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**IDAPA 06
TITLE 01
CHAPTER 01**

IDAPA 06 - BOARD OF CORRECTION

06.01.01 - RULES OF THE BOARD OF CORRECTION

000. LEGAL AUTHORITY.

01. Sections 9-340B and 9-347, Idaho Code. Pursuant to Section 9-340B, Idaho Code, the Board shall adopt rules that identify certain department records to be exempt from public disclosure. Pursuant to Section 9-347, Idaho Code, the Board shall adopt guidelines that identify the general subject matter of all public records kept or maintained by the department, the custodian and the physical location of such documents. (7-6-01)

02. Section 18-2510, Idaho Code. Pursuant to Section 18-2510, Idaho Code, it is a crime to convey articles, letters, or things into and out of Department facilities contrary to Department procedures, directives and Section 510. (11-5-99)

03. Section 20-101D, Idaho Code. Pursuant to Section 20-101D, Idaho Code, the Board shall adopt rules for meritorious conduct sentence reduction. (11-5-10)

04. Section 20-209, Idaho Code. Pursuant to Section 20-209, Idaho Code, the Board shall have control, direction and management of all correctional facilities and property used in connection with correctional facilities. (11-5-99)

05. Section 20-212, Idaho Code. Pursuant to Section 20-212, Idaho Code, the Board shall make all rules necessary to carry out the provisions of Title 20, Chapter 2, Idaho Code, not inconsistent with express statutes or the state constitution. (11-5-99)

06. Section 20-217A, Idaho Code. Pursuant to Section 20-217A, Idaho Code, the director shall assume all the authority, powers, functions and duties as may be delegated to him by the Board. (11-5-99)

07. Section 20-244, Idaho Code. Pursuant to Section 20-244, Idaho Code, the Board shall make and adopt such rules as they may deem necessary for the government and discipline of the correctional facilities. (11-5-99)

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 06.01.01, "Rules of the Board of Correction," IDAPA 06, Title 01, Chapter 01. (11-5-99)

02. Scope. These rules are established to govern the duties and responsibilities delegated to the Board by law which affect a right of the public or a process to which the public has access. (11-5-99)

002. WRITTEN INTERPRETATIONS.

Pursuant to Section 20-212(1), Idaho Code, the Board is exempt from all provisions of Chapter 52, Title 67, Idaho Code, except as specifically noted therein so there are no written interpretations of these rules. (11-5-99)

003. ADMINISTRATIVE APPEALS.

Pursuant to Section 20-212(1), Idaho Code, the Board is exempt from all provisions of Chapter 52, Title 67, Idaho Code, except as specifically noted therein so there is no provision for administrative appeal. (11-5-99)

004. INCORPORATION BY REFERENCE.

No documents are incorporated by reference in this chapter. (7-6-01)

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

01. Street Address. The Board of Corrections' administrative office and the Idaho Department of Correction are located at 1299 N. Orchard St., Suite 110, Boise, Idaho 83706-2266. Business hours are typically 8 a.m. to 5 p.m., Monday through Friday, excluding holidays. (10-5-07)

02. Mailing Address (Board of Correction). Mail regarding the Board of Corrections' rules shall be directed to the Board of Correction, attn: management assistant, office of the director, 1299 N. Orchard St., Suite 110, Boise, Idaho 83706-2266. (10-5-07)

03. Mailing Address (Dept. of Correction). Mail regarding the Idaho Department of Correction shall be sent to 1299 N. Orchard St., Suite 110, Boise, Idaho 83706-2266. (10-5-07)

04. Telephone Number. The telephone number of both the Board and Department is (208) 658-2000. (10-5-07)

05. Facsimile Number. Faxes shall be sent directly to the person, division, bureau, or unit as requested. If the fax number is not provided by the person, division, bureau, or unit, contact the Department's main reception at (208) 658-2000 to obtain the fax number. (10-5-07)

06. Internet Website. The Department's Internet website can be found at <http://www.idoc.idaho.gov/>. (11-4-11)

006. PUBLIC RECORDS ACT COMPLIANCE.

The rules of the Board are subject to, and in compliance with, the Idaho Public Records Act. The rules are maintained by the Department of Correction, and shall be open to the public for inspection and copying at all reasonable times. (7-6-01)

007. -- 009. (RESERVED)

010. DEFINITIONS.

01. Archival Research. Research requiring access to stored historical data, files, documentation, video or audio tapes, electronically sorted data, or written material. (11-5-99)

02. Attorney of Record. An attorney appointed by a court or retained by an inmate in a legal action. (11-5-99)

03. Board. The State Board of Correction. (11-5-99)

04. Case Management File. An approved collection of legal documents, reports, submissions, statements, and support materials used in making decisions about an inmate (offender), parolee, or probationer regarding classification, treatment, programming, management, and parole, or clemency. (10-31-08)

05. Chief. The exempt employee in authority over a division of the Department. Chief is commonly referred to as the division chief. (10-5-07)

06. Commission of Pardons and Parole. The decision-making body that has the authority to grant, revoke, reinstate, or refuse parole. The Commission of Pardons and Parole is commonly referred to as the Parole Commission. (10-5-07)

07. Contact Visiting. Visiting where no physical partition, such as a window or wall, separates the visitor and the inmate. Physical touch may be allowed. (10-5-07)

08. Contraband. Any thing, of any kind, that is prohibited by Board, Department, or facility rules, policies, directives, or standard operating procedures. Contraband also includes any thing, of any kind, that a facility head has not approved. (10-5-07)

- a.** For possession by an inmate; or (10-5-07)
- b.** To bring into a facility or onto Department property. (10-5-07)
- 09. Contractor.** A person who has entered into a contract with the Board or Department, or a contract with the State of Idaho administered by the Board or Department to provide any service. (11-5-99)
- 10. Controlled Substance.** A drug or substance restricted by law in respect of use and possession. (11-6-09)
- 11. Department.** The State Department of Correction. (11-5-99)
- 12. Department Property.** Real property owned, leased, operated, or managed by the Board or Department. (10-5-07)
- 13. Directive.** A sequence of steps within a particular division to implement a procedure. (11-5-99)
- 14. Director.** The director of the Department of Correction. (11-5-99)
- 15. Division.** An operating unit of the Department. Department divisions are the divisions of Prisons, Community Corrections, Education and Treatment, and Management Services. (10-5-07)
- 16. Execution.** The carrying out of a sentence of death. (11-5-99)
- 17. Facility.** A building or residence, including the property and land where the building or residence is located, owned, leased, operated, or managed by the Board or Department. (10-5-07)
- 18. Facility Head.** The person primarily responsible for overseeing, managing or operating a Department facility. (10-5-07)
- 19. Field Memoranda.** Detailed guidelines to implement directives within a facility or a service unit of a division. (11-5-99)
- 20. Health Authority.** The Department employee who is primarily responsible for overseeing or managing the Department's medical and mental health services. The health authority is commonly referred to as the health services director. (10-31-08)
- 21. Immediate Family -- Offender.** The immediate family of an inmate is: (10-5-07)
- a.** The mother or father of the inmate, including step parent; (11-5-99)
- b.** The brother or sister of the whole or half (1/2) blood or by adoption, or the stepbrother or stepsister of the inmate; (11-5-99)
- c.** The wife or husband of the inmate, as proved by marriage license or other operation of law; (11-5-99)
- d.** The natural child, adopted child or stepchild of the inmate; (11-5-99)
- e.** The grandparents of blood relation to the inmate; or (11-5-99)
- f.** The grandchildren of blood relation to the inmate. (11-5-99)
- 22. Inmate.** An individual in the physical custody of the Board. (11-5-99)
- 23. Minor.** An individual less than eighteen (18) years old. (10-5-07)

- 24. Noncontact Visiting.** Visiting with an inmate where there are physical barriers between the visitor and the inmate and the inmate and visitor are not allowed to touch. Verbal communication is generally accomplished through telephones, speakers, or openings in the physical barrier designed to allow sound to pass. (10-5-07)
- 25. Non-Department Literature.** Notices, placards, banners, advertisements, and other writings not generated by the Department for Department distribution. (10-31-08)
- 26. Offender.** A person under the legal care, custody, supervision, or authority of the Board, including a person within or without the state of Idaho pursuant to agreement with another state or contractor. (11-6-09)
- 27. Office of Professional Standards.** The designated unit under the Director's office with primary responsibility for conducting investigations of employee misconduct allegations and providing assessment and general investigative services for the Department. (11-6-09)
- 28. Parolee.** An offender who: (10-5-07)
- a.** Is released from a facility by the paroling authority prior to the completion of his sentence; (10-5-07)
 - b.** Agrees to comply with certain conditions established by the paroling authority; and (10-5-07)
 - c.** Remains under the control of a probation and parole officer (PPO) for the established period of supervision. (10-31-08)
- 29. Penological Interests.** The security, programmatic, and rehabilitative interests of the Board and the Department. (11-5-99)
- 30. Person.** An individual, corporation, governmental entity or organization, however organized or constituted. (11-5-99)
- 31. Photo Identification.** A state issued driver's license, a state issued identification card displaying a photograph, a military issued identification card displaying a photograph, or a current valid passport. (10-5-07)
- 32. Post Order.** A detailed set of guidelines and procedures for each post or area of employee assignment which governs and explains the duties of the employee assigned to the post or area of responsibility. (11-5-99)
- 33. Probationer.** An offender who the courts allow to continue to live and work in the community, instead of being sent to prison, while being supervised by a probation and parole officer (PPO) for an established period of time. (10-31-08)
- 34. Procedure.** A sequence of steps or actions to be followed to implement and support a rule or policy. (11-5-99)
- 35. Public.** A person, of the general public, that does not include offenders, contractors, vendors, volunteers, interns, or the employees of the Board, Department, or the Commission of Pardons and Parole. (10-5-07)
- 36. Public Information Officer.** An employee of the Department designated by the director to be the primary contact person from whom the public and media may request information. (11-5-99)
- 37. Regular Volunteer.** Any approved person, not employed by the Idaho Department of Correction (IDOC), who is at least eighteen (18) years of age and, of his own free will, provides good or services, for no monetary or material gain, to a facility and/or any of its sections. This person must: (10-5-07)
- a.** Completed an application; (10-5-07)

- b.** Receive volunteer and facility orientation training; and (10-5-07)
- c.** Be approved by a facility head or designee. (10-5-07)
- 38. Student Intern Volunteer.** An approved college or university student who, as part of an academic program, offers his time or services to help enhance the mission, activities, and programs of the Department, which also helps further his professional development. Some student interns may receive compensation from the Department. (See also Regular Volunteer.) (10-5-07)
- 39. Tobacco Products.** Cigarettes, whether packaged or hand rolled, cigars, snuff, chew, or any other variation of a product containing tobacco. (11-5-99)
- 40. Vendor.** A person who supplies goods or services to the Board or any operation or facility under the authority of the Board. (11-5-99)
- 41. Visiting Staff.** Employees of the Department or the Commission of Pardons and Parole conducting business in the Department central office building on a regular or irregular basis. (10-5-07)
- 42. Visitor.** A member of the public, as defined herein, who is approved to visit a Department facility. (10-5-07)
- 43. Volunteer.** An approved person who volunteers or donates time or services to the Board or a Department operation or facility. (10-5-07)
- 44. Work Site.** Any place where inmates may be found when assigned to a work project. (11-5-99)
- 011. ABBREVIATIONS.**
No abbreviations are used in this chapter. (7-6-01)
- 012. BOARD MEETINGS.**
- 01. Meetings.** The Board shall meet at such times and places as they may direct. Meetings shall occur at least quarterly, and may occur more frequently. All business of the Board shall be conducted in compliance with the open meeting law as provided by Sections 67-2340 through 67-2347, Idaho Code. (11-5-99)
- 02. Yearly Meeting Schedule.** The Board may publish a schedule of meetings once per year, which schedule shall be posted in the Department central office. (11-5-99)
- 03. Agenda.** An agenda for each regularly scheduled meeting shall be posted in the Department central office or such other place as the Board may meet at least forty-eight (48) hours prior to the regularly scheduled meeting, except as noted in Subsection 012.06. (7-6-01)
- 04. Minutes of Meetings.** Summary minutes of each meeting shall be made and shall be available to the public at the Department central office, office of the director. Nothing herein shall be construed to require or allow the disclosure of information concerning the matters discussed in executive session nor any information exempt from disclosure pursuant to Sections 9-335 and 9-340, Idaho Code, or any other exemption provided by law. (11-5-99)
- 05. Director to Prepare Reports.** The Board may order the director to prepare and present such reports and information concerning the operation of the Department as the Board may from time to time require. (11-5-99)
- 06. Special Meetings.** The director or any member of the Board may call for a special meeting of the Board when such meeting becomes necessary to deliberate or decide about some matter requiring attention prior to or in addition to the next regularly scheduled meeting of the Board. An agenda shall be posted at the place of the meeting, or in the Department central office twenty-four (24) hours before such meeting unless the nature of an emergency precludes such notice. (11-5-99)

013. DEPARTMENT FEE STRUCTURE.

In order to help the Department defray the cost of various services provided to offenders, the Department may charge the following fees. (11-2-12)

01. Presentence Investigation Fee. Pursuant to Section 19-2516, Idaho Code, if a court orders a presentence investigation to be conducted, the court shall order the defendant to pay up to one hundred dollars (\$100) as determined by the Department as repayment for the cost of conducting the presentence investigation and preparing the presentence investigation report. (11-2-12)

02. Cost of Supervision Fee. Pursuant to Section 20-225, Idaho Code, the Department may charge offenders who are on probation or parole supervision a fee up to seventy-five dollars (\$75) per month. Costs of supervision are the direct and indirect costs incurred by the Department to supervise probationers and parolees, including tests to determine drug and alcohol use, books, and written materials to support rehabilitation efforts, and monitoring of physical location through the use of technology. (11-2-12)

03. Interstate Compact Application Fee. Pursuant to Section 20-225A, Idaho Code, the Department may charge any person under state probation or parole supervision who applies for a transfer of supervision to another state an application fee up to one hundred dollars (\$100). (11-2-12)

04. Maintenance/Room and Board Fee. Pursuant to Section 20-242, Idaho Code, the Department may require that prisoners pay an amount to the Board sufficient for the prisoner's board and personal expenses, both inside and outside the jail, facility, or residence, including costs of administering such prisoner's work furlough program, laundry service fee, and travel or van service fee. The Department currently sets these fees in Department standard operating procedure. (11-2-12)

05. Hobby Craft Surcharge. Pursuant to Department standard operating procedure, the Department may charge offenders who participate in facility hobby craft activities a surcharge to offset the cost of hobby craft supplies and items that are used by participating offenders, such as hobby shop tools. The Department currently sets the fee in Department standard operating procedure. (11-2-12)

06. Photo Copying Fee. Pursuant to Department standard operating procedure, the Department may charge offenders a fee for photocopying court documents relating to qualified legal claims or other documents as authorized by the Department. Offenders will not be denied access to courts based on their inability to pay for photocopies related to qualified legal claims. The Department currently sets the fee in Department standard operating procedure. (11-2-12)

07. Medical Co-Pay Fee. Pursuant to Section 20-209, Idaho Code, the Board shall provide for the care, maintenance and employment of all prisoners now or hereinafter committed to its custody. In order to offset the costs associated therewith, the Department may charge offenders a fee for medical services. The IDOC and/or contract medical provider shall not deny an offender access to healthcare services based on the offender's inability to pay. The Department currently sets the fee in Department standard operating procedure. (11-2-12)

014. -- 103. (RESERVED)

104. TOBACCO FREE ENVIRONMENT.

The Department and all of its property, facilities, and vehicles shall be maintained tobacco free. No person shall possess or use tobacco products on or in vehicles or properties owned, leased, rented and operated or managed by the Department. No offender, employee, contractor, volunteer, vendor, or intern shall possess or use tobacco products in or on any Department work site. (11-5-99)

01. Applicability. Section 104 is applicable to all persons, regardless of status as public or non-public as defined in Subsection 010.40. (7-6-01)

02. Exception. Tobacco products may be kept in a securely locked vehicle in a Department parking lot. (11-5-99)

105. VICTIM NOTIFICATIONS.

Upon receipt of a victim request for notification made pursuant to Section 19-5306(2), Idaho Code, the Department shall make reasonable efforts to notify the victim when the inmate who is the subject of the request escapes or is released from the custody of the Board other than by the Parole Commission or a court order. (11-5-99)

106. SERVICE OF PROCESS ON DEPARTMENT EMPLOYEES.

The Board authorizes and directs that all service of summons, complaints, and subpoenas against or upon the Board, the Department, or any employee of the Department for or related to a cause of action arising out of or related to the scope and course of the actions, duties, or employment of the Board, the Department, or any employee of the Department shall be made upon the deputy attorneys general assigned to the Department in the manner and form required by state and federal rules of procedure. (10-5-07)

107. (RESERVED)

108. IDAHO PUBLIC RECORDS ACT.

01. Intent of the Board. It is the intent of the Board that the records of the Department shall be open to the public for inspection and copying at all reasonable times, unless the records or information contained therein is specifically exempted from disclosure by state or federal statute or court rule. It is the further intent of the Board to implement the exemptions for Department records as set forth in the Idaho Public Records Act. The Board has determined that disputes over denials or partial denials of public records requests should be resolved informally whenever possible. (1-4-02)

02. Public Records Requests. The Department shall develop guidelines and procedures for processing public records requests. The guidelines and procedures shall include the following: (1-4-02)

a. A written request for records of the Department shall be required; and (1-4-02)

b. If any Department record contains information that is not exempt from disclosure as well as information which is exempt from disclosure, the Department shall separate the exempt and non-exempt information and make the non-exempt information available for public inspection and copying. (1-4-02)

03. Custodian of Records. Certain Department employees are designated as official custodians of Department records. The employees designated as official custodians of the Department records may delegate duties and responsibilities of the custodians in order to more efficiently process public records requests. For purposes of this section, official custodians for records of the Department shall be: (1-4-02)

a. The director; (1-4-02)

b. The public information officer; (11-5-99)

c. The central records manager; (11-5-99)

d. The chiefs of the divisions; (10-5-07)

e. The facility heads; and (10-5-07)

f. The policy program coordinator. (10-5-07)

04. Records Exempt from Disclosure. In order to protect information consistent with the public's interest in confidentiality, public safety, security, and the habilitation of offenders, the Board has identified records of the Department to be exempt from disclosure in whole or in part. These records include, but are not limited to: (1-4-02)

a. Records to be exempt in their entirety: (1-4-02)

i. Records of the Department that define specific building design details, such as facility blueprints, that if disclosed would jeopardize public safety and the security of the facility; (1-4-02)

- ii. Records of the Department that define specific operations used to respond to and control emergencies, such as emergency plans, that if disclosed would interfere with the secure and orderly conduct of Department operations; (1-4-02)
- iii. Records of the Department that define site-specific security operations, such as facility security procedures and site-specific post orders, that if disclosed would jeopardize public safety and the security of the facility; (1-4-02)
- iv. Records containing information specific to the habilitation of any offender, including information tracking the behavior, progress or digression of a particular offender under the legal care, custody, supervision or authority of the Board, including a person within or without the state pursuant to an agreement with another state or a contractor. Notwithstanding this exemption, records of this nature specific to inmates sentenced to death shall be available to counsel of record for inmates sentenced to death, subject to redaction; (1-4-02)
- v. Records of an offender when requested by another offender. For purposes of Subsection 108.04 the term offender shall not be construed to include a prisoner, probationer or parolee who has completed his sentence of incarceration or term of probation or parole; (1-4-02)
- vi. Offender academic records. Notwithstanding this exemption, consistent with Family Educational Rights and Privacy Act, FERPA, 34 C.F.R. part 99, an offender's academic records shall be disclosed to school officials, including teachers, having legitimate educational interests. Further, an offender's academic records shall be disclosed to the offender's attorney of record in his criminal case, provided that the attorney first submit a release, on his letterhead, signed by the offender. A release under Subsection 108.04.a.vi. must be current, within six (6) months. (1-4-02)
- vii. Pre-sentence investigation reports, addenda, and the information contained in or attached to the reports, shall not be disclosed to any person except as provided by Idaho Rules of Criminal Procedure; (1-4-02)
- viii. NCIC and ILETS records, FBI/CIB identification sheets, police reports, and drivers services sheets; (1-4-02)
- ix. Medical, counseling and treatment records. Notwithstanding this exemption, an offender's medical, counseling and treatment records shall be disclosed to the offender's attorney of record in his criminal case, or the offender's private professional health care provider, provided that the attorney or the health care provider submit a release for these records, on his letterhead, signed by the offender. A release under Subsection 108.04.a.ix. must be current, within six (6) months; (1-4-02)
- b.** Records exempt in part, subject to redaction: (1-4-02)
 - i. Records that contain any identifying information or any information that would lead to the identification of any victims or witnesses; (1-4-02)
 - ii. Records of the Department containing the names and addresses of confidential informants, or containing information identifying confidential informants; (1-4-02)
 - iii. Department intelligence reports of offender criminal activity, that if disclosed would jeopardize public safety, the safety of confidential informants, offenders and staff, and the security of the facility; (1-4-02)
 - iv. Records that identify or would lead to the identification of a date, time, or a place of future transportation or movement of a prisoner; (1-4-02)
 - v. Department investigatory records, to the extent that disclosure of such records would interfere with enforcement proceedings, deprive a person of the right to a fair trial or impartial adjudication, disclose the identity of a confidential source or confidential information furnished only by the confidential source, disclose investigative techniques or procedures, or endanger the life or physical safety of any person. This exemption shall not preclude release of the following information: (1-4-02)

- (1) The time, date, location, and nature and description of a reported crime, accident or incident; (1-4-02)
- (2) The name, sex, age, and address of a person arrested, except as otherwise provided by law; (1-4-02)
- (3) The time, date, and location of the incident and of the arrest; (1-4-02)
- (4) The crime charged; and (1-4-02)
- (5) Documents given or required by law to be given to the person arrested. (1-4-02)
- vi. Employee personnel records. (1-4-02)

05. Records of Civil Commitments. Civil commitment records differ in confidentiality from other offender records in that the civilly committed individual may not be convicted of a crime or may be held in a Department facility for reasons other than criminal conviction. Requests for information from the file of a civilly committed individual may be referred to Department legal counsel to determine applicability of federal and state statutes or court rules pertaining to individual privacy and the public's right to know. (1-4-02)

109. NON-DEPARTMENT LITERATURE DISTRIBUTION.

No person shall post any non-department literature or notice on or in any Department property or facility without approval of the director, chief, or facility head. (10-31-08)

110. MEDIA AND PUBLIC RELATIONS.

01. Intent of the Board. It is the intent of the Board that the Department keep the public well informed of its activities and maintain a consistently high community rapport through public presentations and special programs. (11-5-99)

02. Interviews. Requests for an interview with an inmate will be referred to the public information officer. Media representatives requesting an interview with an inmate will be informed of Department policy 110 Media and Public Relations, and any related directive or standard operating procedure. No face-to-face or on-camera interviews with inmates will be permitted in Department facilities. (10-5-07)

a. The director may grant exceptions to the no face-to-face or on-camera interview rule on a case-by-case basis. No exceptions may be granted to inmates sentenced to death. Access to inmates under sentence of death is governed by Section 19-2705, Idaho Code. (10-5-07)

b. The director, chief of the division, or head of the facility where the inmate is housed may deny the interview request. (10-5-07)

c. The inmate will be informed of the request for interview and the nature of the interviewer's interest. The inmate may accept, decline or modify the request for interview. Requests for an interview an inmate will be accommodated by a collect telephone call from the inmate to the media representative. An inmate accepting a request for interview will be provided with the interviewer's telephone number and any specific time frame requested for the interview. (11-5-99)

d. Media coverage of program activities may include brief comment by inmate participants, which are not considered inmate interviews subject to Subsection 110.01. (11-5-99)

111. -- 113. (RESERVED)

114. INMATE FUNDS RECEIPT AND MAINTENANCE.

01. Account Established in Inmate Name. The Department shall establish an account in each

inmate's name at the time of admission to a facility. All monies in the inmate's possession at admission, all monies earned from institutional employment and all monies sent to the inmate from outside sources, other than money which is contraband, shall be placed in this account. The Department shall develop guidelines for the withdrawal of funds by the inmate or to satisfy the inmate's financial obligations. (11-5-99)

02. Employers of Work Center Inmates. Any person employing an inmate housed in a community work center shall send the inmate's pay directly to the Department for deposit in the inmate's account. (11-5-99)

115. (RESERVED)

116. CUSTODY OF EVIDENCE.

All evidence confiscated from Department employees, offenders, contractors, or witnesses, that is or may be utilized in administrative investigations and inquiries, probation or parole revocation hearings, or criminal proceedings, shall be maintained in a safe and secure manner until completion of the investigation, inquiry, or proceeding. (11-6-09)

01. Evidence Retained. Items of evidence retained by the Department's Office of Professional Standards investigators, probation and parole officers, and correctional officers for use in any investigation, inquiry, hearing, or proceeding concerning a Department employee, offender, contractor, client, or residents shall be maintained in a safe and secure manner until completion of the investigation, inquiry, or proceeding, (to include the appeal). A member of the public claiming an interest in an item of evidence may file a written request for its return with the Department or law enforcement agency having jurisdiction. (11-6-09)

02. Evidence Disposal. Upon a finding of unfounded, exonerated, not sustained, or not guilty and when all appeals have been exhausted, the Department may return evidence to the original possessor or release it to a third party who has a credible claim of ownership or is legally entitled to possess pieces of the evidence. (11-6-09)

a. Unless a request to continue to possess or preserve the evidence is received from the court, Idaho Office of the Attorney General, Idaho Personnel Commission, or Commission of Pardons and Parole, any unclaimed evidence (with the exception of contraband or illegal items) may be disposed of by the Department as follows: (11-6-09)

i. Division of Community Corrections' probation and parole officers and Division of Prisons' correctional officers may dispose of evidence sixty (60) days after adjudication (to include the appeal process); and (11-6-09)

ii. The Office of Professional Standards shall maintain evidence for one (1) year after adjudication (to include the appeal process) and thereafter periodically consult with the deputy attorneys general who represent the Department to determine if the evidence may be disposed. (11-6-09)

b. When firearms or controlled substances were seized as evidence, the claimant shall file for its return with the law enforcement agency having jurisdiction. (11-6-09)

c. Third-party claimants must provide photo identification. If the third party is between the ages of sixteen (16) and eighteen (18) years, a student ID card issued by his school (if not expired) shall suffice. (11-6-09)

d. A credible claim of ownership shall include documentation such as a receipt, a bill of sale or transfer, or other written evidence of ownership. (11-6-09)

03. Contraband Not Returned. Items of evidence which are now contraband or were contraband at the time they came into the possession of the Department shall not be given to any claimant but may be disposed of according to the Department's standard operating procedures and applicable state and/or federal laws. (10-31-08)

117. DEPARTMENT VISITORS.

Board and Department business shall be conducted in a safe and secure environment. (11-2-12)

01. Identification. The identification of all Department visitors is necessary to ensure staff safety and building security. All Department visitors shall identify themselves to Department staff upon entering into

Department property. The identification of visiting employees may be made by visual recognition and/or the request to see a Department-issued identification card or law enforcement/peace officer badge. The identification of all other visitors, not inclusive of officials escorted by a member of the Board, director, division chief, deputy division chief, district manager, or facility head, shall be through photo identification and/or law enforcement/peace officer badge. (11-2-12)

02. Visitor Sign-In and Sign-Out. All Department visitors shall sign-in upon entering into Department property and sign out upon exiting Department property. (11-2-12)

03. Possessing Firearms and Other Deadly or Dangerous Weapons. Without the approval of the Board, director, or division chief, no person shall be allowed to enter into a correctional facility or community work center (CWC) with a firearm or other deadly or dangerous weapon (see Section 511). With the exception of on-duty law enforcement and Department staff who have been authorized by the Board to possess a firearm while on duty, no other persons shall be allowed to enter into restricted areas of a Department central office or district probation and parole office with a firearm or other deadly or dangerous weapon. For the purpose of this subsection only, the following terms and definitions shall apply: (11-2-12)

a. 'Restricted area' shall mean any area Department property in which certain security measures are carried out for the purpose of protecting staff and/or Department property from harm or theft. (11-2-12)

b. 'Possess' shall mean to bring a weapon, firearm, or other deadly or dangerous weapon, or to cause such items to be brought into Department property or Department vehicles. (11-2-12)

c. 'Firearm' shall mean any weapon, whether loaded or unloaded, from which a shot, projectile, or other object may be discharged by force of combustion, explosive, gas and/or mechanical means, whether such firearm is operable or inoperable. (11-2-12)

d. 'Deadly or dangerous weapon' shall mean a weapon, device, instrument, material, or substance that is used for, or is readily capable of, causing death or serious bodily injury. (11-2-12)

118. -- 122. (RESERVED)

123. PUBLIC VISITS AND TOURS OF FACILITIES.

The Department may allow tours of facilities and property according to procedures approved by the director (also see Section 511). Tours will generally take place during normal business hours or at times which ensure the safety and convenience of the facility or Department property. (10-5-07)

01. Persons Subject to Facility Rules and Regulations. All persons touring a facility or Department property are subject to the rules, policies, directives, standard operating procedures, and field memoranda regarding facility access, which Department guides shall explain before the beginning of the tour. (10-5-07)

a. All persons touring a facility or Department property may be subject to search (also see Section 510). Discovery of any contraband, as defined in Subsection 010.08, shall be grounds for immediate termination of the tour and referral to local law enforcement for possible prosecution of a criminal offense. (10-5-07)

b. All persons touring a facility must be at least eighteen (18) years old or if under eighteen (18), must be accompanied by a parent or guardian or have written permission from the parent or guardian, unless approved by the director or designee. (11-5-99)

02. Attendance at Events. Under certain circumstances and with an invitation from a Department employee, an individual may attend athletic games and various other events held at a facility as long as attendance does not interfere with penological interests (Also see Sections 601 and 607). (10-5-07)

124. -- 133. (RESERVED)

134. RESEARCH REQUESTS.

The Board may allow access to records, employees and offenders in the custody of the Board for purposes of

appropriate and ethical research relevant to the Board's penological interests. (11-5-99)

01. Archival Research. Archival research which is based solely on data collection from an existing data base will be conducted according to Idaho public records laws. (11-5-99)

02. Research Conducted on Offenders. Research conducted on offenders may be conducted by professional researchers, including private consultants and Department employees, graduate students supervised by graduate level professionals, or undergraduate students supervised by Department staff undertaking research projects implemented and designed by Department administrators. (11-5-99)

03. Required Documentation. A written proposal, a copy of the school's Internal Review or Human Subject Review Board approval (if applicable), and a copy of the consent form will be required for all requests to conduct research with offenders. Required documentation will be initially submitted to the facility head, or designee, of the site where research is to take place. Required documentation must be submitted ninety (90) days prior to the proposed research start date. (10-31-08)

a. The written proposal will include a statement of the significance of the study, a research hypothesis or problem statement, an estimate of the time parameter for the project's completion, and a clear statement of the research methodology, a definition of the population, the sample selection, the design, ethical procedures, a discussion on dissemination of written research reports and legal parameters. (11-5-99)

b. The written proposal, copy of the Internal Review or Human Subject Review Board approval, and copy of the consent form will be reviewed by the facility head, or designee, of the site where the research is to take place. These documents will be reviewed for compatibility with Department goals, programs and needs for research. In addition, these documents may be rejected or returned for resubmission because there is a lack of compatibility with stated Board or Department goals, programs and needs for research, the research is inappropriate for conducting under the auspices of the Board or Department, or there is a failure to meet the required proposal criteria. (10-5-07)

c. Department employees conducting research at the request of the Department and professional researchers retained by the Department may be exempt from the requirement to submit a written research proposal. (11-5-99)

d. Department employees who wish to conduct research not requested by the Department must submit the required documentation noted in Subsection 134.03. (10-5-07)

e. Acceptable research proposals will be forwarded to the chief of the division where the research is to take place for final approval. Certain projects involving offenders should be approved with minimal review. Those projects include: (10-5-07)

i. Research conducted in a manner that does not link information gathered to the identity of the participants; (11-5-99)

ii. Research on regular and special instructional techniques; (11-5-99)

iii. Research involving the administration of standard tests, when information from the tests cannot be linked to the identities of the subjects; and (11-5-99)

iv. Research involving surveys or interview procedures where the responses cannot be identified back to the respondents. (11-5-99)

04. Rights of Offenders. The rights and welfare of any offender research subjects will be safeguarded at all times. (11-5-99)

05. Use of Offenders in Medical Experimentation Prohibited. The use or participation of offenders in medical, pharmaceutical or cosmetic experiments is expressly prohibited. (11-5-99)

06. Written Report Required. The principal researchers shall be required to provide the Department

with a copy of the completed research results. (11-5-99)

07. Termination of Project. The director, any division chief, facility head, or designee may terminate approved research at any time for noncompliance with any rule, policy or procedure, directive, or condition previously agreed upon, or for cause generated by an emergency situation or at the discretion of the director. (10-5-07)

135. EXECUTIONS.

01. Personnel Assigned to Execution. Idaho Maximum Security Institution (IMSI) personnel and the Department's administrative team will carry out the execution warrant. The IMSI facility head (or designee) shall be the official executioner. (1-11-12)

02. Method of Execution. Execution of the sentence of death shall be by lethal injection. (1-11-12)

03. News Media Coordination. Department personnel will coordinate news media activity and provide logistics and communications support. A news media center shall be established. The pre-execution briefing will be delivered in the news media center. The post-execution briefing will occur in the news media center. News media witnesses will be chosen pursuant to Department procedure. (1-11-12)

04. Public Information Officer to Handle News Media Requests. The director (or designee) will designate a public information officer to deal with execution-related news media requests and releases of information. (1-11-12)

05. Parking and Demonstration Areas Provided. Areas for public and news media parking will be provided and maintained in a secure manner. Areas for public gathering and demonstration of support or opposition to the death penalty will be provided and maintained in a secure manner. (1-11-12)

06. Non-Disclosure. The Department will not disclose (under any circumstance) the identity of the on-site physician; or staff, contractors, consultants, or volunteers serving on escort or medical teams; nor will the Department disclose any other information wherein the disclosure of such information could jeopardize the Department's ability to carry out an execution. (1-11-12)

07. Persons Allowed in the Execution Unit. The director (or designee) shall have the discretion to determine the number of persons allowed in the execution unit at any time. In exercising this discretion, the director (or designee) shall consider the safe, secure, and orderly operation of the Idaho Maximum Security Institution (IMSI); the interests of the victim's family; and whether multiple death warrants are being executed concurrently. The configuration of the execution unit and the occupants of each room will be in accordance with Department standard operating procedure. (1-11-12)

- a.** In most instances, the following persons should be allowed in the execution unit: (1-11-12)
 - i.** The administrative team; (1-11-12)
 - ii.** The escort team; (1-11-12)
 - iii.** The medical team as identified by the Department's administrative team; (1-11-12)
 - iv.** The on-site physician; (1-11-12)
 - v.** The director (or designee); (11-4-11)
 - vi.** An Idaho Board of Correction representative; (1-11-12)
 - vii.** The chief of the Operations Division (or designee); (11-4-11)
 - viii.** The IMSI facility head (or designee); and (1-11-12)

- ix. The following witnesses: (1-11-12)
 - (1) The Ada County coroner (or deputy coroner); (1-11-12)
 - (2) The sheriff from the county of conviction; (11-5-99)
 - (3) The prosecuting attorney from the county of conviction; (11-5-99)
 - (4) A spiritual advisor of the offender's choosing; (1-11-12)
 - (5) The sentencing judge; (11-5-99)
 - (6) The Idaho governor (or his representative); (1-11-12)
 - (7) The Idaho attorney general (or his representative); (1-11-12)
 - (8) Two (2) members of the victim's family; (11-4-11)
 - (9) Two (2) friends (approved visitors) or members of the offender's family; (1-11-12)
 - (10) The offender's attorney of record; and (1-11-12)
 - (11) Four (4) members of the news media pursuant to Subsection 135.03 of these rules. (1-11-12)

b. In the event that any of the persons (to include their designee or representative) identified in Subsection 135.07.a. of these rules do not wish to attend the execution, the director (or designee) may approve another individual to attend in that person's place. (1-11-12)

136. MERITORIOUS REDUCTION OF SENTENCE.

01. Intent of the Board. It is the intent of the Board that eligible offenders be considered for a meritorious conduct reduction of their sentence by the Director. (11-5-10)

02. Eligibility. In order to be considered for a meritorious conduct reduction of sentence, an offender must meet the following criteria: (11-5-10)

a. Have been convicted of an offense against the state, which was committed on or after July 1, 1986; (11-5-10)

b. Is confined in an IDOC operated or contract facility for a term other than a life sentence; (11-5-10)

c. Has completed an extraordinary act of heroism at risk to his or her own life; or for outstanding service to the state of Idaho which results in the saving of lives, prevention of destruction of major property loss during a riot; or the prevention of an escape from a correctional facility. (11-5-10)

03. Procedure. Any offender who meets the eligibility criteria for a meritorious conduct reduction may be referred to the Director for consideration of a meritorious conduct reduction of his or her sentence. The decision to award a meritorious conduct reduction shall be at the complete discretion of the Director after due consideration to the facts and circumstances giving rise to the referral, together with any other factors the Director deems appropriate. (11-5-10)

04. Limitations. (11-5-10)

a. The number of days awarded for a meritorious conduct reduction may not exceed fifteen (15) days for each month of the offender's sentence. (11-5-10)

b. The Director may withdraw an award of meritorious conduct reduction at his discretion based on an

offender's serious misconduct, escape, or commission of a new crime. An offender shall be entitled to a hearing prior to any withdrawal of an award of meritorious conduct reduction. (11-5-10)

c. Nothing herein shall create any right or entitlement of an offender to receive a meritorious conduct reduction of sentence. (11-5-10)

137. -- 142. (RESERVED)

143. ADVISORY BOARDS.

01. Advisory Board Members' Responsibility. Advisory board members shall be responsible for advising Department community work centers on the philosophies and wishes of the community so that those philosophies and wishes may be considered for incorporation into the community work center's established processes. (11-4-11)

02. Advisory Boards Established. Each Department community work center shall establish an advisory board in the community where the community work center is located. The advisory board shall consist of no less than four (4) and no more than seven (7) members. (11-4-11)

03. Advisory Board Member Selection. The Department shall identify the needs of the community work center and the offender population, and take into consideration the type of community representatives and partners best suited to meet those needs. The Department shall make the final selection of advisory board members to serve on the advisory board. Advisory board members should represent segments of the community that are important to the successful operation of the community work center such as the following representatives and partners: (11-4-11)

a. Law enforcement; (11-4-11)

b. Businesses; (11-4-11)

c. Faith-based communities; and (11-4-11)

d. Employment. (11-4-11)

04. Advisory Board Meetings. Advisory board meeting dates and times shall be set by the Department and the existing advisory board. The Department shall not be bound to follow any advisory board recommendations but shall be free to decide which philosophies and community wishes recommended by the advisory board best suits the needs of the community work center and the offender population. (11-4-11)

144. (RESERVED)

145. SUBPOENAS.

The Department shall conduct thorough and appropriate investigations and absconder apprehensions, in part, by requesting, reviewing, processing, and issuing subpoenas consistent with Sections 20-209G and 20-228A, Idaho Code. (11-6-09)

01. Subpoena Authority. The Director has the authority to require, by way of an administrative subpoena, the production of all documents that are necessary in the performance of the functions assigned by law. For the purpose of this section only, documents shall be defined as any writings, charts, records, recordings, electronic records or data, photographs, tangible things, drawings, or diagrams of any type or kind. (11-6-09)

a. Office of Professional Standards' investigators, conducting an authorized inquiry or investigation, may request an administrative subpoena be issued for documents. (11-6-09)

b. Probation and parole officers, assisting in the apprehension of parolees who have absconded and for whom there are arrest warrants, may request an administrative subpoena be issued for documents. (11-6-09)

02. Service of Subpoenas. Normally, the investigator will personally serve the administrative subpoena at the principal place of business or residence of the person being served. A duplicate original (i.e., a second copy with original signatures) shall be left with the business or person being served. (11-6-09)

03. Timelines for the Production of Documents. The business or person on whom the service was successfully executed, should be allowed reasonable time (usually ten (10) to thirty (30) calendar days) to produce the documents listed in the administrative subpoena. Factors to be considered when determining what is reasonable includes: (11-6-09)

a. The type and volume of documents requested; and (11-6-09)

b. The possibility of documents being removed or destroyed. (11-6-09)

04. Compliance and Noncompliance with the Served Subpoena. Upon compliance with the terms of the subpoena, the recipient investigator shall provide written notice to the Office of Professional Standards' administrative assistant (or designee). The administrative assistant (or designee) will file the written notification in the investigative file and record receipt of the documents subpoenaed. (11-6-09)

a. If the business or person subpoenaed to produce the documents does not comply with the subpoena, the investigator will promptly advise the deputy attorneys general who represent the Department, via memorandum, describing the relevant circumstances. The deputy attorneys general will advise the investigator and the Director as to whether to compel production of the documents via court action and, if so, develop a strategy and procedures to compel compliance. (11-6-09)

05. Reimbursement. Generally, subpoenaed businesses or persons are entitled to reimbursement of reasonable costs associated with searching for, assembling, and copying subpoenaed documents pursuant to Idaho Rules of Civil Procedure, Rule 35. (11-6-09)

a. Financial institutions, as defined in 12 U.S.C. Section 35, Right to Financial Privacy Act, may seek reimbursement for the costs of providing a customer's financial records. (11-6-09)

b. Pursuant to 18 U.S.C. Section 2706, telecommunication carriers are authorized to charge a reasonable fee to cover the costs of searching for and providing information responsive to a subpoena. Some agency subpoenas are an exception to this rule but only to the extent that they seek records or other information maintained by a common carrier that relate to telephone toll records and telephone listings. (11-6-09)

i. Telephone toll records generally include records of outgoing long-distance calls made from a landline and records of all incoming and outgoing calls made to and from a cellular phone. (11-6-09)

ii. With respect to landlines specifically, the cost of searching for records of incoming local calls is reimbursable, and the cost of searching for records of incoming long-distance calls may also be reimbursable. (11-6-09)

c. Upon receipt of an invoice for documents provided by any business or person, the Office of Professional Standards' chief investigator (or designee) will consult with the deputy attorneys general to determine if reimbursement is required. (11-6-09)

i. When reimbursement is approved, invoices will be paid by the respective Department division. (11-6-09)

146. -- 301. (RESERVED)

302. HOUSING INMATES IN COUNTY FACILITIES.

01. Payment of Daily Fee. The Department shall pay an Idaho county housing an inmate committed to the custody of the Board a daily fee as established by Section 20-237A, Idaho Code. The fee shall accrue and become payable beginning on the day after the county sheriff provides the notification required by Subsection 302.02.

(10-5-07)

- a.** The fee includes the ordinary daily expenses of housing an inmate, including room and board. (11-5-99)
- b.** The Department will pay for all ordinary medical and dental expenses of inmates committed to the custody of the Board subject to the provisions of Subsection 302.05. (10-5-07)
- c.** The Department shall not make payment for inmates held on pending charges, inmate workers, trustees, and inmates held under court-ordered jurisdiction. (11-5-99)
- 02. Notification of New Commitment.** Upon receiving into his custody an inmate sentenced to imprisonment and committed to the custody of the Board, the sheriff shall notify the Department. Notification shall be made by sending a copy of the judgment of conviction to the Department by certified mail or facsimile. (10-5-07)
- 03. Accepting the Inmate for Transport to a Department Facility.** (11-5-99)
- a.** A newly sentenced and committed inmate shall not be accepted for transport from a county jail to a Department facility unless the notification required by Subsection 302.02 has been made or unless the director or his designee authorizes the transport in writing; and (11-5-99)
- b.** If a sheriff moves an inmate committed to the custody of the Board to the jail of another county, the sheriff must immediately notify the Department. (10-5-07)
- c.** Prior to the date of the transport of the inmate from a county jail to a Department facility, the sheriff shall have sent the following information about the inmate to the Department central records bureau: (10-5-07)
- i.** Judgment and commitment orders from the court; (11-5-99)
- ii.** Jail disciplinary and incident reports, if any; and (11-5-99)
- iii.** Medical and psychological files. (11-5-99)
- 04. Conditions of Confinement.** The policies and guidelines of the county jail shall apply while the inmate is confined at the county jail, except as may be modified by this section or agreement between the Board and the county jail. (10-5-07)
- 05. Medical, Dental, Psychological and Psychiatric Care.** Delivery of routine medical, dental, psychological, and psychiatric services shall be the responsibility of the jail where the inmate is held, however, the Department's health authority shall have the responsibility for approving medical, dental, psychological, and psychiatric health care payments for inmates committed to the custody of the Board and housed in county jails. (10-5-07)
- a.** All medical services for an offender housed in a county jail delivered outside the county jail, including consultant appointments, scheduled hospitalizations, and dental care, shall be approved by the health authority, or designee prior to occurring, except as noted in Subsection 302.05. (10-5-07)
- b.** The health authority, or designee, shall be notified the next working day of any emergency services. (11-5-99)
- c.** Any extraordinary treatment shall be approved by the health authority prior to treatment. Emergency care, which requires possible transport of the inmate out-of-state, requires prior approval by the health authority, or designee. (10-5-07)
- d.** Failure to make the notifications required by Subsection 302.05 to the health authority or designee will result in the county jail being held responsible for any charges or expenses incurred. (10-5-07)

e. Transportation of the inmate to and from appointments shall be the responsibility of the county jail. An inmate committed to the custody of the Board shall not be left without security escort, except as may be approved by the director or designee. (10-5-07)

06. Transporting Inmates. The Department will transport newly committed inmates from the county jail to a Department destination determined by the Department. The sheriff shall transport inmates from a Department facility to the county jail when a court appearance is ordered. Other transport arrangements may be made between the Department and the sheriff. (10-5-07)

07. Inmate Work Assignments. Inmates committed to the custody of the Board who are being held in county jails may be assigned to work assignments or work projects subject to Subsection 302.07. No inmate shall be assigned to a work assignment or project outside of the secure perimeter of the jail. An inmate shall not be outside of the secure perimeter of the jail when not directly supervised or escorted by security personnel, except upon approval of the director or designee. (10-5-07)

303. -- 310. (RESERVED)

311. INMATE MARRIAGES.

Section 32-201, Idaho Code, requires that all marriages in Idaho be accomplished with a license and by solemnization. A person desiring to marry an inmate shall make application for marriage to the facility head of the facility where the inmate is held in custody. The facility head shall have discretion to allow a solemnization ceremony to be conducted within the facility between a member of the public and an inmate of the opposite gender if in the opinion of the facility head doing so will not be contrary to penological interests. (11-5-99)

312. DECEASED OFFENDERS.

01. Notifications. Upon verification of the death of an incarcerated offender, the facility head (or designee) shall notify the coroner of the county in which the facility is located and the offender's family in accordance with emergency contact information the offender has on file with the facility. (11-2-12)

02. Autopsy and Inquest. The coroner shall determine if an autopsy should be performed in accordance with state law and the interests of the public. The Department shall seek an autopsy in all cases of violent or sudden and unexpected death. The coroner shall hold an inquest as required by Section 31-2801, Idaho Code, unless the autopsy was waived. (11-2-12)

03. Delivery of the Body to a Funeral Home. As soon as possible after the death of the incarcerated offender, the facility head (or designee) shall arrange for the body to be delivered to coroner or a funeral home. The deceased offender's family, if any, shall be told where the body may be claimed and if the family claims the body, the family shall be responsible for all costs of interment. (11-2-12)

04. Body Not Claimed. In cases where the coroner has performed an autopsy and the body has been released but not claimed, or where the body has not been claimed within seventy-two (72) hours after death and a reasonable and good faith effort was made to notify the deceased offender's family, the facility head (or designee) shall arrange with a funeral home for interment. If there is not sufficient property in the estate of the deceased offender to pay the necessary expenses of interment, the expenses are a legal charge against the county where the facility is located pursuant to Section 31-2802, Idaho Code. The director of the Department may, in his sole discretion, accept financial responsibility for the costs of interment on behalf of the Department. When the Department accepts financial responsibility for the costs of interment, the interment will be by cremation. (11-2-12)

05. Disposition of the Deceased Offender's Money and Property. After the death of an incarcerated offender, the facility head (or designee) will make a good-faith effort to locate the person or charitable organization the deceased offender designated in emergency contact information to receive his money and property after interment and property mailing decisions have been made. (11-2-12)

a. In cases where none of the deceased offender's family or friends take financial responsibility for the deceased offender's interment, the Department shall first apply the deceased offender's money towards the offender's interment. (11-2-12)

b. In cases where the person or charitable organization the deceased offender designated to receive his property and the designated person or charitable organization requests that the deceased offender's property be mailed, the Department shall secondly apply the deceased offender's money towards the cost of mailing the deceased offender's property to the person or charitable organization. If no money remains to cover the cost of mailing the deceased offender's property, the person or charitable organization will have to arrange with the facility to pick up the property, or if the person or charitable organization declines to pick up the property, the Department may dispose of the property in accordance with Department standard operating procedure. (11-2-12)

c. Any money remaining after the deduction of interment and property mailing costs shall be released by the Department to the person or charitable organization the deceased offender designated in emergency contact information to receive his money and property. (11-2-12)

i. If the Department is unable to locate the person or charitable organization designated to receive the deceased offender's money, the Department will hold the money for up to two (2) fiscal years and then process the money as unclaimed funds. The Department shall submit all unclaimed funds to the Idaho State Treasurer's Office. (11-2-12)

ii. If the Department is unable to locate the person or charitable organization designated to receive the deceased offender's property, the Department will hold the property for up to one hundred eighty (180) days and then donate or destroy the property in accordance with Department standard operating procedure. (11-2-12)

06. Offenders Housed in Non-Department Facilities. If an incarcerated offender in the custody of the Board dies while housed in a non-Department facility, the Department shall pay for costs of disposition of the body, unless other arrangements are stated in an agreement or contract with the non-Department facility or unless the family shall claim the body of the deceased offender. (11-2-12)

313. -- 400. (RESERVED)

401. MEDICAL CARE.

01. Notification of Family in Emergency. In the event of a serious injury to an inmate or the hospitalization in an acute care setting of an inmate the facility head of the facility where the inmate was housed shall make reasonable efforts to notify the inmate's family, unless doing so would be contrary to penological interests. (11-5-99)

02. Contracts with Hospitals. The Department may enter into contracts with hospitals in the community where a facility is located to provide for the secure hospital care of inmates in the custody of the Board. (11-5-99)

03. Children Born to Inmates. The Board or the Department shall not be financially or otherwise responsible for the medical or other care of a child born to an offender in the custody of the Board. (11-5-99)

04. Organ Transplant Donations by Inmates. The director or his designee may approve organ donations by inmates only if the recipient is a member of the inmate's immediate family. Any such organ donation by any inmate to an immediate family member shall meet the following criteria: (11-5-99)

a. The Department, or its medical provider if privatized, shall incur no financial liability as a result of any proposed organ donation. All costs related to the proposed organ donation and transplant must be paid by the recipient; (11-5-99)

b. The proposed transplant procedure must fall within acceptable community standards of medical care and established medical practices; (11-5-99)

c. Both the donor and the recipient shall sign a hold harmless and indemnification agreement to the benefit of the Board and the Department; and (11-5-99)

- d. The Board expressly prohibits organ donation from the body of an executed inmate. (11-5-99)

402. CORRESPONDENCE WITH INMATES.

01. Incoming Mail. All incoming mail shall be opened and inspected to ensure it does not contain prohibited items as described in Section 402. Mail may be withheld subject to the provisions of Subsection 402.04 and 402.05. (10-5-07)

a. Books, magazines, newspapers, and other publications may only be received directly from a legitimate publisher or other legitimate business source. Legitimacy of the source shall be in the sole discretion of the facility head or designee. (10-31-08)

b. Any money order or cashier's check enclosed will be credited to the inmate's trust account, except that money or other forms of exchange hidden or concealed in the correspondence shall be considered contraband and confiscated. Unapproved items of value not otherwise contraband must be returned to the sender at the inmate's expense within forty-five (45) days or they will be considered contraband and confiscated. (10-31-08)

02. Legal Mail. Legal mail is confidential communication directly between an offender and an attorney (for the purposes of seeking or providing legal services only), an offender and the court, opposing parties for service of documents (pursuant to court rules), or third parties for service of documents (pursuant to court rules). (11-5-10)

a. To be recognized and treated as legal mail, correspondence from a legal source must be clearly marked "Legal Mail" and display the name, title and address of the sender. (10-5-07)

b. Mail that does not meet the requirements of Section 402 shall be treated as regular mail. (10-5-07)

c. Legal mail should be opened in the presence of the inmate and may be scanned to ensure that it does not violate the provisions of Section 402, Department policies, or division standard operating procedures. (10-5-07)

d. Legal mail that violates the provisions of Section 402, Department policies, or division standard operating procedures may be withheld. (10-5-07)

e. Any sender of legal mail that violates the provisions of Section 402, Department policies, or standard operating procedures may, at the sole discretion of the division chief, have all incoming and outgoing mail treated as regular mail. (10-5-07)

f. Any sender of legal mail that continues to violate the provisions of Section 402, Department policies, or standard operating procedures (or in the case of mail that is a serious threat to the secure and orderly operation of any Department facility) may not, at the sole discretion of the division chief, have his mail delivered to the inmate, and the inmate may also be restricted or prohibited from sending or receiving mail. (10-5-07)

03. Confidential Mail. Confidential mail includes correspondence sent to or received from persons or entities such as the following: the President of the United States, the governor, the Idaho Legislature or U.S. Congress (except for bulk mailings), the Board, the director, IDOC chiefs and deputy chiefs, facility heads, public interest groups or government entities providing assistance for offenders, the Idaho Commission of Pardons and Parole or any member thereof, or the Consulate or Embassy of an offender who is a foreign national. (10-5-07)

a. Mail that does not meet the requirements of Section 402 shall be treated as regular mail. Confidential mail should be opened in the presence of the inmate and may be scanned to ensure that it does not violate the provisions of this section, Department policies, or division standard operating procedures. (10-5-07)

b. Confidential mail that violates the provisions of Section 402, Department policies, or division standard operating procedures may be withheld. (10-5-07)

c. Any sender of confidential mail that violates the provisions of Section 402, Department policies, or

standard operating procedures may, at the sole discretion of the facility head, be restricted or prohibited from sending mail to or receiving mail from any inmate. (10-5-07)

d. Any sender of legal mail that continues to violate the provisions of Section 402, Department policies, or standard operating procedures (or in the case of mail that is a serious threat to the secure and orderly operation of any Department facility) may not, at the sole discretion of the division chief, have his mail delivered to the inmate, and the inmate may also be restricted or prohibited from sending or receiving mail. (10-5-07)

04. Prohibited Mail. Mail, including a publication, which poses a threat to the penological interests of the Board or Department, may be withheld from the inmate. Contraband will always be withheld without regard to this section. The Board has determined that some types of mail always pose a threat to penological interests. The following types of materials are prohibited: (10-5-07)

a. Items in a letter or package not authorized by policy or division standard operating procedures; (10-5-07)

b. Packages without prior authorization; (10-5-07)

c. Publications or items that describe the manufacture of weapons, bombs, explosives, alcohol and drugs, drug paraphernalia, or escape materials; (10-5-07)

d. Role-playing games and related materials; (10-31-08)

e. Information related to the crime or identity of another offender; (10-5-07)

f. Promotional items such as fragrance packs, CDs, computer software, stickers, handbags, T-shirts, baseball caps, in publications, magazines, periodicals etc. (Promotional items will be destroyed and the publication will be forwarded so that the mail process is not delayed); (10-5-07)

g. Junk mail (mail that does not contain a typical Idaho Department of Correction [IDOC] offender mailing address [offender's name, IDOC number, facility, housing unit, etc.] and is similar to the following examples: direct marketing, mass mailings, sales flyers, credit card applications, coupons, etc.). Junk mail will be destroyed; (10-31-08)

h. More than one (1) subscription to the same periodical, magazine, etc.; (10-5-07)

i. Publications or items evidencing gang involvement or activities (enemy lists, constitutions, structures, codes, signs, symbols, photographs, drawings, training material, clothing, etc.); (10-5-07)

j. Publications or items advocating that any ethnic, racial, or religious group is inferior or that make such groups an object of ridicule and scorn. However, no publication will be withheld solely because of its appeal to a particular ethnic, racial, or religious group; (10-5-07)

k. Publications or items that encourage violence between recipients and members of another group; (10-5-07)

l. Publications not mailed direct from the publisher or a bookstore; (10-5-07)

m. Clippings from magazines, books, or newspapers; (10-5-07)

n. Postage stamps or envelopes. (Postage stamps are allowed at CWC facilities if the CWC does not have commissary services); (10-5-07)

o. Greeting cards that are padded, laminated, musical, or larger than eight inches by ten inches (8" x 10"); (10-5-07)

p. Photographs larger than five inches by eight inches (5" x 8") and instant photographs, for example,

“Polaroid type” with layers. Photocopies are not photographs and may be on standard eight and one-half inches by eleven inches (8.5” x 11”) paper; and (10-5-07)

- q. Other materials, which in the opinion of the facility head, present a threat to penological interests. (10-5-07)

05. Prohibited Sexually Explicit and Pornographic Materials. Nudity, sexually explicit, and pornographic materials are prohibited. Written material of a sexual nature is permitted and is not included in this definition. Publications that do not feature nudity, but contain nudity illustrative of medical, educational, or anthropological content may be excluded from this definition. (10-5-07)

a. Prohibited materials include pictorial depictions in books, pamphlets, magazines, periodicals, any other graphic images, or any other publication or any personal pictures, drawings, or any other graphic depiction, or photocopies of any of these items. (10-5-07)

b. Publications, drawings, photocopies, and other pictorial materials that meet the description of nudity in this section, but the person has clothing or other covering that is transparent or virtually transparent are not permitted. (10-5-07)

i. Nudity means a pictorial or graphic images depicting male or female genitalia, anus, or where the nipples or areola of female breasts are exposed; (10-5-07)

ii. Feature means that a publication contains pictorial depictions of nudity or sexually explicit conduct on a routine or regular basis or promotes itself based upon such depictions in the case of individual one-time issues; and (10-5-07)

iii. Sexually explicit means a pictorial depiction of actual or simulated sexual acts including sexual intercourse, oral sex, or masturbation. (10-5-07)

06. Withholding of Prohibited Material. Any incoming mail suspected of containing any prohibited material defined in this section shall be withheld and reviewed by the facility head or designee to determine if it should be withheld or delivered to the inmate. If the facility head determines that the mail should be withheld, the offender will be given written notice. The offender may use the Department grievance procedure to contest the decision. (10-5-07)

403. INMATE RELIGIOUS PRACTICES.

Inmates should have the opportunity to practice the tenets of their respective religious faiths, including access to religious publications, to representatives of their faiths, and to religious counseling, so long as those religious practices do not conflict with a compelling government interest. If compelling governmental interests exist to restrict an offender’s religious practice, the Department will use the least restrictive means possible as determined by Department officials in accordance with Department policies, standard operating procedures, and good correctional practice. The Department may provide access to religious practices through volunteers in accordance with Section 606. The Department may develop guidelines and procedures for the conducting of religious activities. (10-5-07)

404. (RESERVED)

405. COURT PROCEEDINGS WITHIN A FACILITY.

The Department may make a conference or court room within a facility available to a state or federal court for the purpose of holding a hearing or trial upon a claim involving an inmate or group of inmates when doing so will not be contrary to penological interests. The facility head, in his sole discretion, may allow members of the public who are not witnesses to the proceeding in to the facility to observe the proceeding when in the opinion of the facility head doing so will not be contrary to penological interests. (Also see Sections 510, 511, and 604.) (10-5-07)

406. -- 502. (RESERVED)

503. TELEPHONES.

Inmates are not allowed to use facility telephones except upon written permission of the facility head or designee. All

regular inmate telephone calls shall be made through collect-call only telephones, if provided in the facility. All telephone calls in or out of a facility are subject to being monitored. The facility staff shall make every reasonable effort to identify and not monitor telephone calls between an inmate and the inmate's attorney. (11-5-99)

504. -- 510. (RESERVED)

511. ACCESS TO DEPARTMENT PROPERTIES.

In order to maintain the secure and orderly operation of Department correctional facilities, community work centers (CWCs), and district probation and parole offices, the Department shall control access to these Department properties. Any person entering onto and/or into a correctional facility, CWC, or district probation and parole office property, shall do so at his own risk and will be required to comply with all written and/or verbal security and control measures. The Department shall not allow public access to any correctional facility, CWC, or district probation and parole office property without approval of the Board, director, division chief, deputy division chief, district manager, or facility head. The Department may consider any person who enters onto and/or into a correctional facility, CWC, or district probation and parole office property without a business purpose or approval to be trespassing and subject to arrest and prosecution pursuant to Idaho Code. (11-2-12)

01. Access and Egress Control. The Department will establish standard operating procedure to control access to and egress from all Department properties and facilities. (10-5-07)

02. Persons Subject to Search. All persons entering onto and/or into a correctional facility, CWC, or district probation and parole office property, may be subject to search. (11-2-12)

03. Vehicles Subject to Search. All vehicles entering onto a correctional facility, CWC, or district probation and parole office property may be subject to search. All vehicles entering the secure perimeter of a correctional facility shall be searched upon entering and exiting the facility. While within the secure perimeter of a correctional facility, unattended vehicles must be locked and have keys removed. (11-2-12)

04. Photo Identification Required. All photo identification requirements described in Section 117 shall apply to all persons entering into a Department correctional facility, CWC, or district probation and parole office property. The Department shall establish identification procedures for minor children visiting with offenders in standard operating procedures. (Also see Section 604.) (11-2-12)

05. Contraband Prohibited. The items allowed onto and/or into a correctional facility, CWC, or district probation and parole office property shall be controlled. Unauthorized items are called contraband. Members of the public bringing contraband onto and/or into a correctional facility, CWC, or district probation and parole office property during a visit, tour, or other sanctioned activity shall be subject to immediate and permanent cancellation of the visit, tour, or other sanctioned activity. (11-2-12)

a. Any person who brings or attempts to bring contraband onto and/or into a correctional facility or CWC property shall be subject to arrest and prosecution pursuant to Section 18-2510, Idaho Code. (11-2-12)

b. Any person who brings or attempts to bring controlled substances onto and/or into a district probation and parole office property shall be subject to arrest and prosecution pursuant to Section 37-2732, Idaho Code. (11-2-12)

c. Any person who brings a firearm into restricted areas of a district probation and parole office property shall be subject to Section 117 of these rules. (11-2-12)

06. Termination of Visit, Tour, Sanctioned Activities, and Services. Any member of the public bringing contraband onto and/or into a correctional facility, CWC, or district probation and parole office property during a visit, tour, or other sanctioned activity will be subject to immediate and permanent cancellation of the visit, tour, or other sanctioned activity. Vendors, contractors, interns, volunteers, or employees bringing contraband onto and/or into a correctional facility, CWC, or district probation and parole office property or offender work site may be subject to immediate termination of services as a vendor, contractor, intern, volunteer, or employee. (11-2-12)

512. -- 600. (RESERVED)

601. PUBLIC PARTICIPATION IN INMATE ATHLETIC EVENTS.

Members of the public may participate in and compete against inmates in athletic events held within or without a facility upon the written approval of the chief of the division governing the facility. Such competition shall not interfere with inmate work or training programs. (Also see Sections 123, 510, and 511.) (10-5-07)

602. -- 603. (RESERVED)

604. VISITING INMATES.

01. No Right to Visit Established. Nothing in Section 604 establishes a right to visit any inmate. Nothing in Section 604 should be interpreted as an expectation that visitation will be approved between any person and any inmate if the Department has suspended, terminated, or revoked a visitor or inmate's visiting privileges. (Also see Sections 405, 510, and 511.) (10-5-07)

02. Visitation at the Discretion of the Department. Inmate visitation is allowed at the discretion of the facility head or designee. Each division may develop standard operating procedures and field memoranda to govern inmate visiting. Whether a visit is contact or non-contact will be at the discretion of the facility head in accordance with standard operating procedures. (10-5-07)

03. Visitation Lists. To visit an inmate, a person must apply with the facility, on an approved Department form. Only persons approved to be on an inmate's visiting list may visit with an inmate, except as noted in Subsection 604.04. (10-5-07)

a. Visitors are responsible for reading and following the Department's rules that govern visiting. The rules can be found at the Department's website or they can be obtained at the facility visiting room during visiting hours. (10-5-07)

b. A person applying to visit an inmate is subject to a criminal background investigation and check for outstanding warrants. (10-5-07)

04. One-time and Special Visits. The facility head, or designee may approve a one-time or special visit between an inmate and a person who is not on the inmate's visiting list. Guidelines for approving one-time and special visits are provided in standard operating procedures. Application to the facility head for a one-time or special visit must be made at least twenty-four (24) hours before the visit. (10-5-07)

05. Restricted Visitors. The following people will not be granted permission to visit an inmate, except as noted in Subsection 604.05: (10-5-07)

a. Applications to visit from former inmates will be considered on an individual basis. Guidelines for approval are provided in standard operating procedures. (10-5-07)

b. A probationer or parolee shall not be approved for visiting until a minimum of six (6) months has passed since release to probation or parole and then only with the written approval of the supervising probation or parole officer and the facility head or designee. (10-5-07)

c. Minor children are not allowed to visit an inmate unless the minor is the immediate family of the inmate. A minor must be accompanied at all times during the visit by a parent, legal guardian, or state-appointed case manager. A minor claiming relationship to the inmate as a stepchild cannot visit unless the visiting parent obtains and files with the facility head a signed statement from the other natural parent authorizing and giving permission for the visit with the inmate. If the other natural parent's whereabouts are unknown, the parent making application is responsible for establishing, to the satisfaction of the facility head, the unavailability of the other natural parent. Guidelines for submitting visiting applications for minor children are provided in standard operating procedures. (10-5-07)

d. A minor child who was the victim of a violent or sexual crime where the inmate was the perpetrator of the crime, whether a conviction resulted or not, cannot visit the inmate unless all of the following conditions in

Subsections 604.05.d.i. through 604.05.d.iii. are met: (10-5-07)

i. A written recommendation is submitted from a licensed counselor who provided counseling to the child, indicating the visit will enhance the counseling process and is in the child's best interest. The recommendation must include the length of time the counselor provided counseling to the victim, the counselor's training and experience in counseling victims of violent and/or sexual crimes, and why it is now in the best interest of the child to allow visitation with the inmate. (10-5-07)

ii. The visitation request must be approved by the facility head, based on the best interest of the minor child. What is in the best interest of the minor will be determined at the discretion of the facility head. (10-5-07)

iii. The facility head may impose additional visitation restrictions on inmates convicted of a violent or sexual crime when visiting minor children. (10-5-07)

e. A Department employee, volunteer, vendor, intern, or contractor cannot visit an inmate, unless the Department employee, volunteer, vendor, intern, or contractor is the immediate family of the inmate and the facility head approves the visiting application. (10-5-07)

f. If a former Department employee, volunteer, vendor, intern, or contractor applies to visit an inmate and it is determined that the applicant violated any Department rule and/or Section of Idaho Code, the application will normally be denied. (10-5-07)

g. If the applicant is not immediate family of the inmate, the applicant cannot visit an inmate unless the applicant terminates the relationship of employee, volunteer, vendor, intern, or contractor with the Department, and then the person cannot visit an inmate unless the chief of the division that governs the facility approves the visiting application. Nothing in this section guarantees that a former employee, volunteer, vendor, intern, or contractor will be approved to visit an inmate. (10-5-07)

h. A person shall not be on the approved visiting list for more than one (1) inmate at a time unless the person is the immediate family of more than one (1) inmate being visited. A person will not be approved to visit an inmate if, within six (6) months before the current application, the person was an approved visitor on another inmate's visiting list. (10-5-07)

i. A person claiming to be immediate family of an inmate may be required to provide proof of relationship through documentation. The level of proof required will be at the discretion of the facility head and in accordance with standard operating procedures. (10-5-07)

j. A person who has pending criminal charges or who is the subject of a criminal investigation will not be permitted to visit an inmate, except upon written approval of the facility head or designee. (10-5-07)

06. Termination of Visits. A visit may be suspended, restricted, or terminated at any time, for any period of time (including permanently), for violation of any: (10-5-07)

a. Board rule; (10-5-07)

b. Department policy, standard operating procedure, directive, field memoranda; or (10-5-07)

c. At the discretion of the facility head or designee in accordance with standard operating procedures. (10-5-07)

d. Persons who have had visiting privileges permanently terminated may apply within fourteen (14) days to the chief of the division that governs the facility for reconsideration of the termination decision, and on an annual basis thereafter. (10-5-07)

07. Attorney Visits With Inmates. An attorney or his approved agent may visit with an inmate consistent with this section. The facility head or designee may prohibit a visit if the visitor violates or attempts to violate any Department rules. The facility head shall determine whether the visits will be contact or non-contact

visits. (Also see Sections 510 and 511.) (10-5-07)

08. Attorney Visiting Hours. The facility head will designate visiting hours for attorney visits, which will normally be Monday through Friday, from 8 a.m. through 4 p.m. The facility head or designee may approve special visiting hours. Visits must be scheduled twenty-four (24) hours in advance. (10-5-07)

09. Attorney Visits With Death Sentenced Inmates. Visits between inmates under the sentence of death and attorneys will be made in substantial compliance with Section 19-2705, Idaho Code. Attorneys and their agents shall comply with this Subsection 604.09 and all facility regulations, policies, and standard operating procedures governing visiting. (Also see Sections 510 and 511.) (10-5-07)

10. Attorney Visits With Groups of Inmates. Visits with groups of inmates will not be permitted unless the Office of the Attorney General has verified class certification or co-parties. Staff will directly supervise visits between groups of inmates and attorneys or their approved agents. (Also see Sections 510 and 511.) (10-5-07)

605. (RESERVED)

606. VOLUNTEER SERVICES.

01. Volunteer Services Established. The Department may establish a program of volunteer services within the facilities. Based on penological interests, volunteers may be used to enhance and expand inmate activities. (10-5-07)

02. Facility Head Approves Volunteers. The facility head shall be the approving authority for all volunteers. Each facility head may designate staff members to coordinate and oversee the volunteer program. (10-5-07)

03. Screening Process. The screening process for volunteers shall include a criminal background check. (11-5-99)

04. Orientation and Training. Orientation and training of volunteers shall include completion of a Department-approved training curriculum. (10-5-07)

05. Visiting with Inmates. Volunteers are not allowed to visit any inmate unless the inmate is an immediate family member of the volunteer. (Also see Sections 510, 511, and 604.) (10-5-07)

607. PUBLIC PARTICIPATION IN PROGRAM ACTIVITIES.

The public may participate in program activities with an inmate or group of inmates upon written approval of the facility head where the inmate is housed, if housed in a Department facility, or upon written approval of the chief of the division of prisons, if housed in a county facility. (Also see Sections 510 and 511.) (10-5-07)

608. -- 610. (RESERVED)

611. BUSINESS WITH INMATES AND LABOR OF INMATES.

01. Guidelines to Be Developed. The Department shall develop guidelines for contracting with federal, state, local governmental entities, and non-profit public service organizations to provide inmates for public work projects. The director shall have the authority to sign any such contracts on behalf of the Department. (11-5-99)

02. Persons Prohibited From Contracting with Inmates. No person may contract with, solicit for contract or employment or employ any inmate without written approval of the director or his designee. (11-5-99)

612. -- 700. (RESERVED)

701. PROBATION AND PAROLE SUPERVISION.

01. Search of Home, Vehicle and Property. Any person who resides with an offender under the

supervision of the Department while on probation or parole or an offender released on furlough shall have the person's home, vehicle and property, both personal and real, subject to search by a probation and parole officer at reasonable times and in a reasonable manner to extent that the home, vehicle and property are accessible to the offender. The officer shall not need a warrant, reasonable suspicion, or probable cause. (11-5-99)

02. Visits at Place of Employment. Any person who employs an offender under the supervision of the Department while on probation or parole, an offender housed in a community work center, or an offender released on furlough shall have the offender's designated work areas subject to inspection by a probation and parole officer at reasonable times and in a reasonable manner. The officer shall not need a warrant, reasonable suspicion, or probable cause. (11-5-99)

702. -- 999. (RESERVED)

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