



IOWA BOARD OF CORRECTIONS AGENDA
Friday, November 4, 2011
9:00 a.m.

Iowa Department of Corrections
Central Office
510 East 12th Street
Des Moines, Iowa 50319
515.725.5708

TOPIC	PRESENTER
Call to Order	Chair David Erickson
<ul style="list-style-type: none"> Opening Remarks Approval of October 7, 2011 Minutes (Action Item) Next Board meeting will be February 2, 2012 Corrections Central Office, 510 East 12th Street, Des Moines (A meeting notice will be posted on the DOC website: www.doc.state.ia.us) 	
Director's Comments	Fred Scaletta
Legislative Update	Fred Scaletta
Level of Service Inventory – Revised (LSI-r)	Lettie Prell
2012 Meeting Locations	Board Members
Open Discussion	Board Members
Adjournment	Board Members

Note: Board members will participate by teleconference call. Members of the media, public or other interested parties may attend at the Department of Corrections, Central Office located at the corner of East 11th and Des Moines Streets in Des Moines (address above).

The Board of Corrections' agenda is posted on the DOC Web Site at www.doc.state.ia.us under the Board of Corrections Tab.

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IOWA BOARD OF CORRECTIONS MINUTES October 7, 2011

Iowa Department of Corrections
Sixth Judicial District Department of Correctional Services
Hope House Residential Facility
2501 Holiday Road
Coralville, Iowa

Board Members Present: Chair David Erickson, Nancy Turner, Sheryl Griffith, Johnie Hammond, Dr. John Chalstrom

Absent: Rev. Michael Coleman

DOC Staff Present: Director Baldwin, Gary Hinzman, Brad Hier, Sheryl Dahm, Jerry Bartruff, Dr. Malinda Lamb, Dan Craig, Dr. Harbans Deol, Angela Brubaker, Sam Black, Patti Wachtendorf, Rebecca Bowker, Karen Herkelman, Cathy McGinnis, Melanie Viner, Rebecca Bowker, Nick Ludwick

Visitors: Jean Basinger, Iowa CURE, Eleena Mitchell-Sadler, Ombudsman; Marty Hathaway, AFSCME; Tom Ferguson, BHCAO Dennis Hart, IDOM

Call to Order, Chair David Erickson

- Chair Erickson called the meeting to order and asked members for approval of the September 16, 2011 Minutes (**Action Item**). Members did not ask for changes and Sheryl Griffith made a motion to approve the minutes. Nancy Turner seconded the motion; **motion approved**.
- The next Board meeting will be a Conference Call, November 4, at Corrections Central Office, 510 East 12th Street, Des Moines

Welcome Remarks, Gary Hinzman

- The Sixth Judicial District is administered by a local Board of Directors supported by a six advisory committees.
- Hope House provides services for male work releasees, second and third offense drunk drivers, and probationers. Fifty-five men are currently housed at Hope House.

Director's Comments, John R. Baldwin

- Director Baldwin praised District Director Hinzman and staff and said they do a great job of carrying the message out: smaller caseloads are critical to success, adequate staff and funding for treatment services, funding for costs that are not discretionary, and mental health services are priorities in keeping Iowa's communities safe.
- Staff has been working on the Anderson calculations (*Iowa Supreme Court decision Anderson v. State, July 29, 2011*) and it is hopefully they will be done the end of November. A lot of staff time has been involved in the calculations; approximately 250 offenders have been released from the prison and 300 from Community-Based Corrections (CBC).

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- Chair Erickson asked what the population count today is and Director shared that it was 8,626 and would like to see the count around 8,200.
- Director Baldwin participated as a trainer for new Directors of Corrections in Chicago.
- Jerry Bartruff will be speaking about the Judicial and DHS mental health approach. DOC is the single largest supplier of mental health services and folks are talking about how we can modify that approach.
 - DOC's first recommendation is going to be Jail Diversion as a core service.
 - DOC is looking for a major shift how the state deals with mentally ill offenders.
 - Resources are needed.
- The Legislative Interim Study Council appointed a task force on Geriatric and Mental Health treatment within the Corrections facilities. The group met at Oakdale last week and toured the facility. There is talk about opportunities to move some of the medically challenged and geriatric offenders out of Corrections. The committee will meet in Des Moines on November 30 and make final recommendations.
- Director Baldwin attended a Fifth District Drug Court graduation in last Friday.
- Director Baldwin toured the new kitchen at North Central Correctional Facility.
- Senator Hancock contacted Director Baldwin regarding the Iowa Law Enforcement Academy who would like to take over the DOC Learning Center. There will be a public hearing November or December. DOC needs more information. In the past, ILEA provided services for most of the medium and small county jails and some of the police forces across Iowa. Polk County and Linn County do not use them. Will keep the board up to informed.
- The Department is not hiring many staff due to the budget, but we will hire a mix of correctional officers, a psychologist, and a nurse at Anamosa within the next two-three months.
- The Department was awarded a certificate from the Governor's office for the largest donation by a state agency to the Food Bank of Iowa.
- Three children of DOC employees' received a \$1000 Susan M. Hunter Scholarship award. Susan, who was a warden in Iowa, died of breast cancer and the nations Director's of Corrections raise money for the scholarship.

Specialty Courts, Dr. Malinda Lamb

- Drug Courts have been shown to be effective in lowering relapse and recidivism and work for high need offenders.
- Probation clients who have a pending probation violation or pending new charges are candidates for Drug Court.
- Linn and Johnson Counties both have Drug Courts.
 - Linn County started their Drug Court program in 2007 and Johnson County started their program in March 2008.
 - The approach is intensive supervision; offenders attend the court weekly initially in front of the Drug Treatment Court team and peers.
 - Drug Court is a prison diversion program. The person that takes advantage of Drug Court is at the point they are looking at going to prison.
- Mental health issues are addressed in Drug Court.
- The team does home checks and clients are tested for drugs and alcohol.
- The court presents a team approach. The team consists of a judge, coordinator, probation officer, county attorney, defense attorney, substance abuse treatment provider, and a mental health professional.
- The team meets in the morning on the day of court without clients present and discusses each person's needs and makes a group decision.
- Court is informal and is based on immediacy of sanctions and incentives. Clients attend court in the afternoon and sit at the same table with the court team.
- Employment is incorporated into the program.

Melanie Told Her Story

Melanie was arrested in 2006 for meth related charges. She was part of regular street probation. In 2008 she received another drug charge – intent to manufacture – she received 12 felony charges in one day. Melanie was very much on her way to prison.

“I came from a great family and I can’t tell you why I abused drugs,” Melanie shared. She was not accepted into the Drug Court program in January 2009. She wrote the judges and probation officers.

“Drug Court was able to help me with a lot of things; not only getting the substance abuse help I needed but to make me accountable.” Melanie acknowledged that the team helped her with every day things that came her way that she did not know how to handle.

“Drug Court was so individualized and treatment plans are individualized – that is why it is so successful.”

Melanie has been sober for two years. She was able to purchase a car for herself and one for her child. She works full-time as a floor supervisor. She thanked the team for helping get her life on track.

- Chair Erickson asked whether each district had a Drug Court and Director Baldwin said that all districts have Drug Courts. The Third District uses a panel instead of a judge.

Project Equinox: Equilibrium, Balance, and Stability, Karen Herkelman

- Project Equinox is a Mental Health Court. Many clients were being denied admission into Drug Court because of their mental health issues.
- Project Equinox was started in September 2009 with grant funds and District Director Herkelman said staff is still learning.
- Team members were introduced:
 - Thomas Bower, District Court Judge
 - Thomas Ferguson, County Attorney (also serves on the Drug Court)
 - Helen Kemp, Mental Health Counselor
 - Dean Olson, Defense Attorney
 - Scott Dolan, Department Correctional Services Supervisor
 - Rob Wymore, Probation Officer
- Officers do a lot of home supervision; a lot of drug testing.
- Goals of the program: Reduce the frequency of encounters with the criminal justice system and lower recidivism; reduction in hospitalization visits (some not taking meds end up in the ER and hospital); improve the mental health, well-being and quality of life of the participants; and increase public safety. The goal is also to provide a network of support and get in the habit to seek mental health counseling, continue to use their meds, and follow-through with the support system.
- Dean Olson shared the significant advantage of mental health court is not only consistency of same people involved, same judge, same treatment provider – the level of knowledge. Courts are poorly equipped to understand how mental illness works. Consistency of involvement lets us look at the individual.
 - The mental health court currently has 26 offenders. The vast majority of these folks have a major substance abuse issue. Most of the folks in drug courts have mental health issues.

Helen Kemp, Mental Health Counselor

- Counselors provide the day to day work with the clients from getting people medication – which is probably the biggest part of the job (some medication can cost up to \$1000 per month), finding a doctor, help with housing, and transportation is usually a problem.
- A full-time psychiatrist is dedicated to the program.
- Counselors make home visits and work with clients and children issues. The counselor may go to juvenile court with the client.

Mental Health and Disability Services Redesign, Jerry Bartruff

- Governor Branstad and the Legislatures acknowledge the mental health system is not working and needs some changes.
- We will see a change after the work groups make recommendations to the interim committees – funding is needed.
- SF 525 intent was defined as looking at disability services, and shifting the funding from a county process to a regional process.
- Six work groups have met for the last 2 months. Jerry is working with the Adult Mental Health Redesign workgroup. Katrina Carter (Best Practices for Brain Injuries) and Director Baldwin (Regional – Chapter 229 – Civil Commitment) are also part of work groups.
- Defining the regions will be challenging. Each region will have a set of mandated core services.
- Eligibility will be determined by the county of legal residence. Jerry's group is proposing a standardized functional assessment tool used by everyone across the state.
- The work groups are looking at outcome and performance measures and data collection.
- DHS will be looking at electronic medical records.
- Crisis interventions and diversion services – involves law enforcement where CBCs become involved in the crisis intervention team.
- Mental health treatment and prevention is part of the core services.
- The group discussed engaging the family in the process, coordinating health issues with mental health issues.
- Part of next meeting will include discussion on whether mental health units should be closed or how can we re-purpose them.
- Director Palmer has been attending open meetings and some topics that citizens ask about are: individualized treatment, safe housing and employment, and what will transitioning look like.

Iowa Correctional Institution for Women Transition Team Update, Patti Wachtendorf

- Staff is continuing to meet weekly and currently is working on the facility management system and food, fuel, and equipment critical path planning.
- Over 500 field training operations have been identified which will develop the foundation for post orders in the new institution.
- Recruitment is needed for the 195 new staff. Letters have gone out to more than 30 colleges and career fairs are scheduled for the fall and spring.
- Building H – the Health Care building is 2 ½ football fields long; the slab and steel are going up right now.
- Building A – the Administration building; it is hopeful to have the building sealed before winter so work can continue inside.
- General population housing will house 256 women.

Iowa State Penitentiary Transition Teams Update, Nick Ludwick

- 13 staff is involved in the transition team. The team is a multi diverse group that brings different points of view. A collaborative effort is being made to be part of the team and change. Staff will be moving to a facility that has four times the current space.
- New technology will be in place from the oldest facility west of the Mississippi to a state-of-the-art facility.

- The team is focusing on the daily operations and security.
- Recruitment is a challenge in southeast Iowa. Medical and psych staff are difficult to recruit. Recruitment is taking place at University of Iowa, Western Illinois University, and Southeastern Community College. Contact has been made with the National Guard offices and community outreach.
- The training plan for current staff will require some education so they understand the benefits of direct supervision.
- A large task is the 1200 doors that will be part of the master key plan.
- Considering is being made for the actual move.
- Offenders will need to be educated – information will be provided to offenders – some have been there a very long time and going to a new place will be a big adjustment for them.
- Information on the new facility is being shared with staff, leadership, media and community meetings.

Open Discussion, Board Members

- Johnie Hammond asked if the DOC has statutory issues that are going to be taken to the Legislature. Director Baldwin said there will be broad legislative issues. The Anderson and Walker cases will be discussed. Fred Scaletta will give an update at the meeting in November.
- Johnie Hammond also shared a concern that the LSI-r (Level of Services Inventory – Revised) is discriminatory against African Americans and it may be racially biased. Director Baldwin shared that the Director of Research, Lettie Prell, does not agree with that assessment. Director Baldwin will schedule Lettie to present at the next board meeting on the LSI-r.

Adjournment Board Members

Charles Larson, Sr. made a motion to adjourn the meeting; Nancy Turner seconded the motion. **Meeting adjourned.**

Respectfully submitted,

Fay Olson, Executive Secretary



IOWA BOARD OF CORRECTIONS MEETING MINUTES Friday, November 4, 2011

Iowa Department of Corrections
Central Office
510 East 12th Street
Des Moines, Iowa 50319

Board Members Present on Conference Call: Chair David Erickson, Vice Chair Rev. Michael Coleman, Dr. John Chalstrom, Sheryl Griffith, Johnie Hammond, Charles Larson, Sr., Nancy Turner

DOC Staff Present: Fred Scaletta, Jerry Burt, Jerry Bartruff, Diann Wilder-Tomlinson, Brad Hier, Lettie Prell, Diana Billhorn, Kris Weitzell, Sheryl Dahm, Dan Duus, Brad Hier, Curt Smith

Visitors Present: Beth Lenstra, LSA; Betty Christensen; Marty Ryan, Jean Basinger, Justice Reform Consortium; Gary Sherzan; Eleena Mitchell-Sadler, Ombudsman Office; Paul Stageberg, CJJP; Rich Martell, Friends of Iowa Women Prisoners

Call to Order, Chair David Erickson

- This meeting is being conducted via a conference call while DOC staff and visitors are meeting in Central Office. Chair Erickson called the meeting to order. Fred Scaletta took roll call; all board members were present on the call.
- Approval of October 7, 2011 Minutes (**Action Item**)
 - Chair Erickson asked for approval of the October 7 minutes. Dr. Chalstrom made a motion to approve the minutes; Sheryl Griffith seconded the motion. **Motion passed unanimously.**
- The next Board meeting will be February 2, 2012 at the Corrections Central Office, 510 East 12th Street, Des Moines in conjunction with the Iowa Corrections Association Legislative Breakfast. (A meeting notice will be posted on the DOC website: www.doc.state.ia.us.)

Director's Comments, Fred Scaletta

- Director Baldwin and Diann Wilder-Tomlinson attended a surprise award ceremony for Shift Supervisors at Iowa Correctional Institution for Women. The supervisors have worked under very challenging circumstances when supervisory staff was cut by 50% and special recognition was given to them.
- DOC and DHS efforts to promote legislation to redesign the mental health system in Iowa are continuing. A draft report was issued to the Legislative Interim Committee October 30, 2011. One recommendation was for core services in each region with a jail diversion program in each region – exploration of mental health courts, specialty training for law enforcement for a crisis team.
- Director Baldwin attended the second series of mental health meetings sponsored by the Association of State Correctional Administrators. The group included behavioral health

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experts and research folks who discussed what works and how to better treat those who suffer from mental health

- Director Baldwin attended an open house at the Waterloo Women's Center for Change. Even though the facility has been completed and the administrative staff has moved in, the residential part of the facility is waiting for funding.
- The Anderson court ruling has been completed by staff and records were checked and double-checked by the Records Administrators in a timely manner. Fred highly praised the Records Administrators who came to Central Office to recalculate release dates.
 - The Anderson calculations only pertain to probationers.
 - The Department plans to track the progress of offenders who were released by the Anderson ruling.
 - One sex offender has been recommended for civil commitment as a sexually violent offender. No sex offender was immediately released.

Legislative Update, Fred Scaletta

Bills and changes that will be filed on behalf of the Department if approved by the Board of Corrections changes are noted below – changes in red.

904.513 Assignment of OWI violators to treatment facilities.

2. Upon request by the director, a county shall provide temporary confinement for offenders allegedly violating the conditions of assignment to a program under this chapter, if space is available in the county. The department shall negotiate a reimbursement rate with each county. The amount to be reimbursed shall be determined by multiplying the number of days a person is confined by the average daily cost of confining a person in the county facility as negotiated with the department. A county holding offenders in jail due to insufficient space in a community residential facility shall be reimbursed. Payment shall be made upon submission of a voucher executed by the sheriff and approved by the director. A voucher seeking payment shall be submitted within ~~fifteen~~ thirty-five days of the end of a calendar quarter. If a voucher seeking payment is not made within ~~fifteen~~ thirty-five days of the end of the calendar quarter, the request ~~may~~ shall be denied by the department.

904.908 Alleged work release violators - temporary confinement by counties - reimbursement.

3. Any request for reimbursement under subsection 2 shall be made within ~~fifteen~~ thirty-five days of the end of a calendar quarter. If a request for reimbursement is not made within ~~fifteen~~ thirty-five days of the end of the calendar quarter, the request ~~may~~ shall be denied by the department.

906.17 Alleged parole violators - temporary confinement by counties - reimbursement.

3. Any request for reimbursement under subsection 2 shall be made within ~~fifteen~~ thirty-five days of the end of a calendar quarter. If a request for reimbursement is not made within ~~fifteen~~ thirty-five days of the end of the calendar quarter, the request ~~may~~ shall be denied by the department of corrections.

EXPLANATION

These code amendments at the request of the Department of Corrections and Department of Management will expedite and streamline the billing and payment process for reimbursement to county jails for auditing and budgeting purposes.'

'901.2 Presentence investigation.

Upon a plea of guilty, a verdict of guilty, or a special verdict upon which a judgment of conviction of a public offense may be rendered, the court shall receive from the state, from the judicial district department of correctional services, and from the defendant any information which may be offered which is relevant to the question of sentencing. The court may consider information from other sources.

4. Validated Risk Assessments approved by the department of corrections to include category and score.

The court may withhold execution of any judgment or sentence for such time as shall be reasonably necessary for an investigation with respect to deferment of judgment, deferment of sentence, or suspension of sentence and probation. The investigation shall be made by the judicial district department of correctional services. The purpose of the report by the judicial district department of correctional services is to provide the court pertinent information for purposes of sentencing and to include suggestions for correctional planning for use by correctional authorities subsequent to sentencing.'

'901.3 Presentence investigation report.

If a presentence investigation is ordered by the court, the investigator shall promptly inquire into all of the following:

1. The defendant's characteristics, family and financial circumstances, needs, and potentialities, including the presence of any previously diagnosed mental disorder.
2. The defendant's criminal record and social history.
3. The circumstances of the offense.
4. The time the defendant has been in detention.
5. The harm to the victim, the victim's immediate family, and the community. Additionally, the presentence investigator shall provide a victim impact statement form to each victim, if one has not already been provided, and shall file the completed statement or statements with the presentence investigation report.
6. The defendant's potential as a candidate for the community service sentence program established pursuant to section 907.13.
7. Any mitigating circumstances relating to the offense and the defendant's potential as a candidate for deferred judgment, deferred sentencing, a suspended sentence, or probation, if the defendant is charged with or convicted of assisting suicide pursuant to section 707A.2.

8. Validated Risk Assessments approved by the department of corrections to include category and score.

All local and state mental and correctional institutions, courts, and police agencies shall furnish to the investigator on request the defendant's criminal record and other relevant information. With the approval of the court, a physical examination or psychiatric evaluation of the defendant may be ordered, or the defendant may be committed to an inpatient or outpatient psychiatric facility for an evaluation of the defendant's personality and mental health. The results of any such examination or evaluation shall be included in the report of the investigator.

EXPLANATION

Following discussions of the Public Safety Advisory Board which included representatives of the Legislature, Judicial Branch, County Attorney's Association, Public Defenders Office, Attorney General's Office, Public Safety/Law Enforcement, Sheriff's Association and Department of Corrections the proposed amendments to Iowa Codes 901.2 and 901.3. The purpose of the amendments is to provide an objective assessment of risk to assist Judges in sentencing decision making. Many of the Department of Correctional Services Judicial Districts already include these assessments within the Presentence Investigation Reports, however this amendment will ensure a statewide standard practice.'

Level of Service Inventory – Revised (LSI-r), Lettie Prell

- The Iowa Public Safety Advisory Board was created by HF 2531 (FY 2011 Standing Appropriations Act). The board is under the Division of Criminal and Juvenile Justice Planning (CJJP) within the Department of Human Rights.
- The Public Safety Advisory Board met recently and voted to recommend a change to Iowa law that would require validated risk assessment information in Presentence Investigations (PSI) so that judges may have information regarding offender risk levels.
 - The Pre Sentence Investigation (PSI) serves two primary purposes. The first is to assist the bench in making sentencing decisions. The second is to assist the

- Department of Corrections in the management of offenders if sentenced to probation or prison.
- Depending on the jurisdiction, the judge or the case, the PSI might be required after judgment and before sentencing or prior to both.
 - The Pre Sentence Investigation is made up of sections including:
 - The defendant's characteristics, family and financial circumstances, needs, and potentialities, including the presence of any previously diagnosed mental disorder.
 - The defendant's criminal record and social history.
 - The circumstances of the offense.
 - The time the defendant has been in detention.
 - The harm to the victim, the victim's immediate family, and the community. Additionally, the presentence investigator shall provide a victim impact statement form to each victim, if one has not already been provided, and shall file the completed statement or statements with the presentence investigation report.
 - The defendant's potential as a candidate for the community service sentence program established pursuant to section 907.13.
 - Any mitigating circumstances relating to the offense and the defendant's potential as a candidate for deferred judgment, deferred sentencing, a suspended sentence, or probation, if the defendant is charged with or convicted of assisting suicide pursuant to section.
 - In most cases this material is a summarization from other sources. In some sections it is derived from or supplemented by the defendant's statement.
 - Not all of the information reported in the PSI is confidential, however the PSI in its entirety as a document is confidential, as well as some of the source material, which may have been obtained through a signed release.
 - If the judge orders a PSI, the relevant information in the order will be sent to the Division of Community Corrections of the Department of Corrections. It is required that the PSI be made available to the court three days prior to the scheduled hearing date.
 - The PSI already includes narrative discussion of the factors included in the Level of Service Inventory-revised (LSI-r), which is a likely candidate for the risk assessment to be placed in the PSIs, and in fact, is already included in many PSIs in the state. Iowa law already requires a discussion of the defendant's criminal record social history, and the defendant's potential as a candidate for community supervision.
 - When a judge reads the PSI he or she is already considering the factors that go into an LSI-r, in narrative form. Having a score and risk category in the PSI then would provide a standardized, objective risk measure.
- The PSI already includes a narrative section of the factors included in the Level of Service Inventory-Revised (LSI-r), which is a likely candidate for the risk assessment to be placed in the PSI. Many PSIs already have the LSI-r included.
 - Iowa law requires a discussion of the defendant's criminal record, social history and the defendant's potential as a candidate for community supervision.
 - Johnie Hammond shared her concern using the LSI-r as a risk assessment tool. Her understanding of the tool is that it is used to determine offender treatment needs. Lettie clarified that the LSI-r is indeed a measure of offender risk for recidivism and has been validated as a good predictor of new criminal convictions. The needs in the LSI-r are all criminogenic factors, meaning that if these needs are addressed through treatment, the offender's risk of recidivism is lowered.
 - Johnie Hammond asked the purpose of the proposal and shared her concern that components of the LSI-r related to poverty. She does not want to see unintentional consequences of such offenders having a higher risk and therefore a higher likelihood of being sentenced to prison.
- Lettie said it was to provide objective information for the judges, that it is only one piece of information in the PSI, and that PSIs already contain information regarding

- offenders' living situation and financial status, in narrative form. The objective risk score has the potential of helping keep lower risk offenders out of prison.
- Rev. Coleman asked if the document would have any binding power on a judge and Lettie said no.
 - Gary Sherzan shared with board members that all the court will see is the final risk assessment results.
 - Chair Erickson shared that it is one of the tools judges will look at when determining sentencing.
 - Fred added the PSI already includes all information that is used to do LSI-r assessments. It describes current and past criminal history and is another tool for judges to use for sentencing.
 - Chair Erickson was not aware the bill change was to be approved at today's meeting and said board members do not know enough about their roll and would like more information so they can make a recommendation or not. Chair Erickson asked for another meeting and Fred Scaletta will check on deadlines and will get information to the board members.
 - One dissenting vote by the Advisory Board suggested there was racial bias in the LSI-r. Lettie was asked to specifically address the racial bias issue today. She shared a white paper discussing the documentation of the studies conducted that establish the validity of the LSI-R to predict recidivism among offenders of all races and ethnicities in Iowa and elsewhere. The Indiana Supreme Court upheld the inclusion of LSI-R and other assessment information in PSIs in that state last year. The use of objective risk assessment in PSIs is a national trend toward evidence-based sentencing, and is aimed at improving judicial decision-making.
 - Beth Lenstra informed the board that the proposed language says a validated risk assessment is required, and does not specifically mention the LSI-r. The judges wanted something in the PSI to weight what kind of sentence they would impose. The reverse could happen if judges are not properly trained and could send more to prison and suggested the DOC might want to look at how many high risk offenders are going to CBC instead of prison.
 - Under current law the Board of Corrections has the authority to approve or disapprove pre-filed bills.
 - Marty Ryan, Justice Consortium Reform, shared his concerns and believes the report has increased prison admission of African Americans and does not agree that the LSI-r is an objective tool.
 - Marty also shared his concern with the problems in the Anderson ruling. DOC had to go back to look at 3,000 records; 39% who had been on probation or parole that reentered the system and suggested that it was a very high figure for people given parole the first time in the system and the PSI is already a tool used in the sentencing guidelines.
 - Marty's biggest concern is he believes this is an area that is outside the realm and scope of what the DOC should be doing and believes the DOC should focus on current inmates and not who is coming into the system.
 - Chuck Larson, Sr. pointed out that the DOC and CBC do have a responsibility – they provide the PSI to the court – the courts want to look at as much information as possible.
 - Johnie Hammond would like a summary on how judges throughout the state use this material. Lettie responded that the judges are unfamiliar with the risk scores already in many PSIs and that is the issue – they would like to understand this information. Lettie suggested speaking with Board of Parole members, who have used objective risk assessment for decades to make release decisions, would help her understand how this information is used. It is only one of many factors the Board considers.
 - Chair Erickson said the Board's roll is confused and would like another meeting to clarify the Board's roll.
 - Dr. John Chalstrom thanked Lettie and believes the research has the objectivity needed but would also like to know the board's role.

2012 Meeting Locations, Board Members

- Chair Erickson informed the Board that the Code of Iowa requires them to meet 4 times per year and opened discussion on meeting less than 12 times per year as they do currently.
 - Dr. Chalstrom suggested the two meetings in August be condensed to one full day and prefers more meetings telephonically.
 - Johnie Hammond suggested that meeting person-to-person is a more effective meeting but would like to have the option for those who have a distance to drive. Johnie also suggested meeting 10 times per year.
 - Charles Larson Sr. suggested meeting every other month.
 - Rev. Coleman suggested a total of 10 meetings with 4 or 5 of them being a conference call.
 - Chair Erickson would like to continue the discussion and have the item put on the agenda for the next meeting.
- Possible locations for the 2012 meetings are: Clarinda, Anamosa, Mitchellville, Davenport, Council Bluffs and Sioux City. The Board will need to go to Fort Madison also this year.

Open Discussion, Board Members

Fred informed the Board of the deadline to file bills and said he would get back to them very quickly and suggested the next meeting will probably be a conference call.

Staff and board members discussed the possibility of having judges or others come to next meeting to discuss the LSI-r and the possibility of training.

Adjournment, Board Members

Charles Larson Sr. made a motion to adjourn the meeting; Sheryl Griffith seconded the motion; **motion passed.**

Respectfully Submitted,

Fay Olson, Executive Secretary

CHAPTER 901 JUDGMENT AND SENTENCING PROCEDURES

901.2 Presentence investigation.

Upon a plea of guilty, a verdict of guilty, or a special verdict upon which a judgment of conviction of a public offense may be rendered, the court shall receive from the state, from the judicial district department of correctional services, and from the defendant any information which may be offered which is relevant to the question of sentencing. The court may consider information from other sources.

The court shall not order a presentence investigation when the offense is a class "A" felony. If, however, the board of parole determines that the Iowa medical and classification center reception report for a class "A" felon is inadequate, the board may request and shall be provided with additional information from the appropriate judicial district department of correctional services. The court shall order a presentence investigation when the offense is any felony punishable under section 902.9, subsection 1, or a class "B", class "C", or class "D" felony. A presentence investigation for any felony punishable under section 902.9, subsection 1, or a class "B", class "C", or class "D" felony shall not be waived. The court may order, with the consent of the defendant, that the presentence investigation begin prior to the acceptance of a plea of guilty, or prior to a verdict of guilty. The court may order a presentence investigation when the offense is an aggravated misdemeanor. The court may order a presentence investigation when the offense is a serious misdemeanor only upon a finding of exceptional circumstances warranting an investigation. Notwithstanding section 901.3, a presentence investigation ordered by the court for a serious misdemeanor shall include information concerning only the following:

1. A brief personal and social history of the defendant.
2. The defendant's criminal record.
3. The harm to the victim, the victim's immediate family, and the community, including any completed victim impact statement or statements and restitution plan.

4. Validated Risk Assessments approved by the department of corrections to include category and score.

The court may withhold execution of any judgment or sentence for such time as shall be reasonably necessary for an investigation with respect to deferment of judgment, deferment of sentence, or suspension of sentence and probation. The investigation shall be made by the judicial district department of correctional services. The purpose of the report by the judicial district department of correctional services is to provide the court pertinent information for purposes of sentencing and to include suggestions for correctional planning for use by correctional authorities subsequent to sentencing.

CHAPTER 901 JUDGMENT AND SENTENCING PROCEDURES

901.3 Presentence investigation report.

If a presentence investigation is ordered by the court, the investigator shall promptly inquire into all of the following:

1. The defendant's characteristics, family and financial circumstances, needs, and potentialities, including the presence of any previously diagnosed mental disorder.
2. The defendant's criminal record and social history.
3. The circumstances of the offense.
4. The time the defendant has been in detention.
5. The harm to the victim, the victim's immediate family, and the community. Additionally, the presentence investigator shall provide a victim impact statement form to each victim, if one has not already been provided, and shall file the completed statement or statements with the presentence investigation report.
6. The defendant's potential as a candidate for the community service sentence program established pursuant to section 907.13.
7. Any mitigating circumstances relating to the offense and the defendant's potential as a candidate for deferred judgment, deferred sentencing, a suspended sentence, or probation, if the defendant is charged with or convicted of assisting suicide pursuant to section 707A.2.

8. Validated Risk Assessments approved by the department of corrections to include category and score.

All local and state mental and correctional institutions, courts, and police agencies shall furnish to the investigator on request the defendant's criminal record and other relevant information. With the approval of the court, a physical examination or psychiatric evaluation of the defendant may be ordered, or the defendant may be committed to an inpatient or outpatient psychiatric facility for an evaluation of the defendant's personality and mental health. The results of any such examination or evaluation shall be included in the report of the investigator.

EXPLANATION

Following discussions of the Public Safety Advisory Board which included representatives of the Legislature, Judicial Branch, County Attorney's Association, Public Defenders Office, Attorney General's Office, Public Safety/Law Enforcement, Sheriff's Association and Department of Corrections the proposed amendments to Iowa Codes 901.2 and 901.3. The purpose of the amendments is to provide an objective assessment of risk to assist Judges in sentencing decision making. Many of the Department of Correctional Services Judicial Districts already include these assessments within the Presentence Investigation Reports, however this amendment will ensure a statewide standard practice.

**CHAPTER 904
DEPARTMENT OF CORRECTIONS**

904.513 Assignment of owi violators to treatment facilities.

2. Upon request by the director, a county shall provide temporary confinement for offenders allegedly violating the conditions of assignment to a program under this chapter, if space is available in the county. The department shall negotiate a reimbursement rate with each county. The amount to be reimbursed shall be determined by multiplying the number of days a person is confined by the average daily cost of confining a person in the county facility as negotiated with the department. A county holding offenders in jail due to insufficient space in a community residential facility shall be reimbursed. Payment shall be made upon submission of a voucher executed by the sheriff and approved by the director. A voucher seeking payment shall be submitted within ~~fifteen~~ thirty-five days of the end of a calendar quarter. If a voucher seeking payment is not made within ~~fifteen~~ thirty-five days of the end of the calendar quarter, the request ~~may~~ shall be denied by the department.

**CHAPTER 904
DEPARTMENT OF CORRECTIONS**

904.908 Alleged work release violators - temporary confinement by counties - reimbursement.

3. Any request for reimbursement under subsection 2 shall be made within ~~fifteen~~ thirty-five days of the end of a calendar quarter. If a request for reimbursement is not made within ~~fifteen~~ thirty-five days of the end of the calendar quarter, the request ~~may~~ shall be denied by the department.

**CHAPTER 906
PAROLES AND WORK RELEASE**

906.17 Alleged parole violators - temporary confinement by counties - reimbursement.

3. Any request for reimbursement under subsection 2 shall be made within ~~fifteen~~ thirty-five days of the end of a calendar quarter. If a request for reimbursement is not made within ~~fifteen~~ thirty-five days of the end of the calendar quarter, the request ~~may~~ shall be denied by the department of corrections.

EXPLANATION

These code amendments at the request of the Department of Corrections and Department of Management will expedite and streamline the billing and payment process for reimbursement to county jails for auditing and budgeting purposes.

Presentation to the Iowa Board of Corrections: Risk Assessments in Presentence Investigations

The Iowa Public Safety Advisory Board recently voted to recommend a change in Iowa law to require a validated risk assessment score and risk category in presentence investigations. The measure had been promoted by two district court judges who were part of the Iowa team to a multi-state summit on corrections and sentencing policy.

Already the presentence investigation includes narrative discussion of the factors included in the Level of Service Inventory-Revised or LSI-R, which is a likely candidate for the risk assessment to be placed in PSIs, and in fact is already included in many PSIs in the state. Iowa law already requires a discussion of the defendant's criminal record, social history and the defendant's potential as a candidate for community supervision.¹ When the judge reads the PSI he or she is already considering the factors that go into an LSI-R, in narrative form. Having a score and risk category in the PSI then would provide a standardized, objective risk measure.

The Iowa Board of Parole has been required in Iowa law for decades to implement a risk assessment program.² Doing so enabled them to increase parole releases in the 1980s to comply with a legislatively imposed cap on the Iowa prison population with no significant increase in the threat to public safety, and new violent crime among releases actually dropped.³

While the LSI-R was developed in Canada on a population that was mainly White, it has since been validated on diverse populations, including Blacks, and found to be a valid predictor of recidivism.⁴ The LSI-R was validated on Iowa offender populations by Christopher Lowenkamp of the University of Cincinnati in 2006 and found to be a valid predictor of recidivism.⁵ Further research showed the correlation between LSI-R score and recidivism for black offenders as well as white offenders in Iowa supported the predictive validity of the LSI-R.⁶

The Iowa Division of Criminal and Juvenile Justice Planning (CJJP) reports Iowa prison admissions of African-Americans increased by 120 this past fiscal year, while White admissions went up by only 64. Since 2001 admissions of African-American offenders have risen 37.3% while admissions of White offenders decreased 4.9%.⁷ CJJP reports a larger percentage of prison admissions are aggravated misdemeanors.⁸

As part of the Iowa Equality in the Courts Task Force in 1993, UNI researchers studied racial bias in sentencing in the Iowa district court. They found a small but statistically significant difference in sentencing decisions that were not associated with any other factor than race. "Race played the most significant role in aggravated misdemeanor cases (as opposed to felonies). To test the importance of judicial discretion in sentencing, a sample of cases in the Iowa study were compared to the results that would be obtained using sentencing guidelines from Minnesota," which are based on offender risk as reflected in prior criminal history, and offense severity. "It was found that the Minnesota guidelines would eliminate the effects of race, suggesting that misuse of judicial discretion may produce some degree of racial disparity."⁹ The use of objective risk assessment at sentencing may therefore promote fairer sentences for all.

The Indiana Supreme Court upheld the use of the LSI-R assessments in PSIs in that state in June 2010. They write: [T]he concept of evidence-based sentencing practices has considerable promise. The *amicus* brief of the Indiana Judicial Center informs the Court of the growing acceptance and use of evidence-based practices in seeking to reduce offender recidivism and to improve sentencing outcomes....It is clear that neither the LSI-R nor the SASSI are intended nor recommended to substitute for the judicial function of determining the length of sentence appropriate for each offender. But such evidence-based assessment instruments can be significant sources of valuable information for judicial consideration in deciding whether to suspend all or part of a sentence, how to design a probation program for the offender, whether to assign an offender to alternative treatment facilities or programs, and other such corollary sentencing matters.¹⁰

According to the Center for Criminal Justice Research at the University of Cincinnati, the LSI-R is currently being utilized within the United States to "guide sentencing decisions, placement in correctional programs, institutional assignments, and release from institutional custody." Once completed, the LSI-R produces a summary risk score that is intended to predict an offender's likelihood of recidivism and to provide information useful in determining his rehabilitative needs.¹¹

Roger Warren, President Emeritus of the National Center for State Courts writes risk assessment information is "critical in making a number of important sentencing determinations," including the following: "[1] [the] offender's suitability for diversion from prosecution; [2] [the] most appropriate conditions of probation to be imposed; [3] [the] offender's amenability to treatment; [4] [the] most appropriate treatment or level of supervision to be imposed; [5] [the] most appropriate sanction or behavioral control mechanism to be imposed; [6] [the] decision whether to revoke probation; and [7] [the] kind of sanction or additional treatment to be ordered upon a violation."¹²

The Commonwealth of Virginia first made use of risk assessments at sentencing to assist courts in identifying the best candidates for diversion among nonviolent felony offenders. Their goal was to divert 25% of the eligible offenders from prison. They set up a pilot in 1997 which later went statewide. In 1999 the Virginia Assembly expanded use of risk assessments by the court, this time with a sex offender risk assessment for judges to consider at sentencing, so they could identify high risk cases and order appropriate sentences with that information in mind.¹³

Richard Kern, Director of the Virginia Criminal Sentencing Commission, states that use of risk assessment has led to better use of prisons for violent offenders, as measured by current offense or prior criminal history. Before the initiative, 52% of Virginia's prison population contained violent offenders using this definition; currently, 79% of Virginia's prison population contains violent offenders. "The majority of people who will benefit from these initiatives are African-American," he says.¹⁴ The proportion of new court-ordered commitments to prison of Blacks in Virginia declined 4.4 percentage points and 236 offenders between FY2004 and FY2010, in spite of a 4.2% increase in total new commitments.¹⁵

Looking at FY2011 new court commitments to prison in Iowa, the percent of property offenders who were assessed as Low, Low/Moderate or Moderate risk on the LSI-R were as follows: Blacks – 32.2%;

White non-Hispanics – 30.3%; other races and Hispanics – 33.3%.¹⁶ Providing risk assessment information to judges at sentencing may possibly reduce new commitments to prison for lower risk property offenders regardless of race, and may even benefit lower risk African-American offenders, Hispanics and offenders of other races more.

Blacks and American Indians/Alaska Natives in prison and in community-based corrections do have slightly higher average LSI-R scores than Whites and Asians/Pacific Islanders. Also the higher proportion of Black offenders assessed as High risk compared to White offenders is statistically significant.¹⁷ These slightly higher risk levels are reflective of the higher recidivism rates of this group.¹⁸ Proper identification of risk regardless of race/ethnicity enables the development of an appropriate case plan to target each offender’s risk factors that lead to reoffending and reduce risk. Independent studies by the Iowa Division of Criminal & Juvenile Justice Planning and Brenda Vose of the University of Central Florida have documented that Iowa corrections practices in general and various programs in particular are effective at reducing recidivism rates for African-American offenders.¹⁹

Offender Populations on October 12, 2011: Risk Category by Race

Community Corrections: Field Supervision & Residential

LSI-R Risk Category	Total	American Indian or Alaska Native	Asian or Pacific Islander	Black	White
Low (0-13)	9.0%	4.2%	16.8%	4.4%	10.0%
Low/Moderate (14-23)	30.8%	18.5%	40.0%	24.2%	32.4%
Moderate (24-33)	40.2%	43.1%	28.0%	45.1%	39.2%
Moderate/High (34-40)	15.9%	28.2%	13.6%	20.5%	14.8%
High (41+)	4.1%	6.0%	1.6%	5.8%	3.7%
	100.0%	100.0%	100.0%	100.0%	100.0%
Average LSI-R Score	25.8	29.4	22.6	28.0	25.3

Prison Population

LSI-R Risk Category	Total	American Indian or Alaska Native	Asian or Pacific Islander	Black	White
Low (0-13)	1.9%	1.2%	7.4%	0.6%	2.4%
Low/Moderate (14-23)	12.2%	6.1%	23.5%	6.8%	14.3%
Moderate (24-33)	32.2%	28.2%	39.7%	33.0%	32.0%
Moderate/High (34-40)	35.2%	36.8%	25.0%	38.6%	34.1%
High (41+)	18.4%	27.6%	4.4%	21.1%	17.3%
	100.0%	100.0%	100.0%	100.0%	100.0%
Average LSI-R Score	33.0	35.4	27.2	34.5	32.4



Numbers of Asian offenders are too small to draw conclusions regarding their recidivism trends.

¹Iowa Code§901.3.

²Iowa Code§904A.4(8).

³Statistical Analysis Center, Office for Criminal and Juvenile Justice Planning, Iowa Office for Planning and Programming. 1983. *The Impact of Objective Parole Criteria on Parole Release Rates and Public Protection: Final Report to the General Assembly of Iowa*, p. 5.

⁴See for example Schlager, Melinda D., and Simourd, David J. 2007. *Validity of the Level of Service Inventory-Revised among African American and Hispanic Male Offenders*. *Criminal Justice and Behavior*, 34(4) (2007): 545-554.

⁵Lowenkamp, Christopher T., and Bechtel, Kristin. 2007. *Predictive Validity of the LSI-R on a Sample of Offenders Drawn from the Records of the Iowa Department of Corrections Data Management System*. *Federal Probation*, 71 (3) (December 2007): 25-29.

⁶Vose, Brenda. 2008. *Assessing the Predictive Validity of the Level of Service Inventory-Revised: Recidivism among Iowa Parolees and Probationers*. Doctoral dissertation, University of Cincinnati, p. 105.

⁷Stageberg, Paul. 2011. *Admission type by race 1995-2011*. Unpublished chart.

⁸Stageberg, Paul. 2011. *Admissions 1995-2011 by forecast by month*. Unpublished chart.

⁹Iowa Equality in the Courts Task Force. 1993. *Final Report of the Equality in the Courts Task Force to the Iowa Supreme Court*. As quoted in Division of Criminal and Juvenile Justice Planning, Iowa Department of Human Rights. 1997. *Iowa Criminal & Juvenile Justice Plan: 1997 Update*, pp. 5-7.

¹⁰Indiana Supreme Court. 2010. *Anthony Malenchik v. State of Indiana*, pp. 6, 10.

¹¹*Ibid.*, p. 7.

¹²The Pew Charitable Trusts. 2009. *Arming the Courts with Research: 10 Evidence-Based Sentencing Initiatives to Control Crime and Reduce Costs Public Safety Policy Brief No. 8*. The 10 strategies outlined in this brief are adapted

from a longer paper by Roger Warren that was originally published in a special 2007 issue of the Indiana Law Journal, entitled “Evidence-Based Practices and State Sentencing Policy: Ten Policy Initiatives to Reduce Recidivism.

¹³ Fabelo, Tony, Naro, Wendy, and Austin, Jim. The JFA Institute. 2005. Exploring the Diminishing Effects of More Incarceration: Virginia’s Experiment in Sentencing Reform.

¹⁴ Kern, Richard. 2011. Phone conversation.

¹⁵ Virginia Department of Corrections. Offender Population Trends.

<http://www.vadoc.state.va.us/about/facts/default.shtm>.

¹⁶ Iowa Department of Corrections. 2011. ICON data, Iowa Justice Data Warehouse.

¹⁷ Iowa Department of Corrections. 2011. ICON data. See accompanying table, *Offender Populations on October 12, 2011: Risk Category by Race*.

¹⁸ Prell, Lettie, Iowa Department of Corrections. 2011. *Iowa Recidivism Report: Prison Return Rates - FY2007 Releases Tracked for 3 Years*, p. 4. Total recidivism rate chart accompanies this document.

¹⁹ In addition to the Brenda Vose study cited above, see Division of Criminal and Juvenile Justice Planning, Iowa Department of Human Rights. 2011. *Process and Outcome Evaluation of the Iowa First Judicial District Department of Correctional Services Dual Diagnosis Offender Program*. Also same agency, 2007. *Iowa Serious & Violent Offender Reentry Program Recidivism Data Update – Final Report*.