

Sixth District Department of Correctional Services POLICY		Issue Date 03/06/92	Effective Date 4/20/15	Policy Number 200-15
Subject <b>PRE-TRIAL RELEASE DEFINITIONS &amp; PROCESS</b>		Review Month December		Author 0102/0483 (JAL/KSC)
Rescinds 200-07	References Iowa Criminal Code, Chapter 811; 905.7 (1);708.2A			

**PURPOSE:**

The Department of Correctional Services assists the Court in establishing release provisions through safe and fair bond recommendations and release with supervision services (RWS) as ordered.

**POLICY:**

Defendants held in jail for assaultive serious misdemeanors, designated aggravated misdemeanors and all felony offenses may be interviewed by pretrial staff prior to their initial appearance for the purpose of making a recommendation to the Court as to the appropriate bond provisions.

**DEFINITION:**

1. Felonies - Offenses for which an indeterminate prison sentence can be imposed, which include:
  - A. Class A Felony - Mandatory life in prison;
  - B. Class B Felony - Indeterminate term not to exceed twenty-five (25) years in prison;
  - C. Class C Felony - Indeterminate term not to exceed ten (10) years in prison and possible fine of up to \$10,000;
  - D. Class D Felony - Indeterminate term not to exceed five (5) years in prison and possible fine of up to \$7,500.
2. Aggravated Misdemeanors - Offenses which carry up to a one (1) year jail sentence or a two (2) year prison sentence and/or a fine up to \$5,000.
3. Serious Misdemeanors - Offenses which carry up to a one (1) year jail sentence and/or a fine up to \$1,000.
4. Bond Provisions - Form of release the Judge establishes at the initial appearance or bond reduction hearing. These include:
  - A. Release on recognizance (OR);
  - B. Release with supervision to the Department (WS);

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**DEFINITION: (continued)**

- C. Monetary bond;
  - D. Bond and RWS.
5. Simple Misdemeanors - Offenses which carry up to a thirty (30) day jail sentence and/or a fine up to \$100.
  6. Monetary Bond - Defendant is required to post cash or surety in an amount established by the Judge prior to being released from custody.
  7. D.C.I. - Iowa Division of Criminal Investigation;
  8. D.O.T. - Iowa Department of Transportation;
  9. EDMS- Electronic Data Management System;
  10. Final Disposition Order - Court document stating the outcome of defendant's case.
  11. Hold - Detention order filed against a defendant as a result of criminal matters.
  12. Initial Appearance - Formal court hearing held within twenty-four (24) hours of the defendant's arrest. The defendant is given notice of the charges filed and the Judge establishes the bond provisions.
  13. Iowa Resident - For the purpose of pretrial guidelines, person who has resided in the State of Iowa for thirty (30) days or more, or is full-time employed/student, and intends to continue residency during the course of the court proceedings.
  14. Juvenile - Defendant who is less than age eighteen (18) and who has not been transferred to adult court.
  15. Master Caseload List – ICON generated list of all defendants on supervision to the Department.
  16. Military Time - Four digit listing of the time of day as used in the U.S. Military (i.e., 8:00 a.m. = 0800, 2:00 p.m. = 1400).
  17. NCIC - National Crime Information Center.
  18. Out of State Resident - Person whose permanent residence is outside the State of Iowa or who has resided in the State of Iowa less than thirty (30) days.
  19. References - Persons listed by defendant as a source of verification of the information provided by the defendant during the initial interview.
  20. Release With Supervision (RWS or WS) - Defendant is released from custody to the supervision of designated agency staff.

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**DEFINITION:** (continued)

21. Release Recommendation - Form of release recommended to the Judge at the initial appearance based on the results of the defendant's pretrial interview.
22. Release On Recognizance (ROR or OR) - Defendant is released from custody on the defendant's Promise to Appear for future Court appearances.

**PRE-TRIAL INTERVIEW PROCEDURE:**

1. Upon availability department staff contacts jail personnel to determine the number of defendants requiring an interview.
2. The following categories of defendants are eligible for interview:
  - A. Assaultive serious misdemeanors;

708.2(2)	Assault Without Intent to Cause Serious Injury
708.2C(5)	Assault in Violation of Individual Rights
708.2A(2)(b)	Domestic Abuse Assault Without Intent to Cause Serious Injury
708.2A(3)(a)	Domestic Abuse Assault Second or Subsequent
708.3A(4)	Assault of Peace Officer
708.7(3)	Harassment 2 <sup>nd</sup>
708.11(2)(c)	Stalking, 1 <sup>st</sup> Offense
710.7	False Imprisonment
709.9	Indecent Exposure
709.14	Lascivious Conduct With Minor
709.15(4)	Sexual Exploitation by a Counselor or Therapist
716.8(2)	Trespass Causing Injury
719.1	Interference With Official Acts Causing Injury
726.8(1)	Wanton Neglect of a Dependent Adult
  - B. All Aggravated misdemeanors (excluding Driving While Barred, Public Intoxication 3<sup>rd</sup>);
  - C. All Felonies;
  - D. Other defendants as directed by the Judge;
  - E. Juveniles charged with forcible felonies and other Juveniles as requested by the Court.
3. Defendants held in custody for the following are ineligible for interview:
  - A. Holds for other counties or states and no new charges;
  - B. Non-assaultive serious misdemeanors;
  - C. Simple misdemeanors;

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**PROCEDURE: (continued)**

- D. Juveniles;
  - E. Fugitive from Justice (Fugitive Information);
  - F. Material Witness
4. Department staff completes the interview on Pretrial Interview form (200A). A brief report (200C) is scanned via EDMS to the judicial magistrate upon request.
5. Interview points are calculated. The following point system is adhered to for felony, aggravated misdemeanor and assaultive serious misdemeanor offenses unless circumstances dictate otherwise:
- |                |                          |
|----------------|--------------------------|
| -1 to 1 point  | No Release               |
| 2 to 4 points  | Release With Supervision |
| 5 to 13 points | Release On Recognizance  |
6. Prior to the initial appearance the supervisor or designee approves the recommendation for the following offenses, including conspiracies and attempts to commit these offenses:
- A. Murder;
  - B. Sexual Abuse;
  - C. Burglary, 1<sup>st</sup> Degree;
  - D. Arson;
  - E. Willful Injury;
  - F. Lascivious Acts;
  - G. Terrorism;
  - H. Manslaughter;
  - I. Homicide by Vehicle;
  - J. Robbery;
  - K. Stalking;
  - L. Indecent Contact With a Child;
  - M. Harassment, 1<sup>st</sup> Degree.
7. Recommendations are also reviewed with the supervisor/designee when community protection forms the basis for a recommendation against release. The following criteria are considered when using community protection as a reason to recommend a monetary bond:
- A. There is clear and convincing evidence gained through statements made by the defendant or collateral sources (i.e., arresting officers, jail staff, County Attorney) that the defendant may harm the victim and/or witness if released;

**PROCEDURE: (continued)**

- B. The offense the defendant is charged with is a forcible felony;
  - C. Any violent offense allegedly committed after the defendant has been convicted of two (2) or more violent offenses in the past 10 (ten) years.
  - D. A firearm or other weapon is used in the commission of the alleged offense.
  - E. The defendant acquires two (2) or more offenses in the following categories while released:
    - 1) Felonies;
    - 2) Assaultive misdemeanors;
  - F. The offense involves the same victim as that of a pending/previous offense.
8. Monetary bond is recommended when:
- A. Defendant's criminal history indicates a Failure to Appear for any Court appearance, escape from custody or absconding from supervision in the past ten (10) years on a serious, aggravated, or felony offense;
  - B. Defendant's criminal history indicates two (2) or more Failures to Appear/Escape from Custody for simple misdemeanors within the last five (5) years (the information regarding Failure(s) to Appear/Escape from custody is noted in the release summary);
  - C. Defendant is an out-of-state resident;
  - D. Defendant is an illegal alien;
  - E. The offense charged is an Escape from Custody;
  - F. The defendant is charged with a new assaultive offense along with a violation of a no contact order.
9. The interviewer must attempt to verify all information in the interview, however; a recommendation can be made if both address and prior record are verified. The recommendation is based on the number of verified points in these two areas.
10. A "no contact" order is always recommended on all cases involving all assaultive offenses.

**PROCEDURE: (continued)**

11. In cases where the defendant is charged with unlawful possession, manufacture, delivery, or distribution of a controlled substance or other drug under **Chapter 124** and is ordered released is required, as a condition of that release, to submit to a substance abuse evaluation and follow any recommendations proposed in the evaluation for appropriate substance abuse treatment.
12. However, if a defendant is charged with manufacture, delivery, possession with the intent to manufacture or deliver, or distribution **of methamphetamine, its salts, optical isomers, and salts of its optical isomers**, the defendant, in addition to a substance abuse evaluation, remains under supervision and is required to undergo random drug tests as a condition of release. Ref: Iowa code, 811.2(1)(5)b.
13. Staff forwards the completed file to appropriate clerical staff for data entry.
14. On release with supervision, staff:
  - A. Reviews the conditions of release, grievance and PREA forms with the defendant;
  - B. Secures and witnesses the signature of the defendant on the Pretrial Release Agreement (200B);
  - C. Directs the defendant to contact the appropriate DCS Officer or call the designated phone number.

BY ORDER OF:

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Bruce Vander Sanden, Director