

**ORDER
OF
DEPARTMENT OF CORRECTIONS
PROMULGATING CLEARINGHOUSE RULE 90-184
(AMENDING DOC 349 AND DOC 350)**

INTRODUCTORY CLAUSE

The Wisconsin Department of Corrections proposes an order to amend DOC 349.01 and 349.03(6) and renumber DOC 349.03(1) to (11) and amend as renumbered (8) and create DOC 349.03(1), (5), (9), (13), (14) and (17) and repeal DOC 349.09(1) and renumber DOC 349.09(2) to (4) and repeal DOC 349.09(5) and renumber DOC 349.09(6) to (8) and create DOC 349.09(7) and create DOC 349.16 to DOC 349.20 and amend DOC 350.01 and renumber DOC 350.03(1) to (16) and amend as renumbered (9) and create DOC 350.03(1) and (6) and create DOC 350.03(11) and (16) and (18) and (22) and amend DOC 350.08 (title) and 350.09 (title) and repeal 350.09(1) and renumber DOC 350.09(2) and (3) and renumber and amend 350.09(4) and renumber DOC 350.09(5) to (10) and create DOC 350.17 to DOC 350.27, relating to program standards in municipal lockup facilities, county jails and houses of correction.

PLAIN LANGUAGE ANALYSIS

Statutory Authority: Sections 227.11(2)(a) and 302.365, Stats.

Statutes Interpreted: Section 302.365, Stats.

The Department currently has two chapters of rules to establish minimum standards for the design, construction and security for secure facilities: municipal lockup facilities, DOC 349, Wisconsin Administrative Code; and jails and houses of correction, DOC 350, Wisconsin Administrative Code. Section 302.365, Stats., required the Department to develop by rule program standards for these types of facilities.

The Department substantially revised the proposed rule which originally created one new chapter (DOC 351) to address program standards. This revised rule making order amends both existing chapters to incorporate the development of written program standards for municipal lockup facilities, jails and houses of correction.

In accordance with s. 302.365, Stats., the rules in this order require that each facility: develop a written policy and procedure manual, to be submitted to and approved by the Department, related to the screening of inmates for medical and dental condition, disabilities, mental illnesses, developmental disabilities and alcohol or drug abuse problems; identify the facilities and programs available to special needs and regular inmates; and make available crisis intervention services for special needs inmates.

TEXT OF RULE/FINAL DRAFT FORM

SECTION 1. DOC 349.01 is amended to read:

DOC 349.01 PURPOSE AND AUTHORITY. The purpose of this chapter is to establish minimum standards for the design, construction and security of municipal lockup facilities ~~and,~~ for maintaining sanitary and safe conditions in lockups and for the development of written inmate program standards for municipal lockup facilities. The rules are promulgated under the authority of ss. 227.11(2)(a), 301.03(5), 301.36 ~~and,~~ 301.37 and 302.365, Stats.

SECTION 2. DOC 349.03(1) to (11) are renumbered DOC 349.03(2) (3), (4), (6), (7), (8), (10), (11), (12), (15) and (16), respectively, and as renumbered (8) is amended to read:

DOC 349.03(8) "Division" means the division of ~~the department responsible for regulating lockups~~ probation and parole.

SECTION 3. DOC 349.03(1), (5), (9), (13), (14) and (17) are created to read:

DOC 349.03(1) "Administer" has the meaning given in s. 450.01(1), Stats.

DOC 349.03(5) "Deliver" or "Delivery" has the meaning given in s. 450.01(5), Stats.

DOC 349.03(9) "Health screening form" means the form or forms

developed by a lockup facility to obtain at admission information relating to each inmate's medical and dental condition, medical illnesses or disabilities, mental illnesses, developmental disabilities, alcohol or other drug abuse problems and suicide risk.

DOC 349.03(13) "Privileged mail" means any written materials between an inmate and an attorney, court, government or facility official.

DOC 349.03(14) "Secretary" means the secretary of the department.

DOC 349.03(17) "Special needs inmate" means an inmate who is identified or suspected of having a medical illness or disability, mental illness, a developmental disability or alcohol or other drug abuse problem or who is a suicide risk.

SECTION 4. DOC 349.09(1) is repealed.

SECTION 5. DOC 349.09(2) to (4) are renumbered (1) to (3).

SECTION 6. DOC 349.09(5) is repealed.

SECTION 7. DOC 349.09(6) to (8) are renumbered (4) to (6).

SECTION 8. DOC 349.09(7) is created to read:

DOC 349.09(7) Medical records shall be kept separate from other records and shall be maintained in a confidential manner in accordance with ss. 146.81 to 146.83, Stats., and any other applicable state or federal laws.

SECTION 9. DOC 349.16 to 349.20 are created to read:

DOC 349.16 POLICY AND PROCEDURE MANUAL. (1) CONTENT OF MANUAL. The lockup administrator shall develop a written policy and procedure manual for the operation of each lockup facility. The policies and procedures contained in the manual shall be developed in consultation with outside resources, such as medical, mental health, alcohol and other drug abuse, and developmental disabilities providers, and shall reference any agreements with such providers for the provision of services to inmates identified as needing care and treatment. The manual shall contain the following components:

- (a) Statement of the availability of the manual to staff.
- (b) Statement of the policies of the lockup facility on inmate programs, including inmate health screening and care, suicide prevention, control and administration of medications, and communicable disease control.
- (c) Statement of the procedure for notification of inmates of each

policy under par. (b).

(2) SUBMISSION AND APPROVAL OF MANUAL. (a) Division approval.

The lockup administrator shall submit the initial policy and procedure manual to the division for approval by [Note: Ninety days after the effective date of the rule].

1. The division shall approve or disapprove the manual in writing within 60 days after submission. If the division approves the manual, the division shall notify the lockup administrator in writing of the approval.

2. If the division disapproves the manual, the division shall notify the lockup administrator in writing of the decision and the reasons for the disapproval. If the lockup administrator accepts the decision, the lockup administrator shall submit a revised manual which conforms with the decision within 21 days of the date of the disapproval. If the lockup administrator does not accept the decision of the division, then the lockup administrator may appeal under par. (b).

(b) Appeal to secretary. Within 21 days of the date of the disapproval, the lockup administrator may appeal the division's disapproval to the secretary. The secretary shall issue a decision within 30 days of the appeal. The decision shall be in writing and

shall state the reasons for the decision. If required by the secretary's decision, the lockup administrator shall modify the manual and resubmit it within 60 days of the decision to the division.

(c) Changes to manual. Any proposed substantive changes to an approved manual shall be submitted to the division and shall be reviewed under the procedures of this section.

DOC 349.17 INMATE HEALTH SCREENING AND CARE. The manual under s. DOC 349.16 shall contain policies and procedures for inmate health screening and care, including the following components:

(1) Health screening form which is developed in conjunction with health care professionals and which is used at booking to obtain information relating to each inmate's medical and dental condition, medical illnesses or disabilities, mental illnesses, developmental disabilities, alcohol or other drug abuse problems, and suicide risk.

(2) Procedures for the documentation of health screening results, referrals made or health care provided and maintenance of documents in an inmate's confidential medical file.

(3) Names, addresses and telephone numbers of health care providers or agencies who have agreed to provide emergency and

other health care services for special needs inmates.

(4) Procedures for the referral of an inmate to lockup facility health care staff or to other agencies which provide health care.

(5) Designation of staff who have the authority to make health care decisions, including emergency medical and dental care.

(6) Documentation in an inmate's confidential medical file of any referral and identification of the services provided, including emergency services.

(7) Maintenance of agreements between the lockup facility and providers of health care services.

DOC 349.18 SUICIDE PREVENTION. The manual under s. DOC 349.16 shall contain policies and procedures relating to the supervision and housing of inmates who may be at risk of seriously injuring themselves, including the following components:

(1) Assessment of an inmate's suicide risk at booking and documentation of the results.

(2) Designation of persons who may assess an inmate's level of suicide risk and who may authorize placement on and removal from a suicide watch status for inmates who are suicide risks.

(3) Identification of housing areas for inmates who are suicide risks.

(4) Referral of inmates who are suicide risks to mental health care providers or facilities.

(5) Supervision of inmates who are suicide risks, including frequency of observation and documentation of supervision.

(6) Communication between health care and lockup facility personnel regarding the status of an inmate who is a suicide risk.

(7) Intervention of a suicide in progress, including first aid measures.

(8) List of persons to be notified in case of potential, attempted or completed suicides.

(9) Documentation of actions and decisions regarding inmates who are suicide risks.

DOC 349.19 CONTROL AND ADMINISTRATION OF MEDICATIONS. The manual under s. DOC 349.16 shall contain policies and procedures relating to the control and administration of prescription and nonprescription medications, including the following components:

(1) Determination by appropriate personnel that all medications brought in by inmates or other persons for an inmate are necessary.

(2) Inventory and secured storage of all medications brought into the lockup facility.

(3) Designation of staff who are authorized to administer or who are authorized to deliver medication to inmates.

(4) Administration or delivery of prescription and nonprescription medications to inmates.

(5) Documentation of all medication administered or delivered to an inmate, including who prescribed the medication, who administered or delivered the medications and the date and time of administration or delivery. All refusals of recommended or prescribed medications by an inmate must be documented.

(6) Return of an inmate's medications inventoried at admission.

(7) Inventory or disposal of unused medications upon the inmate's release or transfer.

DOC 349.20 COMMUNICABLE DISEASE CONTROL. The manual under s. DOC 349.16 shall contain policies and procedures relating to the

care, treatment and supervision of inmates who may have communicable diseases, including the following components:

(1) Provision of treatment and supervision of inmates during isolation or quarantine under s. 143.05(6)(b), Stats.

(2) Documentation of the need for isolation or quarantine under s. 143.05(6)(b), Stats., in the inmate's confidential medical file.

SECTION 10. DOC 350.01 is amended to read:

DOC 350.01 PURPOSE AND AUTHORITY. The purpose of this chapter is to establish minimum standards for the design and construction of jails ~~and~~, for maintaining sanitary and safe conditions in jails and the security of jails, and due process protections for inmates alleged to have violated jail conduct rules and subject to disciplinary proceedings and for the development of written inmate program standards for jails. The rules are promulgated under the authority of ss. 227.11(2)(a), 301.03(5), 301.36, ~~and~~ 301.37, and 302.365, Stats.

SECTION 11. DOC 350.03(1) to (16) are renumbered DOC 350.03(2), (3), (4), (5), (7), (8), (9), (10), (12), (13), (14), (15), (17), (19), (20) and (21), respectively, and (9) as renumbered is amended to read:

DOC 350.03(9) "Division" means the division of ~~the department~~
~~responsible for regulating jails~~ probation and parole.

SECTION 12. DOC 350.03(1) and (6) are created to read:

DOC 350.03(1) "Administer" has the meaning given in s. 450.01(1),
Stats.

DOC 350.03(6) "Deliver" or "Delivery" has the meaning given in s.
450.01(5), Stats.

SECTION 13. DOC 350.03(11), (16), (18) and (22) are created to
read:

DOC 350.03(11) "Health screening form" means the form or forms
developed by a jail to obtain at admission information relating to
each inmate's medical and dental condition, medical illnesses or
disabilities, mental illnesses, developmental disabilities, alcohol
or other drug abuse problems and suicide risk.

DOC 350.03(16) "Privileged mail" means any written materials
between an inmate and an attorney, court, government or jail
official.

DOC 350.03(18) "Secretary" means the secretary of the department.

DOC 350.03(22) "Special needs inmate" means any inmate who is identified or suspected of having a medical illness or disability, mental illness, a developmental disability or alcohol or other drug abuse problem or who is a suicide risk.

SECTION 14. DOC 350.08(title) and DOC 350.09(title) are amended to read:

DOC 350.08 (title) SANITATION AND HYGIENE.

DOC 350.09 (title) HEALTH CARE.

SECTION 15. DOC 350.09(1) is repealed.

SECTION 16. DOC 350.09(2) and (3) are renumbered DOC 350.09(1) and (2).

SECTION 17. DOC 350.09(4) is renumbered DOC 350.09(3) and amended to read:

DOC 350.09(4) ~~A written record of the administration or delivery of all treatments and prescription medication, including who administered or delivered them and the date and hour of administration or delivery, shall be maintained.~~ Medical records shall be kept separate from other records and shall be maintained in a confidential manner in accordance with ss. 146.81 to 146.83,

Stats., and any other applicable state or federal laws.

SECTION 18. DOC 350.09(5) and (6) and (8) are renumbered DOC 350.09(4) and (5) and (6).

SECTION 19. DOC 350.09(7) and (9) and (10) are renumbered DOC 350.08(8) and (9) and (10).

SECTION 20. DOC 350.17 to 350.27 are created to read:

DOC 350.17 POLICY AND PROCEDURE MANUAL (1) CONTENT OF MANUAL. The sheriff shall develop a written policy and procedure manual for the operation of each jail. The policies and procedures contained in the manual shall be developed in consultation with outside resources, such as medical, mental health, alcohol and other drug abuse, and developmental disabilities providers, and shall reference any agreements with such providers for the provision of services to inmates identified as needing care and treatment. The manual shall contain the following components:

(a) Statement of the availability of the manual to staff.

(b) Statement of the policies of the facility on inmate programs, including inmate health screening and care, suicide prevention, control and administration of medications, communicable disease control, mail, visitation, religious programming, recreation,

reading materials, and canteen.

(c) Statement of the procedure for notification of inmates of each policy under par. (b).

(2) SUBMISSION AND APPROVAL OF MANUAL. (a) Division approval. The sheriff shall submit the initial policy and procedure manual to the division for approval by [Note: Ninety days after effective date of the rule].

1. The division shall approve or disapprove the manual in writing within 90 days after submission. If the division approves the manual, the division shall notify the sheriff in writing of the approval.

2. If the division disapproves the manual, the division shall notify the sheriff in writing of the decision and the reasons for the disapproval. If the sheriff accepts the decision, the sheriff shall submit a revised manual which conforms with the decision within 21 days of the date of the disapproval. If the sheriff does not accept the decision of the division, then the sheriff may appeal under par. (b).

(b) Appeal to secretary. Within 21 days of the date of the disapproval, the sheriff may appeal the division's disapproval to

the secretary. The secretary shall issue a decision within 30 days of the appeal. The decision shall be in writing and shall state the reasons for the decision. If required by the secretary's decision, the sheriff shall modify the manual and resubmit it within 60 days of the decision to the division.

(c) Changes to manual. Any proposed substantive changes to an approved manual shall be submitted to the division and shall be reviewed under the procedures of this section.

DOC 350.18 INMATE HEALTH SCREENING AND CARE. The manual under s. DOC 350.17 shall contain policies and procedures for inmate health screening and care, including the following components:

(1) Health screening form which is developed in conjunction with health care professionals and which is used at booking to obtain information relating to each inmate's medical and dental condition, medical illnesses or disabilities, mental illnesses, developmental disabilities, alcohol or other drug abuse problems and suicide risk.

(2) Procedures for the documentation of health screening results, referrals made or health care provided and maintenance of documents in an inmate's confidential medical file.

(3) Names, addresses and telephone numbers of health care

providers or agencies who have agreed to provide emergency and other health care services for special needs inmates.

(4) Procedures for the referral of an inmate to jail health care staff or to other agencies which provide health care.

(5) Designation of staff who have the authority to make health care decisions, including emergency medical and dental care.

(6) Non-emergency health care, including use of an inmate's personal physician.

(7) Schedule of inmate access to routine medical care.

(8) Procedure for processing inmate medical requests, including written disposition.

(9) Documentation in an inmate's confidential medical file of any referral and identification of the services provided, including emergency services.

(10) Provision of special diet if ordered by a physician.

(11) Maintenance of agreements between the jail and providers of health care services.

DOC 350.19 SUICIDE PREVENTION. The manual under s. DOC 350.17 shall contain policies and procedures relating to the supervision and housing of inmates who may be at risk of seriously injuring themselves, including the following components:

(1) Assessment of an inmate's suicide risk at booking and documentation of the results.

(2) Designation of persons who may assess an inmate's level of suicide risk and who may authorize placement on and removal from a suicide watch status for inmates who are suicide risks.

(3) Identification of housing areas for inmates who are suicide risks.

(4) Referral of inmates who are suicide risks to mental health care providers or facilities.

(5) Supervision of inmates who are suicide risks, including frequency of observation and documentation of supervision.

(6) Communication between health care and jail personnel regarding the status of an inmate who is a suicide risk.

(7) Intervention of a suicide in progress, including first aid measures.

(8) List of persons to be notified in case of potential, attempted or completed suicides.

(9) Documentation of actions and decisions regarding inmates who are suicide risks.

DOC 350.20 CONTROL AND ADMINISTRATION OF MEDICATIONS. The manual under s. DOC 350.17 shall contain policies and procedures relating to the control and administration of prescription and nonprescription medications, including the following components:

(1) Determination by appropriate personnel that all medications brought in by inmates or other persons for an inmate are necessary.

(2) Inventory and secured storage of all medications brought into the jail.

(3) Designation of staff who are authorized to administer or who are authorized to deliver medication to inmates.

(4) Administration or delivery of prescription and nonprescription medications to inmates.

(5) Documentation of all medication administered or delivered to an inmate, including, who prescribed the medication, who administered or delivered the medications and the date and time of

administration or delivery. All refusals of recommended or prescribed medications by an inmate must be documented.

(6) Return of an inmate's medications inventoried at admission.

(7) Inventory or disposal of unused medications upon the inmate's release or transfer.

DOC 350.21 COMMUNICABLE DISEASE CONTROL. The manual under s. DOC 350.17 shall contain policies and procedures relating to the care, treatment and supervision of inmates who may have communicable diseases, including the following components:

(1) Provision of treatment and supervision of inmates during isolation or quarantine under s. 143.05(6)(b), Stats.

(2) Documentation of the need for isolation or quarantine under s. 143.05(6)(b), Stats., in the inmate's confidential medical file.

(3) Provision of laboratory screening for inmates who may have been exposed to a communicable disease if ordered by medical personnel.

DOC 350.22 MAIL. The manual under s. DOC 350.17 shall contain

policies and procedures relating to written contact between inmates and their families, friends, attorneys, the court system, governmental officials and others, including the following components:

- (1) Provision for staff inspection and reading of nonprivileged incoming and outgoing mail.
- (2) Delivery of all nonprivileged incoming mail.
- (3) Provision for the limited inspection of incoming and outgoing privileged mail.
- (4) Delivery of all approved privileged mail.
- (5) Inventory and disposition of contraband items found in mail.
- (6) Provision of postage to indigent inmates.

DOC 350.23 VISITATION. The manual under s. DOC 350.17 shall contain policies and procedures relating to visitation, including the following components:

- (1) Establishment of visitation schedule for family, friends, attorneys and others.

(2) Establishment of procedures for requesting visitation during nonscheduled times.

(3) Documentation of all visits through a visitor log or register.

(4) Establishment of a search policy of visitors and their possessions.

(5) Posting of visitation policies and procedures, including visitation schedule, in a place readily accessible to visitors and inmates.

DOC 350.24 RELIGIOUS PROGRAMMING. The manual under s. DOC 350.17 shall contain policies and procedures relating to religious programming, including the following components:

(1) Identification of religious organizations and clergy willing to conduct religious services in the facility.

(2) Notification of inmates of the schedule of religious services available in the jail.

(3) Identification of religious items which may be kept on an inmate's person or in the cell.

(4) Provision of bibles or qurans upon request under s. 302.39,

Stats.

DOC 350.25 RECREATION. The manual under s. DOC 350.25 shall contain policies and procedures identifying the recreational activities which are available and when they are scheduled.

DOC 350.26 READING MATERIALS. The manual under s. DOC 350.17 shall contain policies and procedures relating to access to reading materials, including the following components:

(1) Provision of reading materials of general interest, such as books, newspapers and magazines, for inmates.

(2) Identification of reading materials which are prohibited for inmates because their content creates a security risk.

(3) Inspection of reading materials brought by visitors for inmates if the jail allows visitors to bring in reading materials.

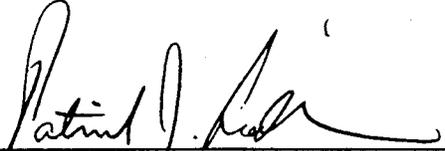
DOC 350.27 CANTEEN. The manual under s. DOC 350.17 shall contain policies and procedures for the establishment and use of canteen, vending or other similar services for inmates.

EFFECTIVE DATE

This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2)(intro), Stats.

Dated: NOVEMBER 10, 1992

Agency:


Patrick J. Fiedler, Secretary
Department of Corrections

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Revisor of Statutes
Bureau

Tommy G. Thompson
Governor

Patrick J. Fiedler
Secretary



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State of Wisconsin Department of Corrections

November 10, 1992

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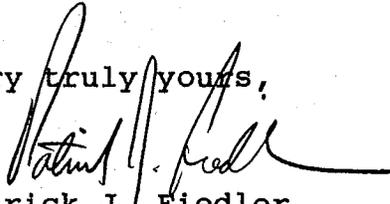
Re: Clearinghouse Rule 90-184

Dear Mr. Munson:

As provided in s. 227.20, Stats., enclosed for filing is a certified copy of Clearinghouse Rule 91-184 (amending DOC 349 and DOC 350), which is a rule relating to program standards municipal lockup facilities, county jails and houses of correction.

This rule is also being filed with the Secretary of State as provided in s. 227.20, Stats.

Very truly yours,


Patrick J. Fiedler
Secretary

Enclosure