

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 published at www.legis.gov/docs/Rules/Current/UniformRules.pdf on the General Assembly's website.

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.

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

“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.

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

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

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

[ARC 3929C, IAB 8/1/18, effective 9/5/18]

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:

Anamosa State Penitentiary
406 North High Street
Anamosa, Iowa 52205
(319)462-3504

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

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

Newton Correctional Facility
307 S. 60th Avenue W, Box 218
Newton, Iowa 50208
(641)792-7552

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

Iowa Medical and Classification Center
2700 Coral Ridge Avenue
Coralville, IA 52241
(319)626-2391

Iowa Correctional Institution for Women
420 Mill Street SW
Mitchellville, Iowa 50169
(515)967-4236

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

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

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

b. Records of former incarcerated individuals and other individuals served by the department's division of institutions should be directed to records office at the Iowa medical and classification center as previously listed.

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

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

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

5.3(7) Fees.

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

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

c. 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.

d. Advance deposits.

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

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

[ARC 3929C, IAB 8/1/18, effective 9/5/18]

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

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

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

5.4(3) Notice to subject of record and opportunity to obtain injunction. After the custodian receives a request for access to a confidential record, and before the custodian releases such a record, the custodian may make reasonable efforts to notify promptly any person who is a subject of that record, is identified in that record, and whose address or telephone number is contained in that record. To the extent such a delay is practicable and in the public interest, the custodian may give the subject of such a confidential record to whom notification is transmitted a reasonable opportunity to seek an injunction under Iowa Code section 22.8, and indicate to the subject of the record the specific period of time during which disclosure will be delayed for that purpose.

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

a. The name and title or position of the custodian responsible for the denial; and

b. A citation to the provision of law vesting authority in the custodian to deny disclosure of the record and a brief statement of the reasons for the denial to this requester.

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

[ARC 3929C, IAB 8/1/18, effective 9/5/18]

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 services agency under Iowa Code section 2A.3.
- 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. Incarcerated Individual 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 Automated	N/A

b. Institutions

Description of Record	Type of Record	Legal Authority	Storage	Comparison
1. Incarcerated Individual Records				
a. Demographic Data/Action Section	O, C, D	904	Hard Copy Automated	Full
b. Admission Documents	C, D	904	Hard Copy Automated	N/A
c. Classification and Release Documents	O, C, D	904	Hard Copy Automated	Full
d. Time Computation	O, C, D	904	Hard Copy Automated	Full
e. Clinical and Medical	O, C, D	904	Hard Copy Automated	Full
f. Correspondence and Visiting	O, C	904	Hard Copy Automated	Full
g. Legal Documents	O, C	904	Hard Copy Automated	Full
2. Incarcerated Individual Accounts	O, C, D	904	Hard Copy Automated	Full
3. Security Records				
a. Disciplinary Records	O, C	904	Hard Copy Automated	Full
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 Automated	N/A
4. Contracts and Agreements	O	904	Hard Copy	N/A
5. Volunteers	D	904	Hard Copy	N/A
6. Staff Training	O, C	904	Hard Copy Automated	Full
7. Incarcerated Individual Movement	O	904	Hard Copy Automated	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	Full
12. Press Releases	O	904	Hard Copy Automated	N/A
13. Incarcerated Individual Grievances	C	904	Hard Copy Automated	Full
14. Miscellaneous	O	904	Hard Copy Automated	Full

c. Community-Based Corrections - Interstate Compact

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

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

d. *Iowa state industries*

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

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).

[ARC 3929C, IAB 8/1/18, effective 9/5/18]

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 201—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 chapter 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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