to the supervising judicial district department, in accordance with Iowa Code section 905.14.

These rules are intended to implement Iowa Code chapter 913 and section 906.13 and 1997 Iowa Acts, House File 734, section 7.

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CHAPTER 47
OWI PROGRAMS
[Prior to 3/20/91, Corrections Department[291]]

201—47.1(904) OWI facilities.

47.1(1) Offenders 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 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 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.

47.1(4) All facilities and programs operated pursuant to this chapter shall be reviewed for approval by the department of corrections initially and biennially thereafter. A district department which fails to maintain compliance with this chapter shall be subject to the provisions of Iowa Code section 905.9.

47.1(5) Any program operated pursuant to this chapter shall comply with licensure standards for correctional facilities of the division of substance abuse, department of public health, 643—Chapter 6.

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) The district director is responsible for all programs and offenders that are subject to these rules. Any change in the custody status of offenders shall be approved by the department of corrections in consultation with a district department official.

201—47.2(904) Movement of offenders.

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 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 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, the court may order the offender 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 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 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 for classification and assignment. Final approval is granted by the regional deputy director 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 needs, the offender may be assigned with the approval of the deputy director of offender services or designee to the Iowa Medical and Classification Center at Oakdale for treatment until the offender's health status permits placement into a community-based correctional program.

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

47.2(7) Offenders placed with the department of corrections shall be transferred in custody to their assigned facility unless an exception is approved 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 who present a threat to the safety or security of the public, facility staff, or residents.

47.2(9) Offenders housed in community facilities may be transferred to the Iowa Medical and Classification Center on the recommendation of the district director or designee and with the approval of the regional deputy director 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 in the event of an emergency such as fire, tornado, chemical spill, or work stoppage.

47.2(11) Offenders 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 or returned to the classification center for reclassification and placement in an institution.

201—47.3(904) Fiscal.

47.3(1) The district department shall submit an annual budget on the forms required by the department of corrections which includes a budget for all subcontractors participating in the program.

47.3(2) The district department shall maintain accounting records required by the department of corrections which account for revenues and expenditures of daily fees, interest, insurance reimbursement, and any other miscellaneous funds collected separately from appropriated funds.

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

a. Subcontractors shall be paid only for services provided on a reimbursement basis.

b. The district department shall not pay for substance abuse treatment otherwise available and funded from other sources.

c. The district department and any subcontractor shall, whenever possible, offset the cost of providing substance abuse treatment with third-party reimbursements.

d. The district department shall include, in any contract for housing or treatment, provisions to protect the district department and the department of corrections from liability arising from the actions of any subcontractor.

47.3(4) The district department shall maintain a schedule of daily fees to be assessed to offenders. The fee schedules shall be based on a minimum of $10 per day; however, if in the opinion of the facility director or designee the offender is unable to pay the full amount, a reduced fee will be set and the balance of the fee up to $10 shall accumulate and be assessed at such time as the offender is able to pay. If the offender is directly paying the substance abuse treatment provider, the fee schedule shall be appropriately reduced but not be less than $5 per day.

47.3(5) Offenders 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 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 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 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.

47.3(8) A county holding offenders 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 escapes or participates in an act of absconding from the facility to which the offender is assigned, the offender shall reimburse the department of corrections for the cost of transportation.

201—47.4(904) Program structure.

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

47.4(2) Each offender 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 to an institution.

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

47.4(4) Reserved.

47.4(5) The district department shall ensure, to the extent possible, that all offenders 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 to leave the facility for treatment, employment, and food service when those activities are not provided at the facility. In all other circumstances, offenders 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 discipline.

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

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

47.4(10) The district department shall comply with established policies and develop procedures to ensure that all nonemergency medical treatment required by indigent offenders is obtained at the University of Iowa Hospitals.

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 completed on all offenders who fail to satisfactorily complete the program and are placed at the Iowa Medical and Classification Center. 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 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. However, visiting privileges may be limited to the extent necessary for treatment, security, or management reasons.

47.4(15) Reserved.

47.4(16) The district department shall maintain and make available to the department of corrections requested data for the purpose of evaluating the facility and program.

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

These rules are intended to implement Iowa Code section 904.513.

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CHAPTERS 48 and 49
Reserved

TITLE IV
JAIL INSPECTION STANDARDS

JAIL INSPECTION STANDARDS

CHAPTER 50
JAIL FACILITIES

[Prior to 10/1/83, Social Services[770] Ch 15]
[Prior to 3/20/91, Corrections Department[291]]

201—50.1(356,356A) Definitions. The following are defined terms:

"Activity area" means such area, distinct from the living unit, where prisoners may congregate for programming. This area is to be under constant staff observation.

"Alternative jail facility" means a facility designated pursuant to Iowa Code chapter 356A, and which is used as a halfway-house-type facility rather than a jail-type operation. These facilities shall be subject to inspection and accreditation by the state jail inspector utilizing applicable administrative rules for residential facilities pursuant to 201—Chapter 43 and other acceptable operational standards.

"Average daily population" means the average number of prisoners housed daily during each year.

"Barrier free" means no walls or other obstructions impeding contact by staff within their assigned area of operation.

"Capacity" means the number of prisoner occupants which any cell, room, unit, building, facility or combination thereof may accommodate according to the square footage requirements of the standards.

"Cell" means single occupancy bedroom space with toilet and lavatory facilities.

"Cellblock" means a group of cells with an associated dayroom.

"Classification" means a system of obtaining pertinent information concerning prisoners with which to make a decision on assignment of appropriate housing, security level, and activities.

"Continuous visual observation" means uninterrupted visual contact unaided by closed circuit television (CCTV).

"Dayroom" means a common space shared by prisoners residing in a group of cells or multiple occupancy cells, to which prisoners are admitted for activities such as dining, bathing, or passive recreation.

"Detention area" means that portion of the facility used to confine prisoners.

"Direct supervision jail" means a style of jail construction designed to facilitate direct contact between officers and prisoners. The officer is stationed inside the housing unit. Evaluation and classification of prisoners are ongoing and continuous functions of a direct supervision jail and are based on close contact with prisoners.

"Disability" means a physical or mental impairment that substantially limits one or more of the major life activities of an individual; a record of such an impairment; or being regarded as having such an impairment.

"DOC" means the Iowa department of corrections.

"Dormitory" means an open area for two or more prisoners with all fixtures self-contained. There is no barrier between the sleeping area and other fixtures such as shower, table, recreation equipment, or similar items.

"Emergency situation" means any significant disruption of normal operations caused by riot, strike, escape, fire, natural disaster or other serious incident.

"Evaluation" means an ongoing process whereby judgments are made concerning a prisoner based upon the behavior of that prisoner.

"Existing facility" means any place in use as a jail or for which bids have been let for construction prior to September 12, 2001.

"Holding cell" means a secure room or cell where prisoners may be held up to 24 hours while awaiting the procedure of commitment or release or court appearances.

"Holdover" means a nonsecure area within a law enforcement facility, hospital, mental health facility or other existing public building that is intended to serve as a short-term holding facility for juveniles. A nonsecure area may be a multipurpose area which is unable to be locked.

"Housing unit" means an individual detention area. This area may be a single occupancy cell, multiple occupancy cell, cellblock, or dormitory.

"Inspection unit" means the state jail inspection unit.

"Jail" means any place administered by the county sheriff and designed to hold prisoners for as long as lawfully required but not to exceed one year pursuant to Iowa Code chapters 356 and 356A.

"Jail administrator" means the sheriff, sheriff's designee, or the executive head of any agency operating a jail. The jail administrator shall be responsible for the operation of the facility according to these rules.

"Jailer" means any person who is involved in the booking or supervision of prisoners, who has direct contact with prisoners or who has control over the movement or release of prisoners within the jail, and who meets the requirements of rules 201—50.10(356,356A) and 50.11(356,356A), Iowa Administrative Code.

"Jail inspector" means the department of corrections employee responsible for inspections of jails and enforcement of these rules by authority of Iowa Code section 356.43.

"Jail supervisor" means any person who is responsible for the routine operation of a jail during assigned duty hours. While this person does not have to be on the premises at all times, the person must be readily available for consultation.

"Juvenile" means any person under the age of 18 years.

"Living unit" means an area within a housing unit and that contains individual sleeping compartments, dayrooms, all necessary personal hygiene fixtures, and sufficient tables and seats to accommodate capacity.

"Lock down" means whenever prisoners are required to be in their individual cells or locked in same.

"Mail" means anything that is sent to or by prisoners through the United States Postal Service.

"Major remodeling" means construction that changes the architectural design of an existing jail and that increases or decreases capacity.

"Medical practitioner" means a licensed physician, licensed osteopathic physician or physician's assistant or medical resources such as a hospital or clinic.

"Mental illness" means a psychiatric illness or disease expressed primarily through abnormalities of thought, feeling, and behavior producing either distress or impaired function.

"Minister" means a trained person ordained or licensed by a bona fide religion to conduct the services of that faith.

"Monitoring" means having a reasonable degree of knowledge or awareness of what activities a prisoner is engaged in during incarceration.

"Multiple occupancy cell" means a cell or a group of cells designed for more than one prisoner and accessible to a dayroom.

"Nonsecure hold" means a nonsecure area within a law enforcement facility and which is intended to serve as a short-term holding facility for juveniles. A nonsecure area may be a multipurpose area which is unable to be locked.

"Person performing jail duties" means all persons directly involved in the provision of services to prisoners or the operation of a jail except:

1. Outside contractors performing specific housekeeping functions under the direct supervision of a jailer.
2. Individuals such as maintenance personnel, cooks, and janitors, if they do not have direct contact with prisoners or routine access to areas occupied by prisoners.

"Physical jeopardy" means, due to the prisoner's physical or mental condition, the prisoner is in peril of serious physical harm.

"Pod" means a grouping of two or more housing units, usually found in large facilities, which will aid in the control of prisoners.

"Prisoner" means any individual confined in a jail.

"Residential facilities" means the facilities governed by 201—Chapter 43.

"Roving supervising officer" means an officer who provides direct supervision of prisoners by continuously moving through the housing unit, cells, and activity area of the unit.

"Segregation cell" means a single occupancy cell equipped with tamper-resistant bunks, a toilet, and a wash basin which are of the type recommended for maximum security housing.

"Unencumbered space" is floor space that is not encumbered by furnishings or fixtures. Unencumbered space is determined by subtracting the floor area encumbered by furnishings and fixtures from the total floor area. (All fixtures must be in operational position for these calculations.)

"Waiver/variance" means a waiver of a specific standard granted by the jail inspection unit in accordance with 201—Chapter 7.

"Weapons" means any instrument, excluding restraining devices and chemical control agents, with a primary intended use of self-defense, protection of another, or to gain or maintain compliance from an individual.

201—50.2(356,356A) General provisions.

50.2(1) *Applicability.* These rules apply to all facilities regulated by Iowa Code chapters 356 and 356A except temporary holding facilities which are covered by 201—Chapter 51.

50.2(2) *Capacity.* Established capacities as determined by these rules shall not be exceeded except in the event of an emergency and then only for such a period of time as is necessary to arrange for alternate housing or release of sufficient prisoners to bring the number of persons confined into compliance with the rated capacity.

50.2(3) *Right to inspect and visit.* The chief jail inspector or authorized representatives shall visit and inspect jails and may do so on an unannounced basis. Jail personnel and supervisors shall cooperate in inspections and shall exhibit to the inspectors, upon request, all books, records, medical records, data, documents and accounts pertaining to a jail or to the prisoners confined and shall assist inspectors to perform the functions, powers and duties of their office. Provisions of the first paragraph of Iowa Code section 356.43 shall control to the extent of any inconsistency of the provisions of this subrule.

50.2(4) *Other standards.* Nothing contained in these standards shall be construed to prohibit local officials from adopting standards and requirements governing their employees and facilities, provided such standards and requirements exceed and do not conflict with standards mandated in this chapter. These standards shall not be construed as authority to violate any state fire safety standard, building standard, health and safety code, or any constitutional requirement. No jail shall be operated without substantially meeting these rules, absent the granting of a waiver/variance.

50.2(5) *Equal opportunity.* Facilities, programs, and services shall be available on an equitable basis to both males and females even though each standard does not specify that it applies to both males and females.

50.2(6) *Nondiscriminatory treatment.* Each jail administrator shall ensure that staff and prisoners are not subject to discriminatory treatment based upon race, religion, nationality, disability, sex or age absent compelling reason for said discriminatory treatment. Discrimination on the basis of a disability is prohibited in the provision of services, programs, and activities.

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) *Notice of noncompliance with minimum standards.* Whenever the determination is made that a jail or other holding facility is not in compliance with established minimum state jail standards, the chief administrator of the affected governmental facility will be notified by letter posted or personal

delivery of the need to bring the facility into compliance. The jail inspection unit shall issue a notice of noncompliance to the responsible jail administrator and the governing body of each instance in which the jail fails to comply with the minimum standards established under these rules. The letter shall contain a listing of the statute(s) and rule(s) with which the facility is not in compliance and a description of the deficiencies and shall specifically identify each minimum standard with which the jail has failed to comply.

50.3(2) *Enforcement of minimum standards; remedial orders.* Upon receipt of a notice of noncompliance pursuant to subrule 50.3(1), the responsible authorities shall initiate appropriate corrective measures within the time prescribed by the jail inspection unit in its notice (which shall not exceed 90 days) and shall complete the corrections within a reasonable time as prescribed by the notice of noncompliance. The jail inspector may agree with the responsible authorities to a plan of action detailing corrective steps with corresponding time frames which will bring the facility into compliance within a reasonable time. If the responsible officials receiving a notice of noncompliance fail to initiate corrective measures or to complete the corrective measures within the time prescribed, the jail inspection unit may order the jail in question or any portion thereof closed, that further confinement of prisoners or classifications of prisoners in the noncomplying jail or any portion thereof be prohibited, or that all or any number of prisoners then confined be transferred to and maintained in another jail or detention facility, or any combination of remedies.

An order for closure shall contain the following:

a. Statute(s) and rule(s) violated.

b. A brief description of the deficiencies.

c. The effective date of the order.

d. An explanation of remedies required before reopening.

This order shall be the notice of noncompliance pursuant to Iowa Code section 356.43 and 201—Chapter 12 concerning contested cases. The matter shall then proceed in accordance with 201—Chapter 12. The jail inspector may agree with the responsible authorities to a plan of action detailing corrective steps with corresponding time frames which would bring the facility into compliance within a reasonable time. The remedial order shall be in writing and shall specifically identify each minimum standard with which the jail has failed to comply. Such remedial order shall become final and effective 30 days after receipt thereof. In the event immediate closure is required, emergency action shall proceed pursuant to 201—12.24(17A).

50.3(3) *Precedent.* Because rules cannot adequately anticipate all potential specific factual situations and circumstances presented for action, determination or adjudication by the jail inspection unit, the nature of the action taken with regard to any matter or the disposition of any matter pending before the jail inspection unit is not necessarily of meaningful precedential value, and the department shall not be bound by the precedent of any previous action, determination, or adjudication in the subsequent disposition of any matter pending before it.

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

201—50.4(356,356A) Physical plant—general.

50.4(1) *Building to meet existing codes.* All facilities are required to be structurally sound and to meet existing building code and health code requirements.

50.4(2) *Professional inspections.*

a. The state jail inspector may require for good reason that an agency operating a jail cause it to be examined by an architect, engineer, licensed electrician, health inspector, plumber, heating and air conditioning specialist, food establishment inspector, state fire marshal or fire inspector or any other person with expertise which may be of assistance to the state jail inspector in making an informed decision relative to the jail operation or structure. Inspection by a municipal inspector qualified in these areas may be permitted.

b. Any facility determined to be deficient following inspection may be ordered closed by the jail inspector, or specific conditions limiting its operation may be imposed in lieu of closing.

An order of closure shall contain the following:

(1) Statute(s) and rule(s) violated.
(2) A brief description of the deficiencies.
(3) The effective date of the order.
(4) An explanation of remedies required before reopening.

An order of closure shall adhere to subrules 50.3(1) and 50.3(2). This order shall be the notice of noncompliance pursuant to Iowa Code section 356.43 and 201—Chapter 12 concerning contested cases. The matter shall then proceed in accordance with 201—Chapter 12.

c. In the event that any agency fails to cooperate in an inspection, the jail inspector may arrange for an inspection and the agency operating the facility shall be financially responsible for any expense involved.

50.4(3) *Heating and ventilation.* All detention and living areas shall be reasonably heated and ventilated, with air flow sufficient to admit fresh air and remove disagreeable odors, to ensure healthful and comfortable living and working conditions for prisoners and staff. Fans and an adequate supply of cold liquids will be made available and utilized when indoor temperatures exceed 85° Fahrenheit.

50.4(4) *Cells.* Maximum security cells shall be equipped with tamper-resistant bunks, secured table(s) and seat(s), plus a toilet and washbasin recommended for jail or prison use. Cells shall have an adequate supply of both hot and cold water; mixing valves may be used. Housing areas of less secure design need not contain tamper-resistant fixtures.

50.4(5) *Lighting.* Lighting shall be a minimum of 20 candlepower at the table top for the purposes of reading and writing. Living areas shall be devoid of dark areas. Hallways, entrances and exits shall be sufficiently lit to observe a person entering or exiting. Light controls shall be out of the control of prisoners. Housing areas may be variably illuminated to allow sleep, but continuous observation of prisoners must be possible. All exits shall be equipped with independent emergency lighting sources.

50.4(6) *Screens.* If windows are opened for ventilation, screens shall be installed and maintained in good repair.

50.4(7) *Electrical.* Drop cords shall not be used as permanent wiring. Electrical service shall meet the requirements of the governmental body permitted by statute to adopt standards for electrical service. Appliances shall plug directly into a fixed receptacle. Emergency generator power shall be available. Emergency generator power shall be tested at regular intervals not less than monthly. A record of test dates shall be maintained.

50.4(8) *Storage.*

a. Storage of any type in primary detention areas is not permitted except for supplies necessary for the operation of the jail.

b. Adequate storage space for prisoners' personal clothing and property shall be provided. Space provided shall be secure and the prisoner's name or identity shall be affixed to the storage space. Property shall be inventoried and accounted for pursuant to Iowa Code section 804.19.

c. Janitorial supplies shall be stored in a manner to prevent unauthorized prisoner access. Janitorial supplies and equipment shall not be stored in prisoner living areas.

d. Areas used for storage of chemicals, paints, and cleaning supplies shall not be accessible to prisoners and such products shall be stored away from the primary detention area. Such storage shall not be in boiler or furnace rooms.

50.4(9) *Mirrors.* Mirrors within detention areas shall be of tamper-resistant construction and securely fixed in place.

50.4(10) *Firearms lockers.* A place inaccessible to prisoners shall be provided where officers entering the security area can store firearms.

50.4(11) *Noise level.* Prisoner noise inside the jail shall be controlled to ensure an orderly and secure jail operation. Jail policy shall include a rule pertaining to noise level. Prisoners must be advised of the rule.

201—50.5(356,356A) Physical requirements for existing facilities. This rule shall apply to all jails in existence prior to June 30, 1984. In cases where an existing jail undergoes major remodeling after September 12, 2001, rules 50.6(356,356A) and 50.7(356,356A) shall apply to the area being upgraded.

50.5(1) Each single occupancy cell for prisoners in normal status shall have a minimum floor area of 40 square feet provided that the prisoner is not required to spend more than 16 hours during any 24-hour period in the cell.

50.5(2) Each single occupancy cell must provide 50 square feet of floor space for prisoners held more than 16 hours during any 24-hour period.

50.5(3) Multiple occupancy cells shall provide 40 square feet of floor space for the first prisoner and an additional 20 square feet for each additional prisoner provided that no prisoner is required to spend more than 16 hours in the cell during any 24-hour period.

50.5(4) Prisoners held in multiple occupancy cells for more than 16 hours during any 24-hour period shall have a minimum of 50 square feet of floor space for the first prisoner and 30 additional square feet of floor space for each additional prisoner.

50.5(5) Except in emergency situations, no multiple occupancy cell shall house more prisoners than the rated capacity.

50.5(6) Dormitory units shall have a minimum of 60 square feet of floor space per prisoner.

50.5(7) Each single occupancy cell, multiple occupancy cell and dormitory unit shall provide the following:

a. A minimum of 7 feet from floor to ceiling height.

b. A bunk of adequate size for normal-sized adults.

c. Access to a functional toilet.

d. Access to a lavatory that furnishes both hot and cold water; mixing valves may be used.

e. Sufficient tables and seats to accommodate the rated capacity of the unit. The tables and seats may be located in the cells or in an adjacent dayroom.

f. A functionally operating shower which furnishes both hot and cold water; mixing valves may be used. This shower may be either in the housing unit itself or in an adjacent area.

50.5(8) Each dayroom shall have a minimum floor area of 30 square feet. There shall be an additional 15 square feet for each prisoner beyond one.

201—50.6(356,356A) Physical requirements for new and remodeled facilities—after June 30, 1984. This rule shall apply to jails which are of new construction and to all major remodeling after June 30, 1984. For jails which are of new construction and for all major remodeling after September 12, 2001, rule 50.7(356,356A) shall apply. Plans for any remodeling or new construction shall be submitted to the jail inspection unit prior to letting any bids or commencing any construction subject to this rule. The jail inspection unit shall, within 60 days of receiving plans, review them for compliance with this rule and forward any comments to the submitting authority.

50.6(1) New housing units may be single occupancy cells, multiple occupancy cells or dormitory units. Each single occupancy cell shall have a minimum of 70 square feet of floor space. Each multiple occupancy cell shall have a minimum of 70 square feet of floor space for the first prisoner and an additional 50 square feet of floor space for each additional prisoner. Dormitory units shall provide a minimum of 60 square feet per prisoner.

50.6(2) All housing units shall provide:

a. No less than 7 feet of space between the floor and ceiling.

b. A bunk of adequate size for normal-sized adults for each prisoner.

c. Sufficient desks/tables and chairs/seats to accommodate the capacity of the housing unit.

d. A dayroom which provides a minimum floor area of 30 square feet for the first prisoner and an additional 15 square feet for each prisoner beyond one. (Dormitories excluded.)

e. A functionally operating shower which produces both hot and cold water.

f. A lavatory that furnishes both hot and cold water for each group of nine prisoners or portion thereof.

g. A functional toilet for each group of nine prisoners or portion thereof.

50.6(3) Each maximum security cell shall have a security-type toilet/lavatory combination fixture which provides adequate hot and cold running water. These cells may rely on common toilet facilities

located outside the detention room provided that the prisoner is never involuntarily locked in the room and denied access to the toilet facilities.

50.6(4) Holding cells shall provide a minimum of 20 square feet per prisoner with a total capacity per cell of eight prisoners. Holding cells need not contain any fixture other than a means whereby prisoners may sit. Drinking water and toilet facilities shall be made available under staff supervision. Dayrooms need not be available to prisoners held in holding cells. Holding cells are for detaining persons for a limited period of time, not to exceed 24 hours, except in cases of emergency, while awaiting booking, processing, transfer, court appearance or discharge. Detainees will be supplied blankets if detained overnight in the holding cell. Emergencies are defined as unexpected occurrences, requiring immediate attention, of singular incident and resolution.

50.6(5) The facility shall be designed to admit natural lighting and to give access to outside viewing by prisoners where practical.

50.6(6) The facility shall be designed and constructed so that prisoners may be segregated according to existing laws and regulations.

50.6(7) Except in emergency situations, no housing unit shall house more prisoners than its rated capacity.

50.6(8) All hinged doors serving as required exits shall swing with exit traffic.

201—50.7(356,356A) Physical requirements for new and remodeled facilities—after September 12, 2001. This rule shall apply to jails which are of new construction and all major remodeling or reconstruction after September 12, 2001. Plans for any remodeling or new construction shall be submitted to the jail inspection unit prior to letting any bids or commencing any construction subject to this rule. The jail inspection unit shall, within 60 days of receiving plans, review them for compliance with this rule and forward any comments to the submitting authority.

50.7(1) New housing units may be single occupancy cells, multiple occupancy cells or dormitory units. Each single occupancy cell shall have a minimum of 70 square feet of floor space. Each multiple occupancy cell shall have a minimum of 35 square feet of unencumbered floor space for each prisoner. Dormitory units shall provide a minimum of 60 square feet per prisoner.

50.7(2) All housing units shall provide:

a. No less than 7 feet of space between the floor and ceiling.

b. A bunk of adequate size for normal-sized adults for each prisoner.

c. Sufficient desks/tables and chairs/seats to accommodate the capacity of the housing unit.

d. A dayroom which provides a minimum floor area of 30 square feet for the first prisoner and an additional 15 square feet for each prisoner beyond one. (Dormitories excluded.)

e. A functionally operating shower which produces both hot and cold water for each group of ten prisoners.

f. A lavatory that furnishes both hot and cold water for each group of six prisoners or portion thereof.

g. A functional toilet for each group of six prisoners or portion thereof.

50.7(3) Each maximum security cell shall have a security-type toilet/lavatory-combination fixture which provides adequate hot and cold running water. These cells may rely on common toilet facilities located outside the detention room provided that the prisoner is never involuntarily locked in the room and denied access to the toilet facilities.

50.7(4) Holding cells shall provide a minimum of 20 square feet per prisoner with a total capacity per cell of eight prisoners. Holding cells need not contain any fixture other than a means whereby prisoners may sit. Drinking water and toilet facilities shall be made available under staff supervision. Dayrooms need not be available to prisoners held in holding cells. Holding cells are for detaining persons for a limited period of time, not to exceed 24 hours, except in cases of emergency, while awaiting booking, processing, transfer, court appearance or discharge. Detainees will be supplied blankets if detained overnight in the holding cell. Emergencies are defined as unexpected occurrences, requiring immediate attention, of singular incident and resolution.

50.7(5) Exercise areas shall be 15 square feet per prisoner for the maximum number of prisoners expected to use the space at one time in accordance with 50.18(1)*"c."*

50.7(6) The facility shall be designed to admit natural light and to give access to outside viewing by prisoners where practical.

50.7(7) The facility shall be designed and constructed so that prisoners may be segregated according to existing laws and regulations.

50.7(8) Except in emergency situations, no housing unit shall house more prisoners than its rated capacity.

50.7(9) All hinged doors serving as required exits shall swing with exit traffic.

201—50.8(356,356A) Physical requirements for new and remodeled facilities—after December 28, 2005. This rule shall apply to all jails which are of new construction and to all major remodeling or reconstruction after December 28, 2005.

50.8(1) Cells and dormitory units.

a. Single occupancy cells shall provide a minimum of 35 square feet of unencumbered floor space. When confinement exceeds 10 hours per day, except during administrative segregation or emergencies, there shall be at least 70 square feet of total floor space.

b. Multiple occupancy cells shall provide a minimum of 25 square feet of unencumbered floor space for each prisoner. When confinement exceeds 10 hours per day, except during administrative segregation or emergencies, there shall be at least 35 square feet of unencumbered floor space for each occupant.

c. Dormitory units shall provide a minimum of 35 square feet of unencumbered floor space for each prisoner.

50.8(2) All housing units shall provide:

a. No less than 7 feet of space between the floor and ceiling.

b. A bunk of adequate size for normal-sized adults for each prisoner and at least 12 inches off the floor.

c. Sufficient desks/tables and chairs/seats to accommodate the capacity of the housing unit.

d. A dayroom, which provides a minimum floor area of 35 square feet of space per prisoner (exclusive of lavatories, showers and toilets) for the maximum number of prisoners who use the dayroom at one time. No dayroom shall encompass less than 100 square feet of space, exclusive of lavatories, showers and toilets. Dayrooms shall provide sufficient seating and writing surfaces. (Dormitories excluded.)

e. A functionally operating shower which produces both hot and cold water for each group of 12 prisoners.

f. A lavatory that furnishes both hot and cold water for each group of 9 prisoners or portion thereof.

g. A functional toilet/stool for each group of 9 prisoners or portion thereof. Urinals may be substituted for up to one-third of the toilets in housing units for male prisoners.

50.8(3) Each maximum-security cell shall have a security-type toilet/lavatory-combination fixture that provides adequate hot and cold running water.

50.8(4) Holding cells/special-needs cells.

a. Holding cells shall provide a minimum of 20 square feet per prisoner with a maximum capacity per cell of eight prisoners. Holding cells need not contain any fixture other than a means whereby prisoners may sit. Drinking water and toilet facilities shall be made available under staff supervision. Dayrooms need not be available to prisoners held in holding cells. Holding cells are for detaining persons for a limited period of time not to exceed 24 hours, except in cases of emergency, while the persons are awaiting booking, processing, transfer, court appearance or discharge. Prisoners will be supplied blankets if detained overnight in the holding cell. Emergencies are defined as unexpected occurrences, requiring immediate attention, of singular incident and resolution.

b. Special-needs cells. A jail may contain one or more single occupancy cells, designated as special-needs cells, in which to temporarily contain violent persons. The cell shall have not less than 40 square feet of floor space and a ceiling height of not less than 7 feet. The cell shall be constructed to

minimize self-injury. Toilet facilities may be controlled from outside the cell and may be in the floor. Water need not be available in the cells, but water shall be accessible from staff upon request.

50.8(5) Exercise areas. Exercise areas may be indoor or outdoor exercise areas and shall contain 15 square feet per prisoner for the maximum number of prisoners expected to use the space at one time, but not less than 500 square feet of unencumbered space. Segregation units may have individual exercise areas containing a minimum of 180 square feet of unencumbered space. Exercise areas shall provide opportunity for adequate exercise in accordance with 50.18(1)*"c."* Exercise areas are not the same as dayrooms.

50.8(6) The facility shall be designed to admit natural light and to give access to outside viewing by prisoners where practical.

50.8(7) The facility shall be designed and constructed so that prisoners may be segregated according to existing laws and regulations.

50.8(8) Except in emergency situations, no housing unit shall house more prisoners than its rated capacity.

50.8(9) All hinged doors serving as required exits shall swing with exit traffic.

201—50.9(356,356A) Fire safety and emergency evacuation.

50.9(1) *Approval of building plans.* All new construction or major remodeling plans shall be approved by the state fire marshal prior to commencement of construction.

50.9(2) *Compliance with fire marshal rules.* No jail shall be occupied by a prisoner unless the state fire marshal or qualified local fire prevention authority has issued a certificate of inspection within the last 24 calendar months documenting that the jail complies with the fire safety standards for jails included in administrative rules promulgated by the state fire marshal. Jails may be inspected by the fire marshal, or by personnel of local fire departments deemed by the fire marshal qualified to conduct inspections, on a schedule determined by the fire marshal. The state jail inspection unit of the department of corrections, a jail administrator, or the chief executive of an agency that administers a jail may request that the state fire marshal inspect a jail for compliance with fire safety standards. If the state fire marshal finds that a jail is not in substantial compliance with fire safety standards based on such an inspection, the state fire marshal may require the jail administrator to submit to the fire marshal a plan of correction of violations of these standards. The director of the Iowa department of corrections may initiate proceedings to close the jail if the jail does not comply with the plan of correction.

50.9(3) *Evacuation plan.* The administrator of each jail shall prepare a written plan for emergency evacuation of the facility in the event of fire or other disaster. This plan shall include security arrangements and one or more alternate housing arrangements for displaced prisoners. All personnel employed in the facility shall be thoroughly familiar with this plan and relevant portions thereof shall be conspicuously posted. Evacuation drills shall be practiced or simulated by all staff on at least an annual basis and a record thereof shall be maintained according to subrule 50.22(10), Iowa Administrative Code.

50.9(4) *Release of prisoners.*

a. There shall be a reasonable expectation of the prompt removal of prisoners in the event of a life-threatening situation. Keys for all locks necessary for emergency exit shall be readily accessible and clearly identifiable with cell and door locks.

b. There shall be at least one full set of jail keys, other than those regularly used, stored in a safe place accessible only to appropriate persons, for use in the event of an emergency.

50.9(5) *Fire extinguishers.* All jails shall be equipped with fire extinguishing equipment approved and located in accordance with standards established by the state fire marshal by administrative rule. Fire extinguishers shall be tested at least annually to ensure they remain in operative condition. A record of such checks shall be maintained.

50.9(6) *Emergency lighting.* All exits shall be equipped with independent emergency lighting sources. All corridors and passage aisles shall be illuminated by independent emergency lighting sources. Lighting shall be arranged to ensure no area will be left in darkness.

50.9(7) *Required exits.* Where exits are not immediately accessible from an open floor area, safe and continuous passage aisles or corridors leading directly to every exit shall be maintained and shall be so arranged as to provide access for each prisoner to at least two separate and distinct exits from each floor. Passage aisles or corridors shall be kept clear. A locked exit may be classified as an emergency exit only if necessary keys to locked doors are readily available. Elevators shall not be counted as required exits.

50.9(8) *Fire alarms.* A means of fire detection utilizing equipment of a type meeting requirements established by the state fire marshal shall be installed and maintained. These alarms shall be ceiling-mounted if possible and shall be located and protected from prisoner access. The detection equipment shall be battery-operated or constructed as to continue operating during a power failure. Battery-operated systems shall be tested monthly. Electronic systems shall be tested at least annually. A record of test dates and results shall be maintained according to subrule 50.22(10), Iowa Administrative Code.

50.9(9) *Heating appliances.* Heating appliances and water heaters shall not be located along the path of required exits.

50.9(10) *Hinged doors.* All hinged doors serving as required exits from an area designed for an occupancy in excess of 50 persons, or as part of a major remodeling project or as part of new construction, shall swing with exit traffic.

50.9(11) *Mattresses.* Only fire-resistant mattresses of a type that will not sustain a flame and certified by an independent testing laboratory and that meet the standards established by the state fire marshal shall be used in jails. Mattresses that are ripped, excessively cracked or which contain large holes shall be replaced. Pillows shall be replaced when torn or excessively cracked.

50.9(12) *Sprinkler heads.* If installed, sprinkler heads accessible to prisoners not under direct supervision must be of the weight-sensitive type, be protected with a sleeve that would hamper the tying of material on the sprinkler head, or be recessed into the wall or ceiling.

201—50.10(356,356A) Minimum standards for jail personnel.

50.10(1) *Requirements for employment.* No person shall be recruited, selected or appointed to serve as a jail administrator or jailer unless the person:

a. Is 18 years of age or older.

b. Is able to read and write in English.

c. Is of good moral character as determined by a thorough background investigation including a fingerprint search conducted of local, state and national fingerprint files.

d. Is not by reason of conscience or belief opposed to the use of force, when appropriate or necessary to fulfill the person's duties.

e. Has the ability to perform the essential elements of the position as defined in department job specifications.

f. Is an appropriate candidate for employment as demonstrated by qualified psychological screening.

g. Rescinded IAB 11/23/05, effective 12/28/05.

50.10(2) *Minimum standard for retention.* No employee shall be retained who has demonstrated inappropriate action beyond a reasonable degree, who is not psychologically fit for jail employment, or who has repeatedly failed to observe these rules.

50.10(3) *Conflict of interest.* No person working in a jail shall transact any business with any prisoner nor shall any person working in a jail arrange through another party any business transaction with a prisoner. The jail shall have a written code of ethics that the jail provides to all employees. At a minimum, the code shall:

a. Prohibit staff from using their official positions to secure privileges for themselves or others.

b. Prohibit staff from engaging in activities that constitute a conflict of interest.

201—50.11(356,356A) Training for jail personnel.

50.11(1) *Initial orientation.* Except in an emergency situation, all persons performing jail duties and dispatchers subject to performing jail duties within the confines of the jail shall meet the following requirements, and the provision of this information and training shall be documented:

a. The individual shall be fully knowledgeable of the administrative rules referring to jail standards.

b. The individual shall be fully knowledgeable of jail rules, written policies and procedures as adopted by the jail administrator.

c. The individual shall have been given specific orientation with respect to a prisoner's rights during confinement and procedures adopted to ensure those rights.

d. If the individual is to have access to a firearm at any time, the individual shall hold a valid permit to carry weapons issued under the authority of Iowa Code chapter 724. The individual shall be professionally trained and qualified in the use of any firearm, electric restraint control device, and chemical control agents prior to use in connection with the individual's duties at the jail.

e. The jail administrator shall record by log sheet the signature(s) of all jailers and jail supervisors attesting that they have full knowledge of the administrative rules referring to jail standards and the written policies and procedures governing the jail's operation.

f. The individual shall have been instructed in the use of required firefighting equipment and the fire and emergency evacuation plan.

g. All staff who administer medication shall be trained in accordance with the Iowa State Sheriffs and Deputies Association medication training program or other recognized medication administration course.

50.11(2) *Training documented.* All jailers and jail administrators shall meet and document the completion of all training requirements as specified by the Iowa law enforcement academy training standards as found in 501—9.1(80B) and 501—9.2(80B), Iowa Administrative Code. The jail administrator shall record by log sheet the signature(s) of all persons attending the training.

50.11(3) *First aid.* At least one staff member on duty at the facility shall be currently trained in first aid (or the equivalent) and CPR.

This rule is intended to implement Iowa Code section 80B.11A.

201—50.12(356,356A) Standard operating procedures manual. Pursuant to the authority of Iowa Code sections 356.5 and 356.36, each jail shall establish and the jail administrator shall ensure compliance with a standard operating procedures manual to include the following administrative rules: subrules 50.2(5), 50.2(6), 50.4(11), 50.9(3), 50.9(4), 50.10(1), 50.10(2), 50.10(3), 50.11(1) and rules 50.13(356,356A) to 50.22(356,356A) as noted. The following standards do not require written policy: 50.13(2)*"c"*(3), 50.15(4), 50.16(4), and 50.16(8).

201—50.13(356,356A) Admission/classification and security.

50.13(1) *Admission and classification.*

a. No person shall be confined or released from confinement without appropriate process or order of court.

b. With the exception of incidental contact under staff supervision, the following classes of prisoners shall be kept separate by architectural design barring conversational and visual contact from each other:

(1) Juveniles and adults (pursuant to Iowa Code section 356.3).

(2) Females from males (exception—alternative jail facilities) (pursuant to Iowa Code section 356.4).

c. The following shall be kept separate whenever possible:

(1) Felons from misdemeanants.

(2) Pretrial prisoners from sentenced prisoners.

(3) Witnesses from prisoners charged with crimes.

d. The following shall be kept physically separated:

(1) Prisoners of whom violence is reasonably anticipated.
(2) Prisoners who are a health risk to others.
(3) Prisoners of whom sexually deviant behavior is reasonably anticipated.
(4) Prisoners likely to be exploited or victimized by others.

e. Detention of juveniles shall be pursuant to Iowa Code section 232.22.

f. All staff involved in the booking process or the supervision of prisoners shall be trained in suicide prevention. At the time of booking, an attempt shall be made (either by observation for marks or scars or direct questioning of the prisoner) to determine if the prisoner is suicidal. The following questions, or others of equal meaning, shall be incorporated into the booking process with appropriate documentation to aid in suicide prevention:

(1) Does the prisoner show signs of depression?
(2) Does the prisoner appear overly anxious, afraid, or angry?
(3) Does the prisoner appear unusually embarrassed or ashamed?
(4) Is the prisoner acting or talking in a strange manner?
(5) Does the prisoner appear to be under the influence of alcohol or drugs?
(6) Does the prisoner have any scars or marks which indicate a previous suicide attempt?

In all cases, the following questions will be asked of the prisoner:

Have you ever tried to hurt yourself?

Have you ever attempted to kill yourself?

Are you thinking about hurting yourself?

g. Housing for prisoners with disabilities shall be designed for their use, or reasonable accommodations shall be provided for the prisoners' safety and security.

50.13(2) *Security and control.* The jail administrator shall develop and implement written policies and procedures for the jail which provide for the control of prisoners and for the safety of the public and the jail staff. The policy and procedures shall include:

a. Supervision of prisoners.

(1) Twenty-four-hour supervision of all prisoners shall be provided pursuant to Iowa Code section 356.5(6).

(2) When staff is not within the confinement area of the jail, a staff person shall be in a position to hear prisoners in a life-threatening or emergency situation; or a calling device to summon help will be provided. By policy and practice there shall be a means of ensuring that appropriate personnel will be available on a 24-hour basis to respond to an emergency including, but not limited to, fire, assaults, suicide attempts, serious illness, and to preserve order, within a reasonable time period.

(3) At least hourly, personal observation of individual prisoners shall be made and documented. Prisoners considered to be in physical jeopardy because of physical or mental condition, including apparently intoxicated persons, as indicated by the medical history intake process and by personal observation, shall be checked personally at least every 30 minutes until the condition is alleviated. A CCTV-audio monitoring system may supplement but shall not replace personal observations. In order to use a CCTV-audio monitoring system, the following requirements must be met: CCTV and audio must be operational at all times. Visual and audio must be clear and distinct. Observation of shower and restroom activities shall be at the discretion of the jail administrator.

(4) No employee or visitor of one sex shall enter a housing unit occupied by the other sex unless advance notice has been provided except in case of an emergency (does not apply to alternative jail facilities). Advance notice may be provided at the time of orientation.

(5) When females are housed in the jail, at least one female staff member shall be on duty in the jail at all times, in accordance with Iowa Code section 356.5(6) (does not apply to alternative jail facilities).

(6) All juveniles arrested for intoxication due to substance abuse shall be personally observed on a continuous basis throughout the period of detention. The activities of juveniles arrested for crimes other than the above shall be monitored at all times, and the juvenile shall be observed by means of personal supervisory checks at no more than 30-minute intervals.

b. Weapons. Except in an emergency situation, no weapons shall be allowed in an area occupied by prisoners.

c. Searches.

(1) All prisoners and property entering or leaving the jail shall be thoroughly searched; searches of persons charged with a simple misdemeanor shall follow provisions of Iowa Code section 804.30.

(2) All persons entering a jail may be searched for contraband. Persons may be denied admission if they refuse to consent to a required search.

(3) A search notice shall be posted in a conspicuous place (no policy required).

(4) Prisoner rules shall contain a clear definition of each item permitted in the jail. All other items shall be considered contraband.

(5) Random, unannounced, and irregular searches of areas accessible to prisoners shall be conducted for contraband and weapons.

d. Key control. Jail keys shall be stored in a secure area when not in use. There shall be at least one full set of jail keys, separate from those in use, stored in a safe place accessible only to designated jail personnel for use in the event of an emergency. The jail administrator will identify those persons who may have access to keys.

e. Facility security.

(1) All areas of the jail shall be inspected regularly and frequently and kept clear of large posters, pictures and articles of clothing that obstruct the view of prisoners by jail staff.

(2) All jail locks, doors, bars, windows, screens, grilles and fencing shall be inspected on at least a monthly basis. Any damaged or nonfunctioning equipment or fixtures shall be reported to the jail administrator in writing. The jail administrator shall ensure prompt repair of any damaged or nonfunctioning equipment or fixture.

(3) The jail administrator shall develop written policy and procedures for the movement and transportation of prisoners outside the secure area of the jail. The policy shall require procedures that will ensure the safety of the jail staff and the public and prevent prisoner escape. The policy shall provide procedures for movement of prisoners for medical treatment and to and from the courts and other facilities. The classification and security risk of the prisoner to be moved will determine the number of staff required and the type of restraints to be used, if any.

(4) The jail administrator shall have written plans for situations that threaten facility security. Such situations include but are not limited to: riots, hunger strikes, disturbances, hostage situations, escape attempts, medical emergencies, natural disasters and staff work stoppage. The plans shall be made available to all applicable personnel and reviewed by jail staff at least annually and updated as needed.

f. Restraint devices. The jail administrator shall have a written policy on restraint devices. Restraint devices shall not be applied as punishment. Restraint devices shall be used only when a prisoner is a threat to self or others or jeopardizes jail security. There shall be defined circumstances under which supervisory approval is needed prior to application of restraints. Restraint devices shall not be applied for more time than is necessary to alleviate the condition requiring the use of the restraint device. While restrained, prisoners shall be either clothed or covered in a manner that maximizes prisoner privacy. Four/five-point restraints shall be used only when other types of restraints have proven ineffective. If prisoners are restrained in a four/five-point position, the following minimum procedures shall be followed:

(1) Observation by staff shall be continuous.

(2) Personal visual observation of the prisoner and the restraint device application shall be made at least every 15 minutes.

(3) Restraint guidelines shall include consideration of an individual's physical and health condition, such as body weight.

(4) All decisions and actions shall be documented.

201—50.14(356,356A) Cleanliness and hygiene.

50.14(1) *Housekeeping.*

a. The jail shall be kept clean and sanitary. Toilets, wash basins, showers and other equipment throughout the facility shall be maintained in good working order. Walls, floors and ceilings shall be well maintained.

(1) Unless cleaning is done by staff, necessary cleaning equipment shall be provided to prisoners. Cleaning equipment shall be removed from the cell and dayroom areas when cleaning is completed.

(2) The jail shall be maintained in a pest-free condition. Persons spraying chemicals shall be certified by the Iowa department of agriculture and land stewardship. Prisoners and staff shall not be directly exposed to the chemicals being used.

b. The jail shall have a sharps disposal container for razors and needles. The facility shall be equipped to handle disposal of contaminated or hazardous waste according to universal health precautions.

50.14(2) *Clothing, bedding, and hygiene items.* Prisoners held in excess of 24 hours shall be provided sanitary bedding and linens, sufficient to ensure comfort under existing temperature conditions. These items may be withheld by the jail administrator if deemed necessary pursuant to subrule 50.21(6). A standard issue shall include:

a. Toilet articles necessary for daily personal hygiene.

b. Institutional clothing may be issued.

c. If, upon admission to a jail with an average daily population exceeding ten persons, it is determined that the prisoner will be held longer than 24 hours, facility-provided clothing shall be issued.

d. The laundry means and schedule shall be adequate to meet the daily needs of the prisoners. Prisoners shall receive clean linens and clothing no less than weekly.

50.14(3) *Personal hygiene.*

a. For sanitation and health reasons, prisoners shall be required to keep themselves clean at all times.

b. Unless medically exempted, all prisoners to be held over 24 hours shall be required to shower or bathe.

c. Prisoners may be required to shave or cut their hair only for sanitation.

d. Jail personnel shall establish procedures for prisoner hair care.

e. The sharing of instruments which are subject to blood contamination, such as nonelectric razors and toothbrushes, is prohibited. Electric razors properly sterilized under medically approved conditions may be shared.

201—50.15(356,356A) Medical services. The jail administrator shall establish a written policy and procedure to ensure that prisoners have the opportunity to receive necessary medical attention for the prisoners' objectively serious medical and dental needs which are known to the jail staff. A serious medical need is one that has been diagnosed by a physician as requiring treatment or is one that is so obvious that even a lay person would easily recognize the necessity for a physician's attention. The plan shall include a procedure for emergency care. Responsibility for the costs of medical services and products remains that of the prisoner. However, no prisoner will be denied necessary medical services, dental service, medicine or prostheses because of a lack of ability to pay. Medical and dental prostheses shall be provided only for the serious medical needs of the prisoner, as determined by a licensed health care professional. Cosmetic or elective procedures need not be provided.

50.15(1) *Medical resources.* Each jail shall have a designated licensed physician, licensed osteopathic physician or medical resource, such as a hospital or clinic staffed by licensed physicians or licensed osteopathic physicians, designated for the medical supervision, care and treatment of prisoners as deemed necessary and appropriate. Medical resources shall be available on a 24-hour basis.

50.15(2) *Trained staff.*

a. All staff who administer medication shall be trained in accordance with the Iowa State Sheriffs and Deputies Association medication training program or other recognized medication administration course.

b. At least one staff member on duty at the jail shall be currently trained in first aid (or the equivalent) and CPR.

50.15(3) *Prisoner involvement.* No prisoner shall be involved in any phase of delivery of medical services.

50.15(4) *First-aid kits.* A first-aid kit approved by qualified medical personnel shall be available to staff (no policy required).

50.15(5) *Chemical control agents.* A prisoner affected by a chemical control agent shall be offered a medical examination and appropriate treatment as soon as reasonable.

50.15(6) *Screening upon admission.*

a. Any person who is obviously injured, ill or unconscious shall be examined by qualified medical personnel before being admitted to a jail.

b. Prisoners suspected of having a contagious or communicable disease shall be separated from other prisoners until examined by qualified medical personnel.

c. As a part of the admission procedure, a medical history intake form shall be completed for each person admitted to the jail. The intake procedure shall include screening for potential self-injury or potential suicide. Jail staff with actual knowledge that there is a substantial risk that a prisoner intends to commit suicide shall take reasonable measures to abate that risk. The jail shall have a written suicide prevention plan. Essential elements of the plan shall include training to recognize the potential for suicide, communication between staff, appropriate housing and intervention procedures.

d. During times when there is no means of immediate access to the district court, a person arrested on a charge constituting a simple misdemeanor and believed by the arresting officer/agency to be mentally ill, and because of that illness is likely to physically injure the person's self or others, shall be admitted to the jail only after the arresting officer/agency has demonstrated a reasonable effort to comply with the emergency hospitalization procedure, as provided in Iowa Code section 229.22. The jail shall have a written plan to provide prisoners access to services for the detection, diagnosis and treatment of mental illness.

e. Prisoners shall be provided with information on how they can obtain necessary medical attention, and the agency's policy and procedure shall also reflect this.

50.15(7) *Medication procedures.*

a. Written policies and procedures pertaining to providing medication shall be established.

b. All prescription medicine shall be securely stored and inventory control practiced. Inventory control shall include control of all medication coming into the jail and the amount returned or destroyed when a prisoner is released.

c. A written procedure for recording the taking or administering of all medications shall be established.

d. Prescription medication, as ordered by a licensed physician, licensed osteopathic physician or licensed dentist, shall be provided in accordance with the directions of the prescribing physician or dentist. Prisoners with medication from a personal physician, osteopathic physician or dentist may be evaluated by a physician, osteopathic physician or dentist selected by the jail administrator to determine if the present medication is appropriate.

50.15(8) *Medical records.* A separate medical record shall be maintained for each prisoner receiving medical care. The record shall include the illness being treated, medication administered, special diets required, medical isolations and the name of the attending health professional or institution. The record may be kept in the prisoner's file jacket but must be labeled confidential.

50.15(9) *Medication storage.*

a. Prisoners' medications shall be stored at the proper temperature, as defined by the following terms:

(1) Room temperature: temperature maintained between 15 degrees centigrade (59 degrees Fahrenheit) and 30 degrees centigrade (85 degrees Fahrenheit).

(2) Cool: temperature between 8 degrees centigrade (46 degrees Fahrenheit) and 15 degrees centigrade (59 degrees Fahrenheit).

(3) Refrigerate: temperature that is thermostatically maintained between 2 degrees centigrade (36 degrees Fahrenheit) and 8 degrees centigrade (46 degrees Fahrenheit).

(4) All medication required to be "cool" or "refrigerated" shall be stored in a separate refrigerator or in a separate locked container within a refrigerator that is used for other purposes.

b. Any medications bearing an expiration date may not be administered beyond the expiration date.

c. Expired drugs or drugs not in unit dose packaging, whose administration had been discontinued by the attending physician, shall be destroyed by the jail administrator or designee in the presence of a witness. A record of drug destruction shall be made in each prisoner's medical record. The record shall include the name, the strength and the quantity of the drug destroyed, and the record shall be signed by the jail administrator or designee and by the witness.

d. Medications dispensed by a pharmacy in unit dose packaging may be returned to the dispensing pharmacy pursuant to board of pharmacy examiners rule 657—23.15(124,155A).

e. Jails utilizing unit dose packaging shall have written policies and procedures providing for the return of drugs so packed to the issuing pharmacy. Policy shall include proper record keeping of disposal.

201—50.16(356,356A) General food service requirements.

50.16(1) *Prisoner being held.* If a prisoner is held over a meal period, a meal of adequate nutrition shall be provided.

50.16(2) *Daily meals.* The three meals provided for each 24-hour duration shall be served at reasonable and proper intervals; at least one meal shall be a hot meal. Food must be served at the proper temperature; hot foods shall be reasonably hot and cold foods reasonably cold.

50.16(3) *Time of serving.* Meals shall be served at approximately the same time every day.

50.16(4) *Documentation.* The facility shall document that its food service meets or exceeds nationally recommended minimum dietary allowances for basic nutrition for appropriate age groups. Dietary guidelines meeting the above requirements shall be certified by a qualified nutritionist or dietitian (no policy required).

50.16(5) *Medical diets.* Special diets as prescribed by a physician shall be followed and documented. The physician who prescribes the special diet shall specify a date on which the diet will be reviewed for renewal or discontinuation. Unless specified by the prescribing physician, a certified dietitian shall develop the menu.

50.16(6) *Religious requests.* When a special diet is requested by a prisoner as part of the prisoner's religious beliefs, the facility shall meet that need, unless the facility can demonstrate that its refusal does not impose a substantial burden on the exercise of the prisoner's religion or that its refusal furthers some compelling interest and is the least restrictive means of furthering that interest.

50.16(7) *Punishment.* Deviation from normal feeding procedures shall not be used as punishment.

50.16(8) *Inspection of facilities of outside food service providers.* If food service is provided by outside sources, only a facility with a food establishment license or those required to undergo inspection by other statutes shall be utilized to provide these services. The transfer of food shall be done under sanitary conditions (no policy required).

201—50.17(356,356A) In-house food services.

50.17(1) Food preparation areas shall be clean and sanitary in accordance with state health standards regulating institutional or food establishment operations.

50.17(2) All food products shall be stored or refrigerated in compliance with state health standards governing institutional or food establishment operations.

50.17(3) Dishes, utensils, pans and trays shall be sanitized after use in accordance with state health standards for food establishments or institutions.

50.17(4) Staff shall serve or supervise the serving of all meals. Food handlers must be clean and free of illness or disease.

201—50.18(356,356A) Prisoner activities.

50.18(1) *Exercise.* Prisoners held beyond seven days and not leaving the jail pursuant to Iowa Code section 356.26 shall be offered exercise time.

a. A minimum of two one-hour exercise sessions shall be offered during each full calendar week. Playing board games or cards or reading is recreation and is not considered exercise. A record of exercise sessions shall be maintained according to subrule 50.22(15).

b. Restrictions. Exercise requirements may be restricted by disciplinary action.

c. Exercise areas. An exercise area outside the cell shall be available. Such area must provide opportunity for adequate exercise. Corridors and hallways must remain clear of equipment or material and must provide unimpeded access to exits.

d. Suspension of outdoor exercise. Outdoor exercise may be suspended during inclement weather. Appropriate clothing shall be provided for exercise during winter months.

50.18(2) *Religion.* All prisoners shall be afforded a reasonable opportunity to pursue their religious faith. Any infringement upon the opportunity to pursue one's faith must further some compelling interest and must be the least restrictive means of furthering that interest.

The jail administrator or designee may plan, direct and supervise all aspects of a religious program, including approval and training of both laypersons and clergy persons ministering faiths represented in the prisoner population.

50.18(3) *Reading material.* A reasonable quantity and variety of reading material shall be made available to prisoners.

a. Access to reading material from an outside source may be restricted to unused material sent directly from the publishing source.

b. Material deemed to be a threat to security or safety within the jail may be denied distribution.

c. Obscene material, as described in Iowa Code section 728.1, may be prohibited.

d. When a prisoner is denied access to a publication, the jail administrator shall inform the prisoner of that denial in writing and shall explain, in writing, the reason(s) for denial.

50.18(4) *Discrimination.* Prisoner activities, programs and services shall be available to prisoners with disabilities.

201—50.19(356,356A) Communication.

50.19(1) *Prisoner mail.*

a. Prisoners held beyond 24 hours shall be furnished a reasonable amount of writing materials upon request. Jail officials may prohibit a prisoner from corresponding with a person who states in writing that the person does not want to correspond with the prisoner. This does not include a "prior approval" list.

b. A reasonable amount of postage shall be provided to indigent prisoners 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 prisoner is notified of this procedure.

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;

(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 prisoner or post office.

50.19(2) *Telephone calls upon arrest.*

a. Prisoners shall be permitted telephone access to their family or an attorney, or both, without unnecessary delay after arrest at no charge if made within the local calling area as required by Iowa Code section 804.20.

b. Policy and procedures shall be developed to govern prisoner telephone calls. The procedure shall provide for the handling of emergency calls.

c. Prisoners not in segregation status for discipline shall have reasonable access to telephones beyond the requirements of Iowa Code section 804.20.

50.19(3) *Attorneys and ministers.* Attorneys and ministers shall be permitted to visit prisoners upon the request of the prisoner at reasonable hours if security and daily routine are not unduly interrupted.

50.19(4) *General visitation.*

a. All prisoners in normal status shall be allowed reasonable visitation.

b. Rules shall specify who is allowed to visit and when and how often visitors are allowed.

c. Jail staff shall document the date and time of visit, name and address of each person visiting, and name of prisoner visited. Computerized logs are acceptable.

d. A visit may be denied if reasonable suspicion exists that the visit might endanger the security of the facility. A record shall be made of such denial and the reason(s) therefor.

50.19(5) *Detaining non-U.S. citizens.* When non-U.S. citizens are detained, they shall be advised of the right to have their consular officials notified or the nearest consular officials shall be notified of the detention, whichever is required by the Vienna Convention. Consular officials shall be given access to non-U.S. citizens in jail and shall be allowed to provide consular assistance. When a jail administrator becomes aware of the death of a non-U.S. citizen, consular officials shall be notified.

201—50.20(356,356A) Access to the courts. Prisoners who do not have an attorney shall have access to the legal materials the jail decides to provide, in order to facilitate the preparation of legal documents that directly or collaterally attack the prisoner's sentence or that challenge the conditions of the prisoner's confinement.

201—50.21(356,356A) Discipline and grievance procedures.

50.21(1) No prisoner shall be allowed to have authority or disciplinary control over another prisoner.

50.21(2) The use of physical force by staff shall be restricted to instances of justifiable self-protection, the protection of others or property, the prevention of escapes or the suppression of disorder, and then only to the degree necessary to overcome resistance. Corporal punishment is forbidden.

50.21(3) The following information shall be made available to all prisoners and explained to any prisoner unable to read English:

a. A set of rules (including sanctions) and regulations pertaining to the conduct of persons in custody.

b. What services are available to them.

c. A prisoner grievance procedure which includes at least one level of appeal. A jail may limit the use of the grievance process in order to make sure that it is not abused.

50.21(4) Prisoners who have allegedly violated jail rules shall be provided information pertaining to the handling of disciplinary hearings consistent with the due process rights of the accused. This information shall include the following:

a. Notice of charges and hearing.

b. A description of the hearing process. The jail policy and procedures manual shall contain the following:

(1) Written guidelines for resolving minor prisoner infractions which include a written statement of the rule violated and a hearing and decision within seven days, excluding weekends and holidays, by a person not involved in the rule violation. The prisoner may waive the hearing.

(2) A procedure to refer violations of criminal law to the appropriate criminal justice agency.

(3) A policy which requires staff members to prepare a disciplinary report and forward it to a designated staff person. Disciplinary reports shall include the following information:

1. Specific rule(s) violated;
2. A statement of the charge;
3. Any unusual prisoner behavior;

4. Any staff witnesses;

5. An explanation of the event that includes who was involved, what transpired, and the time and location of the occurrence;

6. Any physical evidence and its disposition;

7. Any immediate action taken, including the use of force.

(4) A policy that requires an impartial investigation to begin within 24 hours of the time the violation is reported and be completed without unreasonable delay, unless there are exceptional circumstances for delaying the investigation.

(5) A policy and procedure that provides for prehearing detention of prisoners who are charged with a rule violation. The facility administrator or designee shall review the prisoner's prehearing status within 72 hours.

(6) A policy that prisoners charged with a rule violation receive a written statement of the charge(s), including a description of the incident and specific rule(s) violated. The prisoner shall be given the information at least 24 hours prior to the disciplinary hearing. The hearing may be held in less than 24 hours with the written consent of the prisoner.

(7) A policy and procedure that allows the prisoner to be present at the hearing, unless the prisoner waives that right in writing or is a threat to the security and safety of the facility. Prisoners may be excluded during testimony. Any prisoner's absence shall be documented.

(8) A policy that provides for the disciplinary hearing to be conducted no later than seven days, excluding weekends and holidays, following the report of the alleged rule violation.

(9) A policy that provides for postponement or continuance of the disciplinary hearing for a reasonable period and for good cause. Reasons for postponement or continuance shall be documented.

(10) A policy and procedure that provides for an impartial person or panel of persons to conduct the disciplinary hearing. A record of the proceedings shall be made and maintained for at least two years.

(11) A policy and procedure that allows prisoners an opportunity to make a statement and present documentary evidence at the hearing and to call witnesses on their behalf unless calling witnesses creates a threat to the security or safety of the facility. The reasons for denying such a request shall be documented.

(12) A policy and procedure that allows a staff member or agency representative to assist prisoners at disciplinary hearings. A representative shall be appointed when it is apparent that a prisoner is not capable of collecting and presenting evidence on the prisoner's own behalf.

(13) A policy that disciplinary committee decisions are based solely on information obtained in the hearing process.

(14) A policy and procedure to ensure that a written report is made of the decision and the supporting reasons and that a copy is given to the prisoner. The hearing record and documents shall be kept in the prisoner's file. If the prisoner is found not guilty, the disciplinary report shall be removed from the prisoner's file.

(15) A policy that requires the jail administrator or designee to review all disciplinary hearings and dispositions to ensure conformity with the jail policy and procedures.

c. An explanation of the appeal process. The jail policy and procedure manual shall contain a policy and procedure to advise the prisoner that the prisoner may appeal the decision to the jail administrator or designee within 24 hours. The administrator or designee shall affirm or reverse the decision of the disciplinary committee as soon as possible but within 15 days, excluding weekends and holidays.

50.21(5) Deprivation of clothing, bedding, or hygienic supplies shall not be used as discipline or punishment. These items may be withheld from any prisoner who the staff reasonably believes would destroy such items or use them as weapons, for self-injury or to aid in escape.

201—50.22(356,356A) Records. The following records shall be maintained by the jail administrator for two years unless a different period is specified:

50.22(1) *Jail calendar.* This record shall contain information as required by Iowa Code section 356.6.

50.22(2) *Visitor registration.* This record shall contain the name and address of the person visiting; name of prisoner visited; and the date, time and duration of the visit.

50.22(3) *Jail inspection records.* Jail inspection records shall contain the following and be maintained for a minimum period of two years:

a. Fire marshal's certificates.

b. Written reports received from all persons doing official inspections of the jail.

50.22(4) *Medical history intake form.* Notation of injury upon admission shall be included.

50.22(5) *Records of medical care.*

50.22(6) *Injury reports.* Copies of all reports of investigations relating to injuries within the facility shall be maintained by the jail administrator in a separate injury file or referenced in the prisoner file by log for a period of five years.

50.22(7) *Disciplinary records.*

50.22(8) *Property receipts.* Property receipts as required by Iowa Code section 804.19 shall be completed and distributed as required.

50.22(9) *Menu records.* This record shall include letters of documentation issued by a qualified dietitian.

50.22(10) *Fire and disaster evacuation plan and record(s) of required fire drills.*

50.22(11) *Records of staff training.*

50.22(12) *Disposition of medication.* A record shall be kept of the disposition of prescribed medication not taken by a prisoner.

50.22(13) *Supervisory checks.* A record shall be made to document all required supervisory checks of prisoners.

50.22(14) *Incident reports.* Records shall be made to document the following:

a. Use of force;

b. Suicide/suicide attempts;

c. Threats to staff, staff assaults, escapes, fires, prisoner abnormal behavior, any verbal or nonverbal references to suicide and self-mutilation.

d. The state jail inspection unit of the department of corrections shall be notified within 24 hours of any death, attempted suicide, fire, escape, injury to staff or prisoners from assaults, or use of force and prisoner self-injuries. A copy of the investigative reports and other records shall be given to the state jail inspector upon request.

50.22(15) *Exercise documentation.* A record shall be kept relative to date, time and length of exercise periods offered to specific prisoners, cell blocks, tiers, or any other type of cell grouping or housing unit.

201—50.23(356,356A) Alternative jail facilities. County detention facilities qualifying as alternative jail facilities developed and operated under the auspices of Iowa Code section 356A.1 and not under the charge of the sheriff of the county are subject to the rules for residential treatment centers operated by judicial district departments of correctional services as prescribed by 201—Chapter 43.

201—50.24(356,356A) Nonsecure holds for juveniles.

50.24(1) *Standards for nonsecure hold areas.* The area to be used to detain the juvenile must be an unlocked area such as a lobby, office or other open room. Additionally, the following minimum procedures must be followed:

a. The juvenile is not physically secured to any stationary object.

b. The juvenile is under continuous visual supervision.

c. The juvenile has access to bathroom facilities.

d. A meal or meals shall be provided at usual meal times.

50.24(2) *Supervision of juveniles in nonsecure hold.* Juveniles in nonsecure hold status (see Iowa Code sections 232.19(2) and 232.222(2)) shall have continuous visual supervision by a qualified adult. The jail administrator may contract with an outside agency to perform supervisory functions. Persons performing juvenile supervisory functions must:

a. Be at least 18 years of age.

b. Have received a physical prior to employment.

c. Perform at a staff-to-prisoner ratio that will ensure a safe environment for both the juvenile(s) and the staff.

d. Report any knowledge of child abuse to mandatory child abuse reporters.

e. Have successfully completed a child abuse and criminal background check.

50.24(3) *Prohibited acts.* Each nonsecure site must develop a policy of posted orders which protects juveniles against neglect; exploitation; degrading punishment such as corporal punishment, verbal abuse, threats, or derogatory remarks about the juvenile or the juvenile's family; binding or tying to restrict movement; enclosing the juvenile in a confined space such as a closet, locked room, or similar cubicle; and deprivation of meals.

50.24(4) *Attendant nonsecure area operating procedures.*

a. Attendant shall make certain the juvenile is aware of the policies of the nonsecure holding area.

b. The personal effects of the juvenile shall be placed in a safe, secure place. A property receipt shall be issued to the juvenile.

c. All items given to the juvenile are subject to being searched.

d. Attendant shall pat search juvenile.

50.24(5) *Care and treatment.*

a. *Medical.*

(1) No juvenile shall be held who is obviously injured, is obviously physically or mentally ill, or in the judgment of the arresting officer is under the influence of drugs or intoxicated from the use of alcohol to the point of needing medical attention without first being examined by a medical practitioner.

(2) In an emergency situation or when the juvenile is suffering severe pain or is in danger of loss of life or permanent injury, medical treatment may be administered without parental consent. When none of the above situations exist, parental consent or judicial concurrence must be made before providing medical treatment.

(3) Juveniles suspected of having a contagious or communicable disease shall be isolated from other juveniles.

(4) There shall be at least one person on duty in the jail supervising the nonsecure hold area who is trained in multimedia first aid and CPR.

(5) First-aid kits shall be immediately available.

(6) Any person providing medication shall be trained in the procedure of providing medication.

(7) As part of the admission procedure, a medical history intake form shall be completed. As part of this procedure, an attempt will be made to determine if the juvenile is suicidal by observing behavior and looking for marks or scars which would indicate previous suicide attempts.

(8) There shall be written policies or procedures pertaining to providing medication.

(9) All medication shall be stored according to state pharmaceutical standards and written inventory control maintained. The inventory shall include the starting number of pills, when pills were provided and by whom, the remaining number of pills at the time the juvenile left the jail, the disposition of the remaining pills, and a staff witness to the disposition of the pills.

(10) Special diets as prescribed by a physician shall be followed and documented.

(11) When a special diet is required for an individual due to a bona fide religious belief, the jail shall meet that need.

b. *Communications.*

(1) Juveniles shall be permitted, at no charge, telephone access to their family or an attorney, or both, without unnecessary delay after being taken into custody. Once family or attorney has been contacted, the number of additional calls, if any, will be determined by attendant.

(2) Attorneys and ministers shall be permitted to visit upon request when such visiting will not disrupt security or daily routines of the jail. Determination of additional visits shall be made by attendant.

c. *Safety and sanitation.*

(1) Walls, floors, and ceiling shall be well maintained.

(2) Facility shall be maintained in a pest-free condition.

(3) Clean bedding, including sheets, blankets, and pillowcases, shall be issued to each juvenile who wishes to sleep between the hours of 9 p.m. and 7 a.m.

(4) Soiled clothing which may affect the health of the juvenile shall be exchanged for clean, jail-provided clothing.

(5) An emergency evacuation plan must be conspicuously posted.

(6) There shall not be less than one AA-ABC fire extinguisher in operable condition for each 3,000 square feet of facility on any given floor of the building.

(7) All exits shall be equipped with independent emergency lighting.

(8) Where exits are not immediately accessible from an open floor area, safe and continuous passage aisles or corridors leading directly to every exit shall be maintained and shall be so arranged as to provide access for each juvenile to at least two separate and distinct exits from each floor. A locked exit may be classified as an emergency exit only if necessary keys to locked doors are on the person of the attendant. Elevators shall not be counted as required exits.

(9) A means of fire detection utilizing equipment of a type tested and approved by Underwriters Laboratories shall be installed and maintained in operational condition according to the factory manual. These alarms shall be ceiling-mounted and of such construction to continue in operation during power failure. Alarms shall be tested on at least a monthly basis. Such test shall be documented.

(10) Only fire-resistant mattresses and pillows approved by the state fire marshal's office shall be used.

d. Staff training requirements.

(1) Attendants shall be knowledgeable of jail policies and procedures pertaining to juvenile nonsecure holds, and acknowledgment of this shall be made by attendant's dated signature.

(2) Nonsecure hold attendants shall have received instruction in the following areas prior to supervising juveniles in a nonsecure holding area:

1. Role of nonsecure hold attendant.
2. Confidentiality issues.
3. Intake procedures—medical and suicide screening.
4. Communication and listening skills.
5. Dealing with a depressed or suicidal juvenile.
6. Overview of state and federal law.
7. Provision of medication.
8. Gentle self-defense.
9. Child abuse identification.

e. Juvenile supervision.

(1) An attendant shall be in the presence of all juveniles held at all times. Same-sex attendant or staff shall be present when juveniles perform bodily functions/shower.

(2) A log shall be maintained at half-hour intervals reflecting the juvenile's activities and behavior.

f. Records. The following records shall be maintained by the jail for a period of at least two years:

(1) Medical history intake form.

(2) Records of medical care.

(3) Injury reports.

(4) Food served.

(5) Records of staff training.

(6) Disposition of medication.

(7) Individual log.

(8) Any use of force reports.

(9) Any suicide or suicide attempts reports.

g. Incident reports. Reports of the following incidents shall be sent to the state jail inspection unit, department of corrections, within 24 hours of incident:

(1) Any injury to juvenile or staff that requires medical attention.

(2) Any use of force by staff.

(3) Any attempted suicide.

The state jail inspection unit, department of corrections, shall be notified within five hours of any successful juvenile suicide that occurred in a nonsecure hold area.

50.24(6) *Exemption from nonsecure hold standards.* Any requests for exemption from nonsecure hold standards shall be submitted according to the waiver and variance provisions under 201—Chapter 7, Iowa Administrative Code.

201—50.25(356,356A) Direct supervision jails. Direct supervision jails, in addition to the preceding rules, are subject to the following rules:

50.25(1) There may be contact of different classifications of prisoners in a common activity area only while the prisoners are under continuous direct supervision with the exception of:

a. Persons of whom violence is reasonably anticipated. (50.13(1)*"d"*(1))

b. Persons who are a health risk. (50.13(1)*"d"*(2))

c. Persons of whom sexually deviant behavior is reasonably anticipated. (50.13(1)*"d"*(3))

d. Persons under the age of 18 (Iowa Code section 356.3). Persons charged in adult court with a forcible felony are to be separated whenever possible.

50.25(2) There shall be separate and distinct staff persons in the jail at all times to perform the following duties:

a. Provide central control or lock doors into or out of the housing unit.

b. Provide direct supervision of prisoners in the housing unit. During hours of lockdown, prisoner checks may be done hourly and documented. Prisoners must be physically observed during these checks.

c. Provide emergency backup to the supervision officer as a priority of assigned duties.

50.25(3) Prisoners classified as maximum security may not be allowed into areas occupied by other prisoners at any time. Maximum security prisoners may be required to exercise or perform other activities in a group with other maximum security prisoners only. Facility staff must weigh the potential for violence prior to admitting any maximum security prisoner into a group.

50.25(4) The housing unit shall not exceed its rated capacity.

50.25(5) Whenever prisoners are not locked down, there shall be sufficient lighting in all areas of living units and activity areas to allow full observation by staff.

50.25(6) Prisoners assigned to one living unit shall not be allowed to enter a different living unit except when permitted to share activities.

50.25(7) Any agency utilizing a direct supervision mode of prisoner management shall ensure that, before accepting prisoners, jail staff shall receive appropriate training in the following areas:

a. Philosophy of direct supervision.

b. Techniques of effective supervision and leadership.

c. Decision-making techniques.

d. Crisis intervention techniques.

e. Effective communication techniques.

f. Classification and evaluation techniques for direct supervision jails.

The training mandated by this chapter is required in addition to the above-listed training requisites.

50.25(8) There shall be a classification system developed which shall include an initial classification determination and an ongoing evaluation of the classification status. This system shall include, but not be limited to, the following considerations:

a. Individual's criminal history.

b. Individual's present behavior.

c. Individual's present charge.

d. Health.

e. Potential for violence.

f. Sexual deviation.

g. Self-harm or suicide potential.

h. Mental and physical maturity relative to personnel safety.

i. Previous behavior in other institutional settings.

j. Noticeable changes in attitude.

50.25(9) Programming (books, television, work, treatment) shall be available to reduce prisoner idleness. Subjects referred to within the parentheses are illustrative and not inclusive.

50.25(10) Each officer assigned to a housing unit shall have a mechanical or electronic means on the officer's person to summon assistance in times of emergency.

50.25(11) Supervision checks as required by paragraph 50.13(2)*"a"* will continue to be required and documented. CCTV shall not be used for supervision checks. During those periods when prisoners are out of their cells and in full view of staff, supervisory checks need not be conducted. Supervisory checks will be made when prisoners are allowed in their individual cells.

50.25(12) All incoming prisoners must be thoroughly oriented to expectations, rules, and routines of the jail. All such orientation must be documented.

50.25(13) Policies and procedures shall be developed by the sheriff or designee for the operation of the jail. These policies and procedures shall reflect the rules for direct supervision jails as delineated in this chapter. All staff shall be knowledgeable of and have access to the policy manual and shall receive training in the implementation of said policies and procedures prior to being assigned as a housing unit officer. The sole remedy for breach of these rules is by a proceeding for compliance initiated by request from the department of corrections. The violation of any rule shall not be construed to permit any civil action to recover damages against the state of Iowa, its departments, agents or employees or any county, its agencies or employees.

These rules are intended to implement Iowa Code sections 80B.11A, 356.36, and 356.43 and chapter 356A.

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CHAPTER 51
TEMPORARY HOLDING FACILITIES
[Prior to 3/20/91, Corrections Department[291]]

201—51.1(356,356A) Definitions.

"Capacity" means the number of prisoner or detainee occupants which any cell, room, unit, building, facility or combination thereof may accommodate according to the square footage requirements of the standards.

"Cell" means single occupancy bedroom space with toilet and lavatory facilities.

"Classification" means a system of obtaining pertinent information concerning detainees with which to make a decision on assignment of appropriate housing, security level, and activities.

"Detainee" means any individual confined in a temporary holding facility.

"Detention area" means that portion of the facility used to confine detainees.

"DOC" means the Iowa department of corrections.

"Dormitory" means an open area for two or more detainees with all fixtures self-contained. There is no barrier between the sleeping area and other fixtures such as shower, table, recreation equipment, or similar items.

"Emergency situation" means any significant disruption of normal operations caused by riot, strike, escape, fire, natural disaster or other serious incident.

"Existing facility" means any place in use as a jail or temporary holding facility or for which bids have been let for construction prior to September 12, 2001.

"Facility" means a temporary holding facility as defined by these rules.

"Holding cell" means a secure room or cell where detainees may be held up to 24 hours while awaiting the procedure of commitment or release or court appearances.

"Holdover" means a nonsecure area within a law enforcement facility, hospital, mental health facility or other existing public building that is intended to serve as a short-term holding facility for juveniles. A nonsecure area may be a multipurpose area which is unable to be locked.

"Housing unit" means an individual detention area. This area may be a single occupancy cell, multiple occupancy cell, cellblock, or dormitory.

"Inspection unit" means the state jail inspection unit.

"Jail inspector" means the department of corrections employee responsible for inspections of temporary holding facilities and enforcement of these rules by the authority of Iowa Code section 356.43.

"Juvenile" means any person under the age of 18 years.

"Mail" means anything that is sent to or by a detainee through the United States Postal Service.

"Major remodeling" means construction that changes the architectural design of an existing facility and that increases or decreases capacity.

"Medical practitioner" means licensed physician, licensed osteopathic physician or physician's assistant or medical resources such as a hospital or clinic.

"Mental illness" means a psychiatric illness or disease expressed primarily through abnormalities of thought, feeling, and behavior producing either distress or impaired function.

"Minister" means a trained person ordained or licensed by a bona fide religion to conduct the services of that faith.

"Monitoring" means having a reasonable degree of knowledge or awareness of what activities a detainee is engaged in during incarceration.

"Multiple occupancy cell" means a cell designed for no more than six detainees.

"Nonsecure hold" means a nonsecure area within a law enforcement facility and which is intended to serve as a short-term holding facility for juveniles. A nonsecure area may be a multipurpose area which is unable to be locked.

"Person performing temporary holding facilities duties" means all persons directly involved in the provision of services to detainees or the operation of a facility except:

1. Outside contractors performing specific housekeeping functions under the direct supervision of a facility supervisor.

2. Individuals such as maintenance personnel, cooks, and janitors, if they do not have direct contact with detainees or routine access to areas occupied by detainees.

"Physical jeopardy" means, due to the detainee's physical or mental condition, the detainee is in peril of serious physical harm.

"Residential facilities" means the facilities governed by 201—Chapter 43.

"Temporary holding facility" means secure holding rooms or cells administered by a law enforcement agency where detainees may be held for a limited period of time, not to exceed 24 hours, and a reasonable time thereafter to arrange for transportation to an appropriate facility. A law enforcement agency is not required to meet the standards for temporary holding facilities provided a detainee is held for less than two hours prior to transportation to an appropriate facility and a trained staff person of the agency is available to respond to, render aid to, or release the detainee in the event of a life-endangering emergency.

"Temporary holding facility administrator" means the executive head of any law enforcement agency, or the executive's designee, operating a temporary holding facility. The temporary holding facility administrator shall be responsible for the operation of the facility according to these rules.

"Temporary holding facility inspector" means the department of corrections employee responsible for inspection of temporary holding facilities and enforcement of these rules by the authority of Iowa Code section 356.43.

"Temporary holding facility supervisor" means any person who is responsible for the routine operation of the facility during the person's assigned duty hours. This person need not be on the premises at all times, but must be readily available for consultation.

"Unencumbered space" means floor space that is not encumbered by furnishings or fixtures. "Unencumbered space" is determined by subtracting the floor area encumbered by furnishings and fixtures from the total floor area. (All fixtures must be in operational position for these calculations.)

"Waiver/variance" means waiver of a specific standard granted by the jail inspection unit in accordance with these rules.

"Weapon" means any instrument with a primary intended use of self-defense or protection of another or to gain or maintain compliance from an individual. See paragraph 51.11(2)*"b."*

201—51.2(356,356A) General provisions. These rules apply to all temporary holding facilities regulated by Iowa Code chapter 356 or 356A.

51.2(1) *Capacity.* Established capacities as determined by these rules shall not be exceeded except in the event of an emergency, and then only for such a period of time as is necessary to arrange for alternate housing or release of sufficient detainees to bring the number of persons confined into compliance with the rated capacity.

51.2(2) *Right to inspect and visit.* The chief jail inspector or authorized representatives shall visit and inspect temporary holding facilities and may do so on an unannounced basis. Facility personnel and supervisors shall cooperate in inspections and shall exhibit to the inspectors, upon request, all books, records, medical records, data, documents and accounts pertaining to a temporary holding facility or to the detainees confined and shall assist inspectors to perform the functions, powers and duties of their office. Provisions of the first paragraph of Iowa Code section 356.43 shall control to the extent of any inconsistency of the provisions of this subrule.

51.2(3) *Other standards.* Nothing contained in these standards shall be construed to prohibit local officials from adopting standards and requirements governing their employees and facilities, provided these standards and requirements exceed and do not conflict with standards mandated in this chapter. These standards shall not be construed as authority to violate any state fire safety standard, building standard, health and safety code, or any constitutional requirement. No facility shall be operated without substantially meeting these rules unless operating under a waiver granted according to the provisions of 201—Chapter 7, Iowa Administrative Code.

51.2(4) *Equal opportunity.* Facilities, programs, and services shall be available on an equitable basis to both males and females even though each standard does not specify that it applies to both males and females.

51.2(5) *Nondiscriminatory treatment.* Each facility administrator shall ensure that staff and detainees are not subject to discriminatory treatment based upon race, religion, nationality, disability, sex or age, absent compelling reason for said discriminatory treatment. Discrimination on the basis of a disability is prohibited in the provision of services, programs and activities.

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) *Notice of noncompliance with minimum standards.* Whenever the determination is made that a temporary holding facility is not in compliance with established minimum standards, the chief administrator of the affected governmental facility will be notified by letter posted or personal delivery of the need to bring the facility into compliance. The jail inspection unit shall issue a notice of noncompliance to the responsible facility administrator and the governing body of each instance in which the facility fails to comply with the minimum standards established under these rules. The letter shall contain a listing of the statute(s) and rule(s) with which the facility is not in compliance and a description of the deficiencies and shall specifically identify each minimum standard with which the facility has failed to comply.

51.3(2) *Enforcement of minimum standards; remedial orders.* Upon receipt of a notice of noncompliance pursuant to subrule 51.3(1), the responsible authorities shall initiate appropriate corrective measures within the time prescribed by the jail inspection unit in its notice (which shall not exceed 90 days) and shall complete the corrections within a reasonable time as prescribed by the notice of noncompliance. The jail inspector may agree with the responsible authorities to a plan of action detailing corrective steps with corresponding time frames which will bring the facility into compliance within a reasonable time. If the responsible officials receiving notice of noncompliance fail to initiate corrective measures or to complete the corrective measures within the time prescribed, the jail inspection unit may order the facility in question or any portion thereof closed, that further confinement of detainees or classifications of detainees in the noncomplying facility or any portion thereof be prohibited, or that all or any number of detainees then confined be transferred to and maintained in another facility, or any combination of remedies.

An order for closure shall contain the following:

a. Statute(s) and rule(s) violated.

b. A brief description of the deficiencies.

c. The effective date of the order.

d. An explanation of remedies required before reopening.

This order shall be the notice of noncompliance pursuant to Iowa Code section 356.43 and 201—Chapter 12 concerning contested cases. The matter shall then proceed in accordance with 201—Chapter 12. The jail inspector may agree with the responsible authorities to a plan of action detailing corrective steps with corresponding time frames which would bring the facility into compliance within a reasonable time. The remedial order shall be in writing and shall specifically identify each minimum standard with which the facility has failed to comply. Such remedial order shall become final and effective 30 days after receipt thereof. In the event immediate closure is required, emergency action shall proceed pursuant to 201—12.24(17A).

51.3(3) *Precedent.* Because rules cannot adequately anticipate all potential specific factual situations and circumstances presented for action, determination or adjudication by the jail inspection unit, the

nature of the action taken with regard to any matter or the disposition of any matter pending before the jail inspection unit is not necessarily of meaningful precedential value, and the department shall not be bound by the precedent of any previous action, determination, or adjudication in the subsequent disposition of any matter pending before it.

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

201—51.4(356,356A) Physical plant—general.

51.4(1) *Building to meet existing codes.* All facilities are required to be structurally sound and to meet existing building code and health code requirements.

51.4(2) *Professional inspections.*

a. The state jail inspector may require for good reason that an agency operating a facility cause it to be examined by an architect, engineer, licensed electrician, health inspector, plumber, heating and air conditioning specialist, food establishment inspector, state fire marshal or fire inspector or any other person with expertise which may be of assistance to the state jail inspector in making an informed decision relative to the facility operation or structure. Inspection by a municipal inspector qualified in these areas may be permitted.

b. Any facility determined to be deficient following inspection may be ordered closed by the jail inspector or specific conditions limiting its operation may be imposed in lieu of closing.

An order of closure shall contain the following:

(1) Statute(s) and rule(s) violated.

(2) A brief description of the deficiencies.

(3) The effective date of the order.

(4) An explanation of remedies required before reopening.

An order of closure shall adhere to subrules 51.3(1) and 51.3(2).

This order shall be the notice of noncompliance pursuant to Iowa Code section 356.43 and 201—Chapter 12, Contested Cases. The matter shall then proceed in accordance with 201—Chapter 12.

c. In the event that any agency fails to cooperate in an inspection, the jail inspector may arrange for an inspection and the agency operating the facility shall be financially responsible for any expense involved.

51.4(3) *Heating and ventilation.* All detention and living areas shall be reasonably heated and ventilated, with air flow sufficient to admit fresh air and remove disagreeable odors, to ensure healthful and comfortable living and working conditions for detainees and staff. Fans and an adequate supply of cold liquids will be made available and utilized when indoor temperatures exceed 85° Fahrenheit.

51.4(4) *Cells.* Maximum security cells shall be equipped with tamper-resistant bunks, secured table(s) and seat(s), plus a toilet and wash basin recommended for jail or prison use. Cells shall have an adequate supply of both hot and cold water; mixing valves may be used. Housing areas of less secure design need not contain tamper-resistant fixtures. The cell must be constructed to minimize self-injury. Toilet facilities should be controlled from outside the cell and may be in the floor. Water need not be available in the cells but water must be accessible from staff upon request.

51.4(5) *Lighting.* Lighting shall be a minimum of 20 candlepower at the table top for the purposes of reading and writing. Living areas shall be devoid of dark areas. Lighting adequate to observe persons within the cell area shall be maintained at all times. All entrances, exits and hallways shall be equipped with independent emergency lighting sources. Hallways, entrances and exits shall be sufficiently lit to observe persons entering or exiting. Light controls shall be out of the control of detainees. Housing areas may be variably illuminated to allow sleep, but continuous observation of detainees must be possible.

51.4(6) *Screens.* If windows are opened for ventilation, screens shall be installed and maintained in good repair.

51.4(7) *Electrical facilities.* Drop cords shall not be used as permanent wiring. Electrical service shall meet the requirements of the governmental body permitted by statute to adopt standards for electrical service. Appliances shall plug directly into a fixed receptacle. Emergency generator power shall be available. Emergency generator power shall be tested at regular intervals not less than monthly. A record of test dates shall be maintained.

51.4(8) *Storage.*

a. Storage of any type in primary detention areas is not permitted except for supplies necessary for operation of the facility.

b. Adequate storage space for detainees' personal clothing and property shall be provided. Space provided shall be secure and the detainee's name or identity shall be affixed to the storage space. Property shall be inventoried and accounted for as provided in Iowa Code section 804.19.

c. Janitorial supplies shall be stored in a manner to prevent unauthorized detainee access. Janitorial supplies and equipment shall not be stored in detainee living areas.

d. Areas used for storage of chemicals, paints, and cleaning supplies shall not be accessible to detainees and such products shall be stored away from the primary detention area. Such storage shall not be in boiler or furnace rooms.

51.4(9) *Firearms lockers.* A place inaccessible to detainees shall be provided where officers entering the security area can store firearms.

51.4(10) *Noise level.* Detainee noise inside the facility shall be controlled to ensure an orderly and secure facility operation. The policy and procedures manual shall include a rule pertaining to noise level. Detainees must be advised of the rule.

201—51.5(356,356A) Physical requirements for existing facilities. This rule shall apply to all facilities in existence prior to June 30, 1984. In cases where an existing facility undergoes major remodeling, rule 201—51.7(356,356A) shall apply to the area being upgraded.

51.5(1) Each single occupancy cell for detainees in normal status shall have a minimum floor area of 40 square feet.

51.5(2) Multiple occupancy cells must have 40 square feet of floor space for the first occupant and an additional 20 square feet for each additional occupant.

51.5(3) Except in emergency situations, no multiple occupancy cell shall house more detainees than the designed capacity.

51.5(4) Each cell shall provide a minimum of 7 feet from floor to ceiling height.

51.5(5) All cells shall be equipped with bunks sufficient to ensure a bunk for each detainee assigned. Every cell will be equipped with a toilet and lavatory that function properly and supply adequate running water. Bunks must be of a size to accommodate a normal-sized male adult. Toilet and lavatory facilities must be accessible to detainees at all times.

51.5(6) Reserved.

51.5(7) Holding cells are multiple occupancy space where detainees may be confined only while awaiting processing through administrative or legal procedures. These areas must have at least 40 square feet of floor space for the first detainee with 20 square feet for each additional detainee.

51.5(8) Dormitory units shall have a minimum of 60 square feet of floor space per detainee.

201—51.6(356,356A) Physical requirements for new or remodeled facilities—after June 30, 1984. This rule shall apply to temporary holding facilities which are of new or remodeled construction or let for bid after June 30, 1984. Plans for any remodeling or new construction shall be submitted to the jail inspection unit prior to letting any bids or commencing any construction subject to this rule. The inspection unit shall, within 60 days of receiving plans, review them for compliance with these rules and forward any comments to the submitting authority.

51.6(1) New housing units may be dormitory units, single occupancy cells or multiple occupancy cells. Each single occupancy cell shall have a minimum of 70 square feet of floor space. Each multiple occupancy cell shall have a minimum of 70 square feet of floor space for the first detainee and an additional 50 square feet of floor space for each additional detainee. Dormitory units shall have a minimum of 35 square feet of unencumbered floor space per detainee.

51.6(2) All new housing units shall provide:

a. No less than 7 feet of space between the floor and ceiling.

b. A bunk of adequate size for normal-sized adults for each detainee.

51.6(3) Each new dormitory unit or single and multiple occupancy cell shall have a security-type toilet/lavatory combination fixture which provides adequate running water. These cells may rely on common toilet facilities located outside the detention room provided that the detainee is never involuntarily locked in the room and denied access to the toilet facilities.

51.6(4) The new facility shall be designed to admit natural lighting and to give access to outside viewing by detainees where practical.

51.6(5) The new facility shall be designed and constructed so that detainees may be segregated according to existing laws and regulations.

51.6(6) Except in emergency situations, no housing unit shall house more detainees than its rated capacity.

51.6(7) Holding cells shall provide a minimum of 20 square feet per detainee with a total capacity of eight detainees per cell. Holding cells need not contain any fixture other than a means whereby detainees may sit. Drinking water and toilet facilities shall be made available under staff supervision. Detainees will be supplied blankets if the detainees are detained overnight in the holding cell.

201—51.7(356,356A) Physical requirements for new or remodeled facilities—after September 12, 2001. This rule shall apply to temporary holding facilities which are of new or remodeled construction after September 12, 2001, the effective date of these rules. Plans for any remodeling or new construction shall be submitted to the jail inspection unit prior to letting any bids or commencing any construction subject to this rule. The jail inspection unit shall, within 60 days of receiving plans, review them for compliance with this rule and forward any comments to the submitting authority.

51.7(1) New housing units may be dormitory units, single occupancy cells or multiple occupancy cells. Each single occupancy cell shall have a minimum of 70 square feet of floor space. Each multiple occupancy cell shall have a minimum of 35 square feet of unencumbered floor space for each detainee. Dormitory units shall provide a minimum of 35 square feet of unencumbered floor space per detainee.

a. This paragraph shall apply to all temporary holding facilities that are of new or remodeled construction after December 28, 2005, and may apply to temporary holding facilities that were constructed prior to December 28, 2005.

(1) Single occupancy cells shall provide a minimum of 35 square feet of unencumbered floor space. When confinement exceeds 10 hours per day, except during administrative segregation or emergencies, there shall be at least 70 square feet of total floor space.

(2) Multiple occupancy cells shall provide a minimum of 25 square feet of unencumbered floor space for each detainee. When confinement exceeds 10 hours per day, except during administrative segregation or emergencies, there shall be at least 35 square feet of unencumbered floor space for each detainee.

(3) Dormitory units shall provide a minimum of 35 square feet of unencumbered floor space for each detainee.

(4) A facility may contain one or more single occupancy cells, designated as special-needs cells, in which violent persons may be temporarily contained. The cell shall have not less than 40 square feet of floor space and a ceiling height of not less than 7 feet. The cell shall be constructed to minimize self-injury. Toilet facilities may be controlled from outside the cell and may be in the floor. Water need not be available in the cells, but water shall be accessible from staff upon request.

b. Reserved.

51.7(2) All new housing units shall provide:

a. No less than 7 feet of space between the floor and ceiling.

b. A bunk of adequate size for normal-sized adults for each detainee.

51.7(3) Each new dormitory unit or single or multiple occupancy cell shall have a security-type toilet/lavatory combination fixture which provides adequate running water for each group of nine detainees or portion thereof. These cells may rely on common toilet facilities located outside the detention room provided that the detainee is never involuntarily locked in the room and denied access to the toilet facilities.

51.7(4) The new facility shall be designed and constructed so that detainees may be segregated according to existing laws and regulations.

51.7(5) Except in emergency situations, no housing unit shall house more detainees than its rated capacity.

51.7(6) Holding cells shall provide a minimum of 20 square feet per detainee with a total capacity of eight detainees per cell. Holding cells need not contain any fixture other than a means whereby detainees may sit. Drinking water and toilet facilities shall be made available under staff supervision. Detainees will be supplied blankets if detained overnight in the holding cell.

201—51.8(356,356A) Fire safety and emergency evacuation.

51.8(1) *Approval of building plans.* All new construction or major remodeling plans shall be approved prior to commencement of construction by the state fire marshal.

51.8(2) *Compliance with fire marshal rules.* No facility shall be occupied by a detainee unless the state fire marshal or qualified local fire prevention authority has issued a certificate of inspection within the last 24 calendar months documenting that the facility complies with the fire safety standards for temporary holding facilities included in administrative rules promulgated by the state fire marshal.

Temporary holding facilities may be inspected by the fire marshal, or by personnel of local fire departments deemed by the fire marshal qualified to conduct inspections, on a schedule determined by the fire marshal. The state jail inspection unit of the Iowa department of corrections, a temporary holding facility administrator, or the chief executive of an agency which administers a temporary holding facility may request the state fire marshal to inspect a temporary holding facility for compliance with fire safety standards. If the state fire marshal finds, based on such an inspection, that a temporary holding facility is not in substantial compliance with fire safety standards, the state fire marshal may require the facility administrator to submit a plan of correction of violations of these standards to the fire marshal. The director of the Iowa department of corrections may initiate proceedings to close the temporary holding facility if the facility does not comply with the plan of correction.

51.8(3) *Evacuation plan.* The administrator of each facility shall prepare a written plan for emergency evacuation of the facility in the event of fire or other disaster. This plan shall include security arrangements and one or more alternate housing arrangements for displaced detainees. All personnel employed in the facility shall be thoroughly familiar with this plan, and relevant portions thereof shall be conspicuously posted. Evacuation drills shall be practiced or simulated by all facility staff on at least an annual basis, and a record thereof shall be maintained according to subrule 51.19(9), Iowa Administrative Code.

51.8(4) *Release of detainees.*

a. There shall be a reasonable expectation of the prompt removal of detainees in the event of a life-threatening situation. Keys for all locks necessary for emergency exit shall be readily accessible and clearly identifiable with cell and door locks.

b. There shall be at least one full set of facility keys, other than those regularly used, stored in a safe place accessible only to appropriate persons, for use in the event of an emergency.

51.8(5) *Fire extinguishers.* All temporary holding facilities shall be equipped with fire extinguishing equipment approved and located in accordance with standards established by the state fire marshal by administrative rule. Fire extinguishers shall be tested at least annually to ensure they remain in operative condition. A record of such checks shall be maintained.

51.8(6) *Emergency lighting.* All exits shall be equipped with independent emergency lighting sources. All corridors and passage aisles shall be illuminated by independent emergency lighting sources. Lighting shall be arranged to ensure that no area will be left in darkness.

51.8(7) *Required exits.* Where exits are not immediately accessible from an open floor area, safe and continuous passage aisles or corridors leading directly to every exit shall be maintained and shall be so arranged as to provide access for each detainee to at least two separate and distinct exits from each floor. Passage aisles or corridors shall be kept clear. A locked exit may be classified as an emergency exit only if necessary keys to locked doors are readily available. Elevators shall not be counted as required exits.

51.8(8) *Fire alarms.* A means of fire detection utilizing equipment of a type meeting requirements established by the state fire marshal shall be installed and maintained in operational condition. These alarms shall be ceiling-mounted if possible and shall be located and protected from detainee access. The detection equipment shall be battery-operated or constructed as to continue operating during a power failure. Battery-operated systems shall be tested monthly. Electronic systems shall be tested at least annually. A record of test dates and results shall be maintained according to subrule 51.19(9), Iowa Administrative Code.

51.8(9) *Heating appliances.* Heating appliances and water heaters shall not be located along the path of required exits.

51.8(10) *Hinged doors.* All hinged doors serving as required exits from an area designed for an occupancy in excess of 50 persons, or as part of a major remodeling project or as part of new construction, shall swing with exit traffic.

51.8(11) *Mattresses.* Only fire-resistant mattresses of a type that will not sustain a flame and are certified by an independent testing laboratory and that meet the standards established by the state fire marshal shall be used in temporary holding facilities. Mattresses that are ripped, are excessively cracked or contain large holes shall be replaced. Pillows shall be replaced when torn or excessively cracked.

51.8(12) *Sprinkler.* If installed, sprinkler heads accessible to detainees not under direct supervision must be of the weight-sensitive type, be protected with a sleeve that would hamper the tying of material on the sprinkler head, or be recessed into the wall or ceiling.

201—51.9(356,356A) Minimum standards for facility personnel.

51.9(1) *Requirements for employment.* No person shall be recruited, selected or appointed to serve as a holding facility administrator unless the person:

a. Is 18 years of age or older.

b. Is able to read and write in English.

c. Is of good moral character as determined by a thorough background investigation including a fingerprint search conducted of local, state and national fingerprint files.

d. Is not by reason of conscience or belief opposed to the use of force, when appropriate or necessary to fulfill the person's duties.

e. Has the ability to perform the essential elements of the position as defined in the department job specification.

f. Is an appropriate candidate for employment as demonstrated by qualified psychological screening.

51.9(2) *Minimum standard for retention.* No employee who has demonstrated inappropriate action beyond a reasonable degree, who is not psychologically fit for facility employment, or who has repeatedly failed to observe these rules shall be retained.

51.9(3) *Conflict of interest.* No person working in a facility shall transact any business with any detainee, nor shall any person working in a facility arrange through another party any business transaction with a detainee. The facility shall have a written code of ethics that shall be provided to all employees. At a minimum, the code shall:

a. Prohibit staff from using their official positions to secure privileges for themselves or others.

b. Prohibit staff from engaging in activities that constitute a conflict of interest.

201—51.10(356,356A) Training for facility personnel.

51.10(1) *Initial orientation.* Except in an emergency situation, all persons performing temporary detention duties shall meet the following requirements, and the provision of this information and training shall be documented.

a. The individual shall be fully knowledgeable of the administrative rules referring to facility standards.

b. The individual shall be fully knowledgeable of facility rules, written policies and procedures as adopted by the administrator.

c. The individual shall have been given specific orientation with respect to a detainee's rights during confinement and procedures adopted to ensure those rights.

d. If the individual is to have access to a firearm at any time, the person shall hold a valid permit to carry weapons issued under the authority of Iowa Code chapter 724.

e. The individual shall be professionally trained and qualified in the use of any firearm, electric restraint control device and chemical control agents prior to their use in connection with the individual's duties at the facility.

f. The individual shall have been instructed in the use of required firefighting equipment and the fire and emergency evacuation plan.

g. All staff providing medication shall be trained in accordance with the Iowa State Sheriffs and Deputies Association medication training program or other recognized medication administration course.

h. The holding facility administrator shall record by log sheet the signature(s) of all staff performing temporary holding facility duties, attesting that they have full knowledge of the administrative rules referring to facility standards and the written policies and procedures governing the facility's operation.

51.10(2) *Training documented.* All temporary holding facility workers and administrators shall meet and document training requirements as specified by Iowa law enforcement academy training standards as found in 501—9.3(80B) and 501—9.4(80B), Iowa Administrative Code. The facility administrator shall record by log sheet the signature(s) of all persons attending the training.

a. The training shall include a minimum of ten hours of training within the first year of employment. Training shall include the following or comparable course content:

(1) Introduction to Iowa criminal procedure and criminal law as applicable to the temporary holding facility setting, including laws relating to the use of force.

(2) Security procedures, including procedures regarding the proper methods of transporting detainees.

(3) Supervision of detainees, including instruction on the basic civil rights of a detainee, which would be applicable to a temporary holding facility.

(4) Recognition of symptoms of mental illness, retardation or substance abuse.

(5) Specific instruction in the prevention of suicides.

b. During each fiscal year of employment, following completion of the required ten hours of training, temporary holding facility workers and administrators shall complete, at a minimum, five hours of in-service training, not to include hours spent in maintaining required certification or proficiency in first aid, life support, and handling of firearms.

51.10(3) *First aid.* At least one staff member on duty at the facility shall be trained in first aid (or the equivalent) and CPR.

a. The individual shall hold an American Red Cross standard first-aid certificate or the equivalent or one of the following:

(1) Certification as an Iowa law enforcement emergency care provider from the Iowa department of public health;

(2) Certification of completion of an emergency medical technician program; or

(3) Licensure to practice as a licensed practical nurse, registered nurse or medical practitioner in the state of Iowa.

b. The individual shall be certified as having successfully completed the basic life support training conducted under the program of the American Heart Association or the American Red Cross.

c. All certification or licensure required by this subrule must be maintained current according to the standards of the certifying or licensing agency.

201—51.11(356,356A) Standard operating procedures manual. Pursuant to the authority of Iowa Code sections 356.5 and 356.36, each municipality shall establish and the facility administrator shall ensure compliance with a standard operating procedures manual to include the following administrative rules: subrules 51.2(4), 51.2(5), 51.4(3), 51.4(7), 51.4(10), 51.8(3), 51.8(4), 51.8(5), 51.8(7), 51.8(8),

51.8(11), 51.9(1), 51.9(2), 51.9(3), 51.10(1), 51.10(2), 51.10(3) and rules 51.11(356,356A) to 51.19(356,356A) as noted. The following does not require written policy: 51.13(4).

51.11(1) *Admission/classification and security.*

a. No person shall be confined or released from confinement without appropriate process or order of court.

b. With the exception of incidental contact under staff supervision, the following classes of detainees shall be kept separate by architectural design barring conversational and visual contact from each other:

(1) Juveniles and adults (pursuant to Iowa Code section 356.3).

(2) Females from males (pursuant to Iowa Code section 356.4).

c. The following shall be kept separate whenever possible:

(1) Felons from misdemeanants.

(2) Pretrial detainees from sentenced persons.

(3) Witnesses from detainees charged with crimes.

d. The following shall be kept physically separated:

(1) Detainees of whom violence is reasonably anticipated.

(2) Detainees who are a health risk to others.

(3) Detainees of whom sexually deviant behavior is reasonably anticipated.

(4) Prisoners likely to be exploited or victimized by others.

e. Detention of juveniles shall be pursuant to Iowa Code section 232.22.

f. All staff involved in the booking process or the supervision of detainees shall be trained in suicide prevention. At the time of booking, an attempt shall be made (either by observation for marks or scars or direct questioning of the detainee) to determine if the detainee is suicidal. The following questions, or others of equal meaning, shall be incorporated into the booking process with appropriate documentation to aid in suicide prevention:

(1) Does the detainee show signs of depression?

(2) Does the detainee appear overly anxious, afraid, or angry?

(3) Does the detainee appear unusually embarrassed or ashamed?

(4) Is the detainee acting or talking in a strange manner?

(5) Does the detainee appear to be under the influence of alcohol or drugs?

(6) Does the detainee have any scars or marks which indicate a previous suicide attempt?

In all cases, the following questions will be asked of the detainee:

Have you ever tried to hurt yourself?

Have you ever attempted to kill yourself?

Are you thinking about hurting yourself?

g. Housing for detainees with disabilities shall be designed for the detainees' use, or reasonable accommodations shall be provided for the detainees' safety and security.

51.11(2) *Security and control.*

a. *Supervision of detainees.*

(1) Twenty-four-hour supervision of all detainees shall be provided pursuant to Iowa Code section 356.5(6).

(2) When staff is not within the confinement area of the facility, a staff person shall be in a position to hear detainees in a life-threatening or emergency situation; or a calling device to summon help will be provided. By policy and practice there shall be a means of ensuring that appropriate personnel will be available on a 24-hour basis to respond to an emergency, including, but not limited to, fire, assaults, suicide attempts, serious illness, and to preserve order, within a reasonable time period.

(3) At least hourly, personal observations of individual detainees shall be made and documented. Detainees considered to be in physical jeopardy because of physical or mental condition, including apparently intoxicated persons, as indicated by the medical history intake process and by personal observations, shall be checked personally at least every 30 minutes until the condition is alleviated. Closed circuit television (CCTV)-audio monitoring system may supplement, but shall not replace, personal observations. In order to use a CCTV-audio monitoring system, the following requirements

must be met: CCTV and audio must be operational at all times. Visual and audio must be clear and distinct. Observation of shower and restroom activities shall be at the discretion of the facility administrator.

(4) No employee or visitor of one sex shall enter a housing unit occupied by the other sex unless advance notice has been provided except in case of an emergency. Advance notice may be provided at the time of orientation.

(5) When females are housed in the facility, at least one female staff member shall be on duty in the facility at all times, in accordance with Iowa Code section 356.5(6).

(6) All juveniles arrested for intoxication due to substance abuse shall be personally observed on a continuous basis throughout the period of detention. The activities of juveniles arrested for crimes other than the above shall be monitored at all times, and the juveniles shall be observed by means of personal supervisory checks at no more than 30-minute intervals.

b. Weapons. Except in an emergency situation, no firearms shall be allowed in an area occupied by detainees.

c. Searches.

(1) All detainees and detainees' property entering the facility shall be thoroughly searched; searches of persons charged with simple misdemeanors shall follow provisions of Iowa Code section 804.30.

(2) All persons entering a facility may be searched for contraband. Persons may be denied admission if they refuse to consent to a required search.

(3) A search notice shall be posted in a conspicuous place (no policy required).

(4) Detainee rules shall contain a clear definition of each item permitted in the facility. All other items shall be considered contraband.

(5) Random, unannounced, irregularly scheduled searches of areas accessible to detainees shall be conducted for contraband and weapons.

d. Key control. Facility keys must be stored in a secure area when not in use. There must be at least one full set of facility keys, separate from those in use, stored in a safe place and accessible only to designated facility personnel for use in the event of an emergency. The facility administrator will identify those persons who may have access to keys.

e. Detainees' property. All personal property of detainees shall be inventoried and accounted for according to the provisions of Iowa Code section 804.19.

f. Restraint devices. The facility administrator shall have a written policy on the restraint devices. Restraint devices shall not be applied as punishment. Restraint devices shall be used only when a prisoner is a threat to self or others or jeopardizes facility security. There shall be defined circumstances under which supervisory approval is needed prior to application. Restraint devices shall not be applied for more time than is necessary to alleviate the condition requiring the use of the restraint device. While restrained, detainees shall be either clothed or covered in a manner that maximizes detainee privacy. Four/five-point restraints may be used only when other types of restraints have proven ineffective. If detainees are restrained in a four/five-point position, the following minimum procedures shall be followed:

(1) Observation by staff shall be continuous;

(2) Personal visual observation of the detainee and the restraint device application shall be made at least every 15 minutes;

(3) Restraint guidelines shall include consideration of an individual's physical and health condition, such as body weight; and

(4) All decisions and actions shall be documented.

g. Facility security.

(1) All areas of the facility shall be inspected regularly and frequently and kept clear of large posters, pictures and articles of clothing that obstruct the view of detainees by facility staff.

(2) All facility locks, doors, bars, windows, screens, grilles and fencing shall be inspected on at least a monthly basis. Any damaged or nonfunctioning equipment or fixtures must be reported to the facility administrator in writing. The facility administrator shall ensure prompt repair of any damaged or nonfunctioning equipment or fixture.

(3) The facility administrator shall develop written policy and procedures for the movement or transportation of detainees outside the secure area of the facility. The policy shall require procedures that will ensure the safety of the facility staff and the public and prevent detainee escape. The policy shall provide procedures for movement of detainees for medical treatment and to and from the courts and other facilities. The classification and security risk of the detainee to be moved will determine the number of staff required and the type of restraints to be used, if any.

(4) The facility administrator shall have written plans for situations that threaten facility security. Such situations include but are not limited to: riots, hunger strikes, disturbances, hostage situations, escape attempts, medical emergencies, natural disasters and staff work stoppage. The plan shall be made availiable to all applicable personnel and shall be reviewed by facility staff at least annually and updated as needed.

201—51.12(356,356A) Cleanliness and hygiene.

51.12(1) *Housekeeping.*

a. The temporary holding facility shall be kept clean and sanitary. Toilets, wash basins, showers and other equipment throughout the facility shall be maintained in good working order. Walls, floors and ceilings shall be well maintained.

b. Unless cleaning is done by staff, necessary cleaning equipment shall be provided to detainees. Cleaning equipment shall be removed from the cell when cleaning is complete.

c. The facility shall be maintained in pest-free condition. Persons spraying chemicals shall be certified by the Iowa department of agriculture and land stewardship. Detainees and staff shall not be directly exposed to the chemicals being used.

d. All clothing and linen, if provided, shall be clean and sanitary.

e. The facility shall have a sharps disposal container for razors and needles. The facility shall be equipped to handle disposal of contaminated or hazardous waste according to universal health precautions.

51.12(2) *Reserved.*

201—51.13(356,356A) Medical services. The facility administrator shall establish a written policy and procedure to ensure that detainees have the opportunity to receive necessary medical attention for the detainee's objectively serious medical and dental needs which are known to the facility staff. A serious medical need is one that has been diagnosed by a physician as requiring treatment, or one that is so obvious that even a lay person would easily recognize the necessity for a physician's attention. The plan shall include a procedure for emergency services day or night and a procedure for regular medical attention. Responsibility for the costs of medical services remains that of the detainee. However, no detainee will be denied necessary medical services, dental service, or medicine because of a lack of ability to pay. Medical and dental prostheses shall be provided only for the serious medical needs of the detainee, as determined by a licensed health care professional. Cosmetic or elective procedures need not be provided.

51.13(1) *Medical resources.* Each facility shall have a designated licensed physician, licensed osteopathic physician or medical resource, such as a hospital or clinic staffed by licensed physicians or licensed osteopathic physicians, designated for the medical supervision, care and treatment of detainees as deemed necessary and appropriate. Medical resources shall be available on a 24-hour basis.

51.13(2) *Trained staff.*

a. All staff providing medication shall be trained in accordance with the Iowa State Sheriffs and Deputies Association medication training program or other recognized medication administration course.

b. At least one staff member on duty at the facility shall be currently trained in first aid (or the equivalent) and CPR.

51.13(3) *Detainee involvement.* No detainee shall be involved in any phase of delivery of medical services.

51.13(4) *First-aid kits.* A first-aid kit approved by qualified medical personnel shall be available to staff.

51.13(5) *Chemical control agents.* Detainees affected by a chemical control agent shall be offered a medical examination and appropriate treatment as soon as reasonable.

51.13(6) *Screening upon admission.*

a. Any person who is obviously injured, ill or unconscious shall be examined by qualified medical personnel before being admitted to a facility.

b. Detainees suspected of having a contagious or communicable disease shall be separated from other detainees until examined by qualified medical personnel.

c. As a part of the admission procedure, a medical history intake form shall be completed for each person admitted to the facility. The intake procedure shall include screening for potential self-injury or suicide. Facility staff with actual knowledge that there is a substantial risk that a detainee intends to commit suicide shall take reasonable measures to abate the risk. The facility shall have a written suicide prevention plan. Essential elements of the plan shall include training to recognize the potential for suicide, communication between staff and appropriate housing and intervention procedures.

d. During times when there is no means of immediate access to the district court, a person arrested on a charge constituting a simple misdemeanor and believed by the arresting officer/agency to be mentally ill, and because of that illness is likely to physically injure the person's self or others, shall be admitted to the facility only after the arresting officer/agency has demonstrated a reasonable effort to comply with the emergency hospitalization procedure as provided in Iowa Code section 229.22. The facility shall have a written plan to provide detainees access to services for the detection, diagnosis and treatment of mental illness.

e. Detainees shall be provided with information on how they can obtain necessary medical attention, and the facility's policy and procedure shall also reflect this.

51.13(7) *Medication procedures.*

a. Written policies and procedures pertaining to providing medication shall be established.

b. All prescription medicine shall be securely stored and inventory control practiced. Inventory control shall include documentation of all medication coming into the facility and the amount of medication returned or destroyed when the detainee is released.

c. A written procedure for recording the taking or administering of all medications shall be established.

d. Prescription medication, as ordered by a licensed physician, licensed osteopathic physician or licensed dentist shall be provided in accordance with the directions of the prescribing physician or dentist. Detainees with medication from a personal physician, osteopathic physician or dentist may be evaluated by a physician, osteopathic physician or dentist selected by the facility administrator to determine if the present medication is appropriate.

51.13(8) *Medical records.* A separate medical record shall be maintained for each detainee receiving medical care. The record shall include the illness being treated, medication administered, special diets required, medical isolations and the name of the attending health professional or institution. The record may be kept in the detainee's file jacket but must be labeled "confidential."

51.13(9) *Medication storage.*

a. Detainees' medications shall be stored at the proper temperature, as defined by the following terms:

(1) Room temperature: temperature maintained between 15 degrees centigrade (59 degrees Fahrenheit) and 30 degrees centigrade (85 degrees Fahrenheit).

(2) Cool: temperature maintained between 8 degrees centigrade (46 degrees Fahrenheit) and 15 degrees centigrade (59 degrees Fahrenheit).

(3) Refrigerate: temperature that is thermostatically maintained between 2 degrees centigrade (36 degrees Fahrenheit) and 8 degrees centigrade (46 degrees Fahrenheit). All medication required to be "cool" or "refrigerated" shall be stored in a separate refrigerator or in a separate locked container within a refrigerator that is used for other purposes.

b. Any medications bearing an expiration date may not be administered beyond the expiration date.

c. Expired drugs or drugs not in unit dose packaging, whose administration had been discontinued by the attending physician, shall be destroyed by the facility administrator or designee in the presence of a witness. A record of drug destruction shall be made in each detainee's medical record. The record shall include the name, the strength and the quantity of the drug destroyed; and the record shall be signed by the facility administrator or designee and by the witness.

d. Medications dispensed by a pharmacy in unit dose packaging may be returned to the dispensing pharmacy pursuant to board of pharmacy examiners rule 657—23.15(124,155A).

e. Facilities utilizing unit dose packaging shall have written policies and procedures providing for the return of drugs so packed to the issuing pharmacy. Policy shall include proper record keeping of disposal.

201—51.14(356,356A) General food service requirements.

51.14(1) *Detainee being held.* If a detainee is held over a meal period, a meal of adequate nutrition shall be provided.

51.14(2) *Daily meals.* The three meals provided for each 24-hour duration shall be served at reasonable and proper intervals; at least one meal shall be a hot meal. Food must be served at the proper temperature: hot foods shall be reasonably hot and cold foods reasonably cold.

51.14(3) *Time of serving.* Meals shall be served at approximately the same time every day.

51.14(4) *Medical diets.* Special diets as prescribed by a physician shall be followed and documented.

51.14(5) *Religious requests.* When a special diet is requested for a detainee due to a bona fide religious belief, the facility shall meet that need unless the facility can demonstrate that its refusal does not impose a substantial burden on the exercise of the detainee's religion or that its refusal furthers some compelling interest and is the least restrictive means of furthering that interest.

51.14(6) *Punishment.* Deviation from normal feeding procedures shall not be used as punishment.

51.14(7) *Inspection of facilities for outside food service providers.* If food service is provided by outside sources, only a facility with a food establishment license or those required to undergo inspection by other statutes shall be utilized to provide these services. The transfer of food shall be done under sanitary conditions (no policy required).

201—51.15(356,356A) In-house food services.

51.15(1) Food preparation areas shall be clean and sanitary in accordance with requirements of the state health standards regulating institutional or food establishment operations.

51.15(2) All food products shall be stored or refrigerated in compliance with state health standards governing institutional or food establishment operations.

51.15(3) Dishes, utensils, pans and trays shall be sanitized after use in accordance with state health standards for food establishments or institutions.

51.15(4) Staff shall serve or supervise the serving of all meals. Food handlers must be clean and free of illness or disease.

201—51.16(356,356A) Communication.

51.16(1) *Telephone calls upon arrest.* Detainees shall be permitted telephone access to their family or an attorney, or both, without unnecessary delay after arrest, at no charge if made within the local calling area, as required by Iowa Code section 804.20.

51.16(2) *Attorneys and ministers.* Attorneys and ministers shall be permitted to visit detainees upon request of the detainee at reasonable hours if security and daily routine are not unduly interrupted.

51.16(3) *General visitation.*

a. All detainees in normal status shall be allowed reasonable visitation.

b. Rules shall specify who is allowed to visit and when and how often visitors are allowed.

c. Facility staff shall document the date and time of visit, name and address of each person visiting, and the name of the detainee visited. Computerized logs are acceptable.

d. A visit may be denied if reasonable suspicion exists that the visit might endanger the security of the facility. A record shall be made of such denial and the reason(s) therefor.

51.16(4) *Detaining non-U.S. citizens.* When non-U.S. citizens are detained, they shall be advised of the right to have their consular officials notified or the nearest consular officials shall be notified of the detention, whichever is required by the Vienna Convention. Consular officials shall be given access to non-U.S. citizens in the facility and shall be allowed to provide consular assistance. When a facility administrator becomes aware of the death of a non-U.S. citizen, consular officials shall be notified.

201—51.17(356,356A) Access to the courts. Detainees shall be provided at their request pertinent sections of the Iowa Code or city ordinance pertaining to their offense and access to attorneys pursuant to rule 51.16(356,356A).

201—51.18(356,356A) Discipline and grievance procedures.

51.18(1) No detainee shall be allowed to have authority or disciplinary control over another detainee.

51.18(2) The use of physical force by staff shall be restricted to instances of justifiable self-protection, the protection of others or property, the prevention of escapes or the suppression of disorder, and then only to the degree necessary to overcome resistance. Corporal punishment is forbidden.

51.18(3) The following information shall be made available to all detainees and explained to any detainee unable to read English:

a. A set of rules (including sanctions) and regulations pertaining to the conduct of persons in custody.

b. What services are available to them.

c. A detainee grievance procedure which includes at least one level of appeal.

51.18(4) Deprivation of clothing, bedding, or hygienic supplies shall not be used as discipline or punishment. These items may be withheld from any detainee who the staff reasonably believes would destroy such items or use them as weapons, for self-injury, to aid in escape, or interfere with the normal operation of the facility.

201—51.19(356,356A) Records. The following records shall be maintained by the facility administrator for two years unless a different period is specified.

51.19(1) *Facility calendar.* This record shall contain information required by Iowa Code section 356.6.

51.19(2) *Visitor registration.* This record shall contain the name and address of the person visiting; name of detainee visited; and the date, time and duration of the visit.

51.19(3) *Facility inspection records.* Facility inspection records shall contain the following and be maintained for a minimum period of two years:

a. Fire marshal's certificates.

b. Written reports received from all persons doing official inspections of the facility.

51.19(4) *Medical history intake form.* Notation of injury upon admission shall be included.

51.19(5) *Records of medical care.*

51.19(6) *Injury reports.* Copies of all reports of investigations relating to injuries within the facility shall be maintained by the facility administrator in a separate injury file or referenced in the detainee file by log for a period of five years.

51.19(7) *Disciplinary records.*

51.19(8) *Property receipts.* Property receipts as required by Iowa Code section 804.19 shall be completed and distributed as required.

51.19(9) *Fire and disaster evacuation plan and record(s) of required fire drills.*

51.19(10) *Records of staff training.*

51.19(11) *Disposition of medication.* A record shall be kept of the disposition of prescribed medication not taken by a detainee.

51.19(12) *Supervisory checks.* A record shall be made to document all required supervisory checks of detainees.

51.19(13) *Incident reports.* Records shall be made to document the following:

a. Use of force;

b. Suicide/suicide attempts;

c. Threats to staff, staff assaults, fires, detainee abnormal behavior, any verbal or nonverbal references to suicide and self-mutilation.

d. The state jail inspection unit of the department of corrections shall be notified within 24 hours of any death, attempted suicide, fire, escape, injury to staff or detainees from assaults, use of force and prisoner self-injuries. A copy of the investigative reports and other records shall be given to the state jail inspector upon request.

201—51.20(356,356A) Nonsecure holds for juveniles.

51.20(1) *Standards for nonsecure hold areas.* The area to be used to detain the juvenile must be an unlocked area such as a lobby, office or other open room. Additionally, the following minimum procedures must be followed:

a. The juvenile is not physically secured to any stationary object.

b. The juvenile is under continuous visual supervision.

c. The juvenile has access to bathroom facilities.

d. A meal or meals shall be provided at usual mealtimes.

51.20(2) *Supervision of juveniles in nonsecure hold.* Juveniles in nonsecure hold status (see Iowa Code sections 232.19(2) and 232.22(2)) shall have continuous visual supervision by a qualified adult. The holding facility administrator may contract with an outside agency to perform supervisory functions. Persons performing juvenile supervisory functions must:

a. Be at least 18 years of age.

b. Have received a physical prior to employment.

c. Perform at a staff-to-detainee ratio that will ensure a safe environment for both the juvenile(s) and the staff.

d. Report any knowledge of child abuse to mandatory child abuse reporters.

e. Have successfully completed a child abuse and criminal background check.

51.20(3) *Prohibited acts.* Each nonsecure site must develop a policy of posted orders which protects juveniles against neglect; exploitation; and degrading punishment such as corporal punishment, verbal abuse, threats, or derogatory remarks about the juvenile or the juvenile's family; binding or tying to restrict movement; enclosing the juvenile in a confined space such as a closet, locked room, or similar cubicle; and deprivation of meals.

51.20(4) *Attendant nonsecure area operating procedures.*

a. Attendant shall make certain the juvenile is aware of the policies of the nonsecure holding area.

b. The personal effects of the juvenile shall be placed in a safe, secure place. A property receipt shall be issued to the juvenile.

c. All items given to the juvenile are subject to being searched.

d. Attendant shall pat search the juvenile.

51.20(5) *Care and treatment.*

a. *Medical.*

(1) No juvenile shall be held who is obviously injured, is obviously physically or mentally ill or, in the judgment of the arresting officer, is under the influence of drugs or intoxicated from the use of alcohol to the point of needing medical attention without first being examined by a medical practitioner.

(2) In an emergency situation or when the juvenile is suffering severe pain or is in danger of loss of life or permanent injury, medical treatment may be administered without parental consent. When none of the above situations exist, parental consent or judicial concurrence must be made before providing medical treatment.

(3) Juveniles suspected of having a contagious or communicable disease shall be isolated from other juveniles.

(4) There shall be at least one person on duty in the facility containing the nonsecure room who is trained in multimedia first aid and CPR.

(5) First-aid kits shall be immediately available.

(6) Any person providing medication shall be trained in the procedure of providing medication.

(7) As part of the admission procedure, a medical history intake form shall be completed. As part of this procedure, an attempt will be made to determine if the juvenile is suicidal by observing behavior and looking for marks or scars which would indicate previous suicide attempts.

(8) There shall be written policies or procedures pertaining to providing medication.

(9) All medication shall be stored according to state pharmaceutical standards and written inventory control maintained. The inventory shall include the starting number of pills, when pills were provided and by whom, the remaining number of pills at the time the juvenile left the facility, the disposition of the remaining pills, and a staff witness to the disposition of the pills.

(10) Special diets as prescribed by a physician shall be followed and documented.

(11) When a special diet is required for an individual due to a bona fide religious belief, the facility shall meet that need.

b. Communications.

(1) Juveniles shall be permitted, at no charge, telephone access to their family or an attorney, or both, without unnecessary delay after being taken into custody. Once family or attorney has been contacted, the number of additional calls, if any, will be determined by attendant.

(2) Attorneys and ministers shall be permitted to visit upon request when such visiting will not disrupt security or daily routines of the facility. Determination of additional visits shall be made by attendant.

c. Safety and sanitation.

(1) Walls, floors, and ceiling shall be well maintained.

(2) Facility shall be maintained in a pest-free condition.

(3) Clean bedding, including sheets, blankets, and pillowcases, shall be issued to each juvenile who wishes to sleep between the hours of 9 p.m. and 7 a.m.

(4) Soiled clothing which may affect the health of the juvenile shall be exchanged for clean, facility-provided clothing.

(5) An emergency evacuation plan must be conspicuously posted.

(6) There shall not be less than one AA-ABC fire extinguisher in operable condition for each 3,000 square feet of facility on any given floor of the building.

(7) All exits shall be equipped with independent emergency lighting.

(8) Where exits are not immediately accessible from an open floor area, safe and continuous passage aisles or corridors leading directly to every exit shall be maintained and shall be so arranged as to provide access for each juvenile to at least two separate and distinct exits from each floor. A locked exit may be classified as an emergency exit only if necessary keys to locked doors are on the person of the attendant. Elevators shall not be counted as required exits.

(9) A means of fire detection utilizing equipment of a type tested and approved by Underwriters Laboratories shall be installed and maintained in operational condition according to the factory manual. These alarms shall be ceiling-mounted and of such construction to continue in operation during power failure. Alarms shall be tested on at least a monthly basis. Such test shall be documented.

(10) Only fire-resistant mattresses and pillows approved by the state fire marshal's office shall be used.

d. Staff training requirements.

(1) Attendants shall be knowledgeable of facility policies and procedures pertaining to juvenile nonsecure holds, and acknowledgment of this shall be made by attendant's dated signature.

(2) Nonsecure hold attendants shall have received instruction in the following areas prior to supervising juveniles in a nonsecure holding area:

1. Role of nonsecure hold attendant.
2. Confidentiality issues.
3. Intake procedures—medical and suicide screening.
4. Communication and listening skills.
5. Dealing with a depressed or suicidal juvenile.
6. Overview of state and federal law.

7. Provision of medication.
8. Gentle self-defense.
9. Child abuse identification.

e. Juvenile supervision.

(1) An attendant shall be in the presence of all juveniles held at all times. Same-sex attendant or staff shall be present when juveniles perform bodily functions/shower.

(2) A log shall be maintained at half-hour intervals reflecting the juvenile's activities and behavior.

f. Records. The following records shall be maintained by the facility for a period of at least two years:

(1) Medical history intake form.
(2) Records of medical care.
(3) Injury reports.
(4) Food served.
(5) Records of staff training.
(6) Disposition of medication.
(7) Individual log.
(8) Any use of force reports.
(9) Any suicide or suicide attempts reports.

g. Incident reports. Reports of the following incidents shall be sent to the state jail inspection unit, department of corrections, within 24 hours of incident:

(1) Any injury to juvenile or staff that requires medical attention.
(2) Any use of force by staff.
(3) Any attempted suicide.

The state jail inspection unit, department of corrections, shall be notified within five hours of any successful juvenile suicide that occurred in a nonsecure hold area.

51.20(6) *Exemption from nonsecure hold standards.* Any requests for exemption from nonsecure hold standards shall be submitted according to the provisions under 201—Chapter 7, Iowa Administrative Code.

These rules are intended to implement Iowa Code sections 80B.11A, 356.36 and 356.43 and chapter 356A.

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