



IOWA BOARD OF CORRECTIONS AGENDA
Friday, March 5, 2021, 9:00 a.m.

LOCATION: Zoom Meeting <https://zoom.us/j/94508472999>

TOPIC	PRESENTER
➤ Call to Order	Richard LaMere
• Approval of February 4, 2020 Minutes (Action Item)	
➤ Next Board meeting will be April 2, 2021 at 9:00 am North Central Correctional Facility, 313 Lanedale, Rockwell City, Iowa (A meeting notice will be posted on the DOC website: https://doc.iowa.gov/)	Richard LaMere
Welcome	Lorie Woodard, ICIW Deputy Warden
Director's Update	Dr. Beth Skinner, Director
COVID-19	Dr. Beth Skinner, Director
Administrative Rules Change (Action Item)	Michael Savala, General Counsel / Inspector General
Legislative Session Update	Cord Overton, Legislative Liaison
Public Comments	Public
Open Discussion	Board Members
Adjournment	Board Members

The Board of Corrections' agenda is posted on the DOC Web Site at <https://doc.iowa.gov/> under the Board of Corrections Tab.

This meeting recording will be uploaded to the Department's Youtube Channel for members of the public that would like to observe. You can also view previous Board of Corrections meetings at this site.

Link: <https://www.youtube.com/channel/UCItY2PABjitQpT4Op2w3kTw>

The mission of the Iowa Department of Corrections is to:
Creating Opportunities for Safer Communities



IOWA BOARD OF CORRECTIONS MINUTES Thursday, February 4, 2021

Due to the continuing COVID-19 pandemic, this meeting will be conducted via Zoom. Connection information has been provided as part of the meeting agenda and the meeting will be simultaneously live-streamed on the DOC YouTube channel.

Board Members Present: Chair Richard LaMere, Vice Chair Rebecca Williams, Dr. Lisa Hill, Larry Kudej, Dr. Mary Chapman, Trent Keller and Webster Kranto.

Staff Present: Dr. Beth Skinner, William Sperfslage, Sally Kreamer, Cord Overton, Sarah Fineran, Dan Clark, Dr. Jerome Greenfield, Dr. Matthew Morris, Steve Dick, Susan Shields, Katrina Carter, Michelle Dix, Amanda Milligan, Waylyn McCullough, Sheryl Dahm, Steve Weis, Jay Nelson, [Jeremy Larson](#), Kris Weitzell, Marcy Stroud, Lorie Woodard and Kathy Weiss

Visitors Present: Caprice Jones

Call to Order, Chair Richard LaMere

- Vice Chair Rebecca Williams called the meeting to order.
- Vice Chair Williams asked for a motion to approve the January 8, 2021 meeting minutes. Dr. Mary Chapman made a motion and Mr. Larry Kudej seconded the motion. All present members were in favor of approving the minutes, **motion passed**.
- The next scheduled Board of Corrections meeting is March 5, 2021, at the Iowa Correctional Institution for Women in Mitchellville, Iowa. The meeting will begin at 9:00 a.m.
- (A meeting notice will be posted on the DOC website: <https://doc.iowa.gov/>)

Welcome – Dr. Skinner, Director

- Welcome everyone to this very wintery Iowa day.
- The COVID-19 pandemic has been active for nearly a year. The good news is the DOC positivity numbers are declining and there is light at the end of the tunnel. Staff have remained steadfast and Dr. Skinner is very proud of what has been done to contain and mitigate the spread of COVID-19.
- The leadership of the Iowa DOC has been working around the clock and sitting in on hundreds of COVID-19 calls. They have been flexible, fluid and solution-focused and done a terrific job of communicating information to staff. They have maintained a positive attitude and have not given up.
- Thanks to partners including the Iowa Department of Public Health, Department of Administrative Services, Department of Management, the Governor's Office, hospitals across the state, and the State Hygienic Lab.
- Mr. Kudej asked about an article reporting that State legislators have been moved ahead of corrections staff and incarcerated individuals to receive the COVID vaccine. He asked that we verify if this is true.

Director's Update and COVID-19 Update – Dr. Skinner, Director

- At the beginning of March 2020, the DOC was 22% overcapacity. Today the population is 8.2% over capacity with a current population of 7,500.

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- Since March 2020, there have been 2267 paroles and 753 work releases with a decline of 995 individuals incarcerated.
- Since April 2020, the Board of Parole has completed 10,891 reviews.
- The DOC has seen a decrease in the number of COVID-19 cases.
 - In terms of incarcerated individuals, there have been a total of 4,471 positive cases of COVID-19. Of these 4,421 have recovered with 33 currently positive cases at this time. There are two currently at UIHC and there have been 17 COVID-19 related deaths.
 - There have been a total of 683 COVID-19 positive cases among staff, of which 676 have recovered and 8 currently positive.

Department of Corrections Population - Sarah Fineran, Research Director

- Between March and May 2020, the DOC worked in conjunction with the Board of Parole and Community Based Corrections to reduce the prison population from 22% overcapacity in March to just 8% overcapacity in August.
- Admissions were halted at two points in time - in May and in August. During this time the DOC continued to work with jails in order to receive disruptive individuals or those who posed a threat to public safety.
- Since March 2020, monthly prison admissions have declined by nearly 51%. Several factors have impacted this including management of clients in the community and shut down of criminal court proceedings. As of December 20, 2020, the Judicial Branch reports there are 17,824 felony cases awaiting trial in the state. By comparison, in August 2019, there were 14,324 pending felony cases. As cases are heard, there is the possibility that the prison population will increase.
- Admissions due to revocations tend to be higher than admissions due to new court commitments. During the past 11 month period, revocation admissions have decreased by 49% while admissions due to new court commitment have decreased by 34%.
- Probation revocations tend to be higher than parole revocations. This could be due in part to the fact that the probation population is much larger than the parole population. Probation revocations have declined by 52% while parole revocations have declined by 34%.
- Prison closures have decreased by about 51% with peak closures in April and May 2020. Prison closures due to discharge or parole to discharge have declined by 57%, while paroles and other placements have declined by 45%.
- The releases during this time period affected the community corrections offenders served populations.
- Probation populations have declined by 7% since March. The parole population, however, peaked at 4,915 clients due to releases in April and May.

Documents from this presentation can be found on the DOC website, attached to the February 4, 2021 DOC Board Meeting Handouts.

FY 2021 - FY 2023 Budget Update – Steve Dick, Fiscal Manager

- The current FY2021 budget is in pretty good shape at this point in time. There are areas being monitored. CARES funding of \$13.6 Million received in December went towards salaries and overtime and helped with the forecast.
- The Department is working to fill vacant positions when possible.
- There have been expenses outside of the norm due to various pandemic needs.
- The County Confinement budget has been strained due to housing individuals in the county jails longer than usual due to the COVID-19 testing process.
- The Governor's Budget Recommendations for FY2022 and FY2023 include:
 - \$663,000 and 9 FTEs for a treatment pilot program in rural communities
 - \$275,000 and 4 FTEs for a treatment pilot program at MPCF
 - Salary annualization of \$5M
- There were Capitals requests for infrastructure and technology including a kitchen replacement

at CCF (\$5.2M in FY2022 and \$4.0M in FY2023), as well as storage networks at IMCC and ICIW. These Capitals requests were presented to the committee yesterday.

- Mr. Kudej asked if IT has been upgraded this year due to the increase from last year. This could have been impacted by the implementation of video visitation. There have been additional costs for other options in place of visiting (phone calls and emails). Mr. Dick will do further research into these expenses.

Documents from this presentation can be found on the DOC website, attached to the February 4, 2021 DOC Board Meeting Handouts.

DOC Bill – Cord Overton, Legislative Liaison (Action item)

- HSB87 and SSB1102 will allow DOC staff, if authorized by the Director, to continue to access vital information from the Court information system. It was found that by Code, these employees who are not Peace Officers by Code definition, should not have access to the systems which contain information our Department utilize. The Bill has been generally well received at the Legislature and it has passed through the House Public Safety Committee, making it funnel proof. It has also passed the Senate Subcommittee and will move on to the full Senate Justice Committee.
- New numbers will be assigned to these bills now that they have been voted out of committee.
- A motion to support the DOC Bill HSB87 / SSB1102 and any new numbers that are assigned to these bills once they come out of Study Bill status was made by Mr. Larry Kudej, which was seconded by Dr. Mary Chapman. The motion was **approved** with unanimous approval.

Documents from this presentation can be found on the DOC website, attached to the February 4, 2021 DOC Board Meeting Handouts.

Legislative Session Updates – Cord Overton, Legislative Liaison

- It was noted that Mr. Trent Keller has joined the Board of Corrections.
- The Department policy has been focused on HSB87 / SSB1102.
- Today would have been the DOC and Board of Corrections day to meet with legislators at the Capitol with the Annual Legislative Breakfast. Due to the pandemic and the weather, it is probably for the best that the Breakfast was canceled. ICIW was able to provide cookies for all of the legislators and the public this morning. A legislative overview packet was also provided to the legislators to provide an idea of what has been going on in Corrections over the past year.
- The Justice Systems Budget Committee will meet with the Director On February 23rd. Due to COVID-19, only House members will be present and live-streamed.
- The DOC does not weigh in on political bills, but does act as a source of information for Legislators. These include the Governor's Criminal Justice Reform Bill (SSB1140). There are also versions of a death penalty bill or modifications to the Sex Offender Registry.
- Chair LaMere asked about changes proposed to the Sex Offender Registry. There are several bills that would impact the registry from legislators as well as the Department of Public Safety. It is unclear if any will move forward in the process.
- Mr. Kranto asked if there are any bills that the DOC supports or if bills are only tracked. The DOC rarely registers in favor of many bills due to involvement in the development of fiscal notes and the need to be an unbiased source of information.

Public Comments - Public

- No comments were made.

Open Discussion - Board Members

- Chair LaMere welcomed the new Board of Corrections Member, Mr. Trent Keller.
- Mr. Keller is honored and excited to join the Board. He is a barber from Waterloo, Iowa and is from a law enforcement family. He looks forward to learning in order to assist the Board. He is pleased to have a voice and be a part of the Board of Corrections. Mr. Kudej and Dr. Chapman welcomed Mr. Keller to the Board and look forward to working with each other.

Adjournment - Board Members

- A motion to adjourn the meeting was made by Dr. Mary Chapman, which was seconded by Mr. Larry Kudej. The meeting was unanimously concluded.

Respectfully Submitted,

Johana Herdrich, Executive Assistant

CORRECTIONS DEPARTMENT[201]

Notice of Intended Action

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

The Corrections Department hereby proposes to amend Chapter 7, “Waivers and Variances,” Chapter 50, “Jail Facilities,” and Chapter 51, “Temporary Holding Facilities,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 904.108.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 17A.9A.

Purpose and Summary

The proposed amendments update Chapters 7, 50, and 51 of the Department’s rules in accordance with changes included in 2020 Iowa Acts, House File 2389, section 10. The changes call for deletions of the word “variance” when the word is used in relation to “waiver.” Amendments are also proposed for the submission of information regarding waivers on the Legislative Services Agency’s Internet site.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on February 2, 2021. Comments should be directed to:

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

Public Hearing

If requested, a public hearing to hear requested oral presentations will be held on February 2, 2021, via conference call from 9 to 10 a.m. Persons who wish to participate in the conference call should contact Michael Savala before 4:30 p.m. on January 29, 2021, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing. The public hearing will be canceled without further notice if no oral presentation is requested.

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend **201—Chapter 7**, title, as follows:

WAIVERS AND VARIANCES

ITEM 2. Amend rule 201—7.1(904) as follows:

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.”~~

ITEM 3. Amend rule 201—7.4(904) as follows:

201—7.4(904) Criteria for waiver ~~or variance~~. In response to a petition completed pursuant to rule [201—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. to 4. No change.

ITEM 4. Amend rule 201—7.5(904) as follows:

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) and 7.5(2) No change.

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 Division, 420 Watson Powell Jr. Way~~ [510 E. 12th Street](#), Des Moines, Iowa 50309. The petition must conform to the form specified in rule [201—7.17\(904\)](#).

ITEM 5. Amend rule 201—7.12(904) as follows:

201—7.12(904) ~~Summary reports~~ Submission of waiver information. ~~Semiannually, the department shall prepare a summary report identifying~~ The department shall submit information about granted and denied waivers to the Internet site pursuant to Iowa Code section 17A.9A within 60 days. The submission shall identify 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 submission shall detail the extent to which the granting of a waiver has affected the general applicability of the rule itself and the extent to which the granting of the waiver has established a precedent for additional waivers. ~~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.~~

ITEM 6. Amend rule 201—7.17(904) as follows:

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

ITEM 7. Amend rule ~~201—50.1(356,356A)~~, definition of “Waiver/variance,” as follows:

~~“Waiver/variance”~~ means a waiver of a specific standard granted by the Iowa department of corrections in accordance with 201—Chapter 7.

ITEM 8. Amend subrule 50.2(4) as follows:

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~~.

ITEM 9. Amend subrule 50.24(6) as follows:

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.

ITEM 10. Amend rule ~~201—51.1(356,356A)~~, definition of “Waiver/variance,” as follows:

~~“Waiver/variance”~~ means waiver of a specific standard granted by the jail inspection unit in accordance with these rules.