

an inmate, it shall be held until his or her release from the institution, at which time it shall be transferred with the inmate's general account funds to the division cashier. It shall be returned to the inmate upon discharge or at any earlier time when the supervising agent determines that continued control over it is no longer necessary.

(d) *Property*. If the owner is known, property may be returned to the true owner, placed in storage, or sent at the inmate's expense to another, in accordance with the nature of the property, unless the owner transferred the property in an unauthorized manner. Otherwise, items of inherent value shall be sold through the department's purchasing officer and money received shall be placed in the state's general fund. Items of inconsequential value (having a value of \$5 or less) shall be destroyed. Property items authorized but in excess of the amount allowed inmates may be sent at the inmate's expense to anyone designated by the inmate or stored.

(e) *Intoxicating substances*. Intoxicating substances shall be disposed of by the institution or given to the sheriff's department for use as evidence or for disposal.

(f) *Weapons*. Weapons not required for use as evidence may be retained for training purposes or disposed of by institution authorities or law enforcement agencies.

(g) *Institution property*. Any article originally assigned as property of the institution shall be returned to service at the institution.

(4) If an inmate believes that property should be returned, placed in storage or sent out at his or her direction, and a decision to dispose of it in a different manner has been made, the inmate may file a grievance. The property shall not be disposed of until the grievance is resolved.

History: Cr. Register, August, 1980, No. 296, eff. 9-1-80.

HSS 303.11 Temporary lockup: use. (1) An inmate may be placed in temporary lockup (TLU) by a security supervisor, security director, or superintendent.

(2) If the inmate is placed in temporary lockup by a security supervisor, the security director shall review this action on the next working day. Before this review and the review provided for in sub. (3), the inmate shall be provided with the reason for confinement in TLU and with an opportunity to respond, either orally or in writing. Review of the decision must include consideration of the inmate's response to the confinement. If, upon review, it is determined that TLU is not appropriate, the inmate shall be released from TLU immediately.

(3) No inmate may remain in TLU more than 21 days, except that the superintendent, with notice to the bureau director, may extend this period for up to 21 additional days for cause. The security director shall review the status of each inmate in TLU every 7 days to determine whether TLU continues to be appropriate. If upon review it is determined the TLU is not appropriate, the inmate shall be released from TLU immediately.

(4) An inmate may be placed in TLU and kept there only if the decision maker is satisfied that it is more likely than not that one or more of the following is true:

(a) If the inmate remains in the general population, the inmate will seek to intimidate a witness in a pending investigation or disciplinary action;

(b) If the inmate remains in the general population, he or she will encourage other inmates by example, expressly, or by their presence, to defy staff authority and thereby erode staff's ability to control a particular situation;

(c) If the inmate remains in the general population, it will create a substantial danger to the physical safety of the inmate or another;

(d) If the inmate remains in the general population, it will create a substantial danger that the inmate will try to escape from the institution; or

(e) If the inmate remains in the general population, a disciplinary investigation will thereby be inhibited.

(5) When an inmate is placed in TLU, the person who does so shall state the reasons on the appropriate form and shall include the facts upon which the decision is based. The inmate shall be given a copy of the form. Upon review, the security director shall approve or disapprove the TLU on the form.

(6) Conditions in TLU should, insofar as feasible, be the same as those in the status the inmate was formerly in. If the inmate was earning compensation and extra good time credit, this shall continue.

History: Cr. Register, August, 1980, No. 296, eff. 9-1-80; am. (3), Register, April, 1985, No. 352, eff. 5-1-85.

Code of inmate offenses introductory note

The purposes of the disciplinary system, including the substantive rules, are addressed in HSS 303.01 and note. However, it is helpful to stress and develop further several points which have particular relevance to the substantive offenses.

In identifying what conduct should be the subject of the disciplinary code, principal reliance was placed on experience. Experience teaches that the offenses which follow are those committed in institutions and that the disciplinary system is appropriate for dealing with them.

There is considerable overlap between the disciplinary rules and the criminal code, principally in the area of crimes of violence. "White-collar" crimes are generally not duplicated in the rules because they have not been a disciplinary problem. However, crimes against persons and property are an important disciplinary problem, and the correctional authorities need to have the power to deal with them without always resorting to the cumbersome machinery of the judicial system.

The experience in Wisconsin has been that disciplinary proceedings are a more effective way of dealing with most crimes committed in prison than prosecution is. In extreme cases, of course, cases are referred for prosecution. However, in these cases as well as in less serious cases, prison officials need to have the authority to isolate or punish individuals in order to prevent a recurrence of violence. The U.S. Supreme Court has approved the practice of bringing both disciplinary and criminal proceedings against an individual based on a single incident, implying that no double jeopardy problems are raised by this practice. *Baxter v. Palmigiano*, 425 U.S. 308 (1976).

In addition to reevaluating the purpose and effectiveness of each rule, an attempt has been made to make sections as specific as possible even where the substance of the rule remained unchanged. For example, former policy and procedure 2.02 stated, "Residents shall not sexually assault another person." New HSS 303.13 and 303.14 define two types of sexual assault in very specific terms. This example also points up another change in some rules: rules covering both serious and less serious offenses have been split, so that now someone looking at an inmate's record will have a clearer idea of exactly how serious his or her disciplinary offenses

(d) Whether the alleged violation created a risk of serious injury to another person; and

(e) The value of the property involved, if the alleged violation was actual or attempted damage to property, misuse of property, possession of money, gambling, unauthorized transfer of property, soliciting staff or theft.

(5) Any conduct report containing at least one charge of a major offense shall be handled as a major offense, even if it also includes minor offenses.

(6) Any alleged violation of a rule which may result in a suspension of visiting or correspondence privileges, work or study release, or leave shall be treated as a major offense, although the inmate may waive this.

History: Cr. Register, August, 1980, No. 296, eff. 9-1-80; am. (1)(d), renum. (2) to (5) to be (3) to (6) and am. (4) (intro.), cr. (2), Register, April, 1985, No. 352, eff. 5-1-85.

HSS 303.69 Major penalties: adjustment segregation. (1) **CONDITIONS.** Adjustment segregation may not exceed 8 days. It may only be imposed for a major offense by the adjustment committee or the hearing officer. Only one person shall be kept in each segregation cell, except when overcrowding prevents it. Each cell must meet the following minimum standards: clean mattress, sufficient light to read by at least 12 hours per day, sanitary toilet and sink, and adequate ventilation and heating.

(2) **NECESSITIES.** The following shall be provided promptly upon request for each inmate in adjustment segregation but may not necessarily be kept in the cell: adequate clothing and bedding; a toothbrush, toothpaste, soap, a towel, a face cloth and a small comb, unless the inmate is allowed to use his or her own such hygiene supplies; paper, envelopes, stamps and pens (the cost of stamps may be deducted from the inmate's account); and holy books. The same diet as provided to the general population at the institution shall be provided.

(3) **OTHER PROPERTY.** Inmates in adjustment segregation may have material pertaining to legal proceedings and books provided by the institution librarian in adjustment segregation.

(4) **VISITS AND TELEPHONE CALLS.** Inmates in adjustment segregation shall be permitted visitation and telephone calls in accordance with ch. HSS 309.

(5) **MAIL.** Inmates in adjustment segregation may receive and send mail in accordance with the departmental rules relating to inmate mail.

(6) **SHOWERS.** Inmates in adjustment segregation shall be permitted to shower at least once every 4 days.

(7) **SPECIAL PROCEDURES.** No property is allowed in the cell except that describe in subs. (1), (2) and (3), and letters received while in adjustment segregation. Smoking is forbidden. Each institution may establish specific procedures relating to talking. No yelling or whistling is permitted.

(8) **LEAVING CELL.** Inmates in adjustment segregation may not leave their cells except for urgent medical or psychological attention, showers, visits and emergencies endangering their safety in the cell.

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(9) **GOOD TIME.** An inmate shall not earn extra good time while he or she is in adjustment segregation. Wages are not paid to inmates in adjustment segregation.

(10) **OBSERVATION.** A person placed in observation while in adjustment segregation receives credit toward the penalty being served.

(11) **TRANSFER.** An inmate may be transferred from one institution to another while in adjustment segregation in accordance with ch. HSS 302.

History: Cr. Register, August, 1980, No. 296, eff. 9-1-80.

HSS 303.70 Major penalties: program segregation. (1) **CONDITIONS.** Program segregation may not exceed the period specified in HSS 303.84. It may only be imposed for a major offense by the adjustment committee or the hearing officer. Only one person shall be kept in each segregation cell, unless overcrowding prevents it. Each cell must meet the following minimum standards: clean mattress, sufficient light to read by at least 12 hours per day, sanitary toilet and sink and adequate ventilation and heating.

(2) **NECESSITIES.** The following shall be provided promptly upon request for each inmate in program segregation: adequate clothing and bedding; a toothbrush, toothpaste, soap, a towel, a face cloth and a small comb, unless the inmate is allowed to use his or her own such hygiene supplies; paper, envelopes, stamps and pens (the cost of stamps may be deducted from the inmate's account); and holy books. The same diet as provided to the general population at the institution shall be provided.

(3) **PROPERTY.** (a) Inmates in program segregation may have in their cells documents and other materials pertaining to legal proceedings as well as books provided by the institution librarian.

(b) Inmates in program segregation may not have electronic equipment or typewriters in their cells except as permitted in accordance with written policy of the institution. Every institution shall have a written policy providing for incentives for inmates in program segregation to earn the privilege of having personal electronic equipment or typewriters in program segregation. The director of the bureau of adult institutions shall approve each institution's policy before it takes effect to ensure that it is reasonable. Each institution shall post its approved policy and implementation procedures within 30 days after the effective date of this subsection.

(c) This subsection applies to all program segregation status imposed for conduct committed before, on or after the effective date of this subsection.

(4) **VISITS AND TELEPHONE CALLS.** Inmates in program segregation shall be permitted visitation and telephone calls in accordance with ch. HSS 309.

(5) **MAIL.** Inmates in program segregation may receive and send mail in accordance with departmental rules relating to mail.

(6) **SHOWERS.** Inmates in program segregation shall be permitted to shower at least once every 4 days.

(7) **SERVICES AND PROGRAMS.** Social services, clinical services and program and recreation opportunities shall be provided as possible but must Register, April, 1985, No. 352

be provided at the individual's cell, unless otherwise authorized by the security director. A program of exercise shall be provided for inmates in program segregation.

(8) LEAVING CELL. Inmates in program segregation may not leave their cells except for medical or clinical attention, showers, visits, exercise and emergencies endangering their safety in the cell. *Emer*
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(9) GOOD TIME AND PAY. Inmates in program segregation earn neither extra good time nor compensation.

(10) CANTEEN. Inmates in program segregation may have approved items brought in from the canteen but may not go to the canteen in person.

(11) SPECIAL RULES. Smoking is permitted if no hazard is thereby caused. Talking is permitted in a normal tone during approved times. No yelling or whistling is permitted.

(12) REVIEW OF PROGRAM SEGREGATION. An inmate's status in program segregation may be reviewed at any time and he or she may be placed in the general population at any time by the superintendent. Such status must be reviewed every 30 days by the superintendent. Such review shall include a recommendation by the security director as to whether the inmate should remain in program segregation and an evaluation of the inmate by either the crisis intervention officer or the adjustment program supervisor, or both. In deciding whether an inmate should be removed from program segregation and placed in the general population, the superintendent shall consider:

(a) The offense, including:

1. Its nature and severity;
2. Mitigating factors;
3. Aggravating factors; and
4. Length of sentence to program segregation;

(b) Motivation and behavior of the inmate, including:

1. Attitude toward himself or herself and others and changes in his or her attitude;
2. Goals of the inmate;
3. Physical and mental health; and
4. Attempt to resolve emotional and mental disorders;

(c) Institutional adjustment, including:

1. Disciplinary record;
2. Program involvement;
3. Relationship to staff and inmates; and
4. Security problems created by release;

(d) Programs, including:

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1. Social and clinical services available to help the inmate; and
2. Any programs available to help the inmate.

History: Cr. Register, August, 1980, No. 296, eff. 9-1-80; emerg. r. and recr. (3), eff. 7-24-84; r. and recr. (3) and (10), Register, December, 1984, No. 348, eff. 1-1-85.

HSS 303.71 Controlled segregation. (1) **USE.** Any inmate in TLU or segregation of any kind who exhibits loud and seriously disruptive behavior or destructive behavior toward the contents of the cell or himself or herself may be put into controlled segregation upon order of the shift supervisor. No inmate may be placed in controlled segregation unless a conduct report is written for the conduct giving rise to the use of controlled segregation. The adjustment committee shall review the report to determine if disciplinary action is appropriate. Controlled segregation normally lasts for not more than 72 hours for a single inmate, but the security director may extend the placement for uncontrollable behavior. Extensions shall be reviewed every 24 hours. When the behavior is brought under control, the inmate shall be removed from this status.

(2) **CONDITIONS.** Only one person shall be kept in each segregation cell, except in emergencies. Each cell must meet the following minimum standards: clean mattress, sufficient light to read by for at least 12 hours per day, sanitary toilet and sink and adequate ventilation and heating.

(3) **NECESSITIES.** The following shall be provided for each inmate in controlled segregation: adequate clothing, essential hygiene supplies upon request, and the same diet as provided to the general population. While an inmate is acting in a disruptive manner, close control of all property shall be maintained.

(4) **VISITS.** Inmates in controlled segregation may not receive visits except from their attorney or with permission from the security director.

(5) **MAIL.** Inmates in controlled segregation may receive and send mail in accordance with departmental rules relating to mail. Correspondence materials may be provided if they do not pose a threat to anyone.

(6) **SPECIAL RULES.** (a) No property is allowed in the cell except that described in subs. (2) and (3), letters received while in controlled segregation and legal materials. Smoking is forbidden. Talking is permitted in a normal tone. No yelling or whistling is permitted.

(b) Inmates in controlled segregation may not leave their cells except in emergencies endangering the inmate's safety in the cell or with permission from the security director or his or her designee.

(7) **GOOD TIME.** An inmate in controlled segregation earns extra good time and compensation if he or she was doing so in the previous status.

(8) **RECORDS.** Inmates in controlled segregation shall be visually checked every half hour. A written record or log entry shall be made at each such interval noting the emotional condition of the inmate.

(9) **CREDIT.** An inmate in controlled segregation receives credit toward a term of program segregation and adjustment segregation during such period of confinement.

History: Cr. Register, August, 1980, No. 296, eff. 9-1-80; am. (1), Register, April, 1985, No. 352, eff. 5-1-85.

HSS 303.72 Minor penalties. Minor penalties in accordance with ss. HSS 303.68 and 303.84 shall include:

Register, April, 1985, No. 352