

## Chapter DOC 376

### SECURITY IN TYPE 1 SECURED CORRECTIONAL FACILITIES

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**Note:** Chapter HSS 336 as it existed on June 30, 2000 was repealed and a new Chapter DOC 376 was created, Register, June, 2000, No. 534, effective July 1, 2000.

**DOC 376.01 Authority and objectives.** This chapter is promulgated under the authority of ss. 227.11 (2) (a), 301.025 and 938.48 (16), Stats. The department's primary security objectives are to protect the public, staff and youth and to afford youth a safe setting to participate in activities that prepare them to be successfully reintegrated into the community.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 376.02 Applicability.** This chapter applies to the department and all youth under its supervision in a type 1 secured correctional facility consistent with the requirements of law.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 376.03 Definitions.** In this chapter:

(1) "Administrator" means the administrator of the division of juvenile corrections or that person's designee.

(2) "Bodily harm" means physical injury, illness or any impairment of physical condition.

(3) "Body cavity search" means a search conducted by a health services professional in which body cavities are inspected by the entry of an object or fingers into body cavities.

(4) "Body contents search" means a search in which a youth is required to provide a sample which includes, but is not limited to, deoxyribonucleic acid (DNA), urine, breath, blood or stool for testing for the presence of intoxicating substances, as defined in s. DOC 373.46 (1), in accordance with division procedures and methods approved by the state laboratory of hygiene, or to submit to a nonsurgical physical examination by medical staff which may include, but is not limited to, x-rays for detecting contraband. Body contents searches do not include examinations and tests requested by medical staff for medical reasons.

(5) "Chemical agent" means chloroacetophenone or "CN", o-chlorobenzyl malononitrile or "CS", oleoresin of capsicum or "OC" or other commercially manufactured chemical agents approved by the department for use as a non-deadly force.

(6) "Close confinement" means restriction of a youth to the youth's assigned room or cell with a minimum of one hour per day of out-of-room time.

(7) "Contraband" has the meaning given in s. DOC 373.03 (6).

(8) "Deadly force" means force which the user reasonably believes will create a substantial risk of causing death or great bodily harm to another.

(9) "Department" means the department of corrections.

(10) "Formal disciplinary hearing" means a hearing for a youth as provided in s. DOC 373.73.

(11) "Force" means the exercise of strength or power to overcome resistance or to compel another to act or to refrain from acting in a particular way. It includes the use of physical force and mechanical restraints.

(12) "Full body restraint" means a mechanical restraint used to simultaneously immobilize legs, arms and torso.

(13) "Great bodily harm" is bodily harm which creates a high probability of death or which causes serious permanent disfigurement or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily injury.

(14) "Health services professional" means a nurse, an advanced practice nurse prescriber, a physician's assistant or a physician who are licensed or certified to practice in Wisconsin.

(15) "Incapacitating device" means a commercially manufactured device designed to incapacitate a person which is approved by the department for use as a non-deadly force.

(16) "Institution" means a type 1 secured correctional facility operated by the department.

(17) "Lockdown" means restriction of movement and programs in the entire institution to control a situation regarding safety or security of an institution.

(18) "Medical staff" means physician, physician's assistant or nurse practitioner.

(19) "Mechanical restraint" means a commercially manufactured device approved by the department and applied to a youth's wrist, arm, legs or torso to restrain or impede free movement.

(20) "Non-deadly force" means force which a user reasonably believes will not create a substantial risk of causing death or great bodily harm to another.

(21) "Personal search" includes a search of a person's pockets, frisking the body, an examination of shoes, coat and hat and an inspection of the mouth.

(22) "Reasonably believes" means that the actor believes that certain facts exist and the belief, under the circumstances, is reasonable even though the belief is erroneous.

(23) "Secretary" means the secretary of the department of corrections or that person's designee.

(24) "Staff" means a state employee of the institution where a youth is housed.

(25) "Strip search" means a search in which a person is required to remove clothes. Permissible inspection includes exami-

nation of the person's body and clothing and visual inspection of body cavities.

(26) "Superintendent" means the superintendent of a type 1 secured correctional facility or that person's designee.

(27) "Supervisor" means staff designated by the superintendent to perform supervisory functions under this chapter.

(28) "Type 1 secured correctional facility" has the meaning given in s. 938.02 (19), Stats.

(29) "Youth" means a person or persons supervised by the department in an institution consistent with the requirements of law and regardless of age.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 376.04 Voluntary confinement.** (1) A superintendent may place a youth in voluntary confinement if all of the following are true:

(a) The youth requests the placement in writing.

(b) The superintendent is satisfied that the placement is necessary for the safety and welfare of the youth.

(2) A youth shall remain in voluntary confinement for at least 72 hours from the time of placement unless the superintendent approves prior release.

(3) If a superintendent does not approve a youth's release from voluntary confinement before 72 hours elapse, the youth shall be released after 72 hours, if one of the following occurs:

(a) The youth requests release orally or in writing.

(b) The superintendent is satisfied that the placement is no longer necessary.

(4) Youth in voluntary confinement shall be in close confinement. The minimum requirement of one-hour out-of-room time per day for close confinement may be suspended for a 24-hour period upon the recommendation of a physician or psychologist. The superintendent shall send a written report of the suspension to the administrator.

(5) Youth in voluntary confinement shall have all of the following privileges and property:

(a) Privileges and property that are at least the equivalent of privileges and property permitted youth under s. DOC 374.10.

(b) Additional privileges and property consistent with what is permitted in the unit in which the youth is voluntarily confined.

(6) The superintendent shall review placements in voluntary confinement at least every 7 days.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 376.05 Surveillance of youth activities.** (1) Electronic surveillance of youth activities may occur without youth awareness as approved by the superintendent. Only those individuals designated by the superintendent may become aware of the contents of surveillance.

(2) The superintendent shall create policies and procedures to protect privacy rights of youth.

(3) Surveillance may include staff observation, cameras, intercoms, microphones, telephone monitoring and recording devices or other electronic or surveillance devices.

(4) Surveillance shall be limited to legitimate security needs of the institution.

(5) Information obtained by surveillance may be used by the department or law enforcement for purposes that include, but are not limited to, administrative actions, discipline, program direction and criminal prosecutions.

(6) The institution shall notify all youth, staff and visitors of the potential for their activities to be monitored and recorded throughout the institution.

(7) Surveillance may not be used to interfere with or compromise privileged communications between attorney and client.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 376.06 Youth count.** A superintendent shall establish and maintain a system for accurately accounting for the whereabouts of all youth under the superintendent's supervision at all times. The system shall interfere as little as practical with school, work, program and recreational activities. The system shall be described in writing. All institution staff shall be familiar with the system.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 376.07 Use of physical force.** (1) Corporal punishment of youth is not permitted. This prohibition allows no exceptions.

(2) Only the minimum force that is reasonably necessary to achieve a proper objective may be used. Excessive force shall not be used.

(3) Staff may use non-deadly force against youth only if the user of force reasonably believes that it is immediately necessary to accomplish one of the following purposes:

(a) To subdue a youth who poses an immediate threat of bodily harm or death to oneself or another.

(b) To regain control of all or part of an institution during a disturbance as defined in s. DOC 376.20 or an emergency as defined in s. DOC 376.21.

(c) To prevent the escape of a youth.

(d) To control a disruptive or dangerous youth who threatens the security of an institution.

(e) To apprehend a youth who has escaped from an institution.

(f) To change the location of a youth who refuses to cooperate and the refusal threatens the security of the institution.

(4) Staff may use the minimum physical force reasonably necessary to apprehend or gain control of a youth. Minimum force shall be exercised in the following way, if reasonably possible:

(a) Staff shall not attempt to physically handle a youth until sufficient staff are present for a show of physical force.

(b) Staff shall ask a youth to voluntarily return or to voluntarily cease the threatening or disruptive behavior.

(c) If a youth refuses to voluntarily comply, one or more staff may physically restrain the youth.

(d) Staff shall restrain a youth as necessary for the protection of the youth or others.

(5) After the use of non-deadly force, the youth and staff who were involved shall be checked for injury, medical services provided as appropriate and a written report submitted to the superintendent regarding any medical services provided.

(6) If force is used, each staff member involved shall submit a separate written report regarding the apprehension to the superintendent.

(7) Staff may use deadly force only if staff reasonably believe that its use is immediately necessary to prevent death or great bodily harm to oneself or another. If deadly force is used, each staff member involved shall submit a separate written report to the superintendent regarding the use of deadly force. The superintendent shall promptly report the use of deadly force to the administrator.

(8) Staff may not use deadly force to control a youth if its use creates a substantial danger of harm to an innocent third party, unless the danger created by not using deadly force is greater than the danger created by its use.

(9) Youth may not use force at any time.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 376.08 Use of incapacitating devices and chemical agents.** (1) **REGULATION.** (a) Incapacitating devices or chemical agents may be used under the circumstances listed in s. DOC 376.07 (3).

(b) In order to ensure that incapacitating devices and chemical agents are used appropriately, staff shall utilize the following use of force continuum, if feasible, before actually employing an incapacitating device or a chemical agent:

1. Make a video and sound recording of the events as authorized by the superintendent.
2. Communicate with the youth to calm the youth.
3. Wait a reasonable period of time, unless there is a risk of harm to the youth or another person, the situation would further escalate or waiting would threaten the security or safety of the institution.
4. Make a show of force to the youth.
5. Use the minimum non-deadly force that is reasonably necessary.

(c) When s. DOC 376.07 (3) permits the use of force and staff know of a youth's history of violent behavior in similar situations and reasonably believe that the youth is about to become violent, an incapacitating device or chemical agent may be used after the procedure in par. (b) has been followed, but before the youth makes a credible threat to use physical force.

(d) Incapacitating devices or chemical agents may not be used by staff if any of the following apply:

1. It is clear that the incapacitating devices or chemical agents would have no physical effect on a youth.
2. It is medically contra-indicated for the youth or another person who would be affected.

(2) **SELECTION.** The incapacitating device or chemical agent most appropriate to the situation shall be used by staff, based on the manufacturer's recommendations and the training provided to the staff using the incapacitating device or chemical agent.

(3) **APPLICATION.** Only trained staff under the immediate supervision of a supervisor may employ incapacitating devices or chemical agents. Each institution shall ensure that staff authorized to use incapacitating devices or chemical agents are properly trained in their use.

(4) **MEDICAL ATTENTION AND CLEAN-UP.** (a) As soon as possible after an incapacitating device or chemical agent has been used, staff shall apply corrective remedies as prescribed by the manufacturer to all youth and staff exposed to the incapacitating device or chemical agent and shall obtain medical assistance as needed for persons exposed. Staff shall provide individuals exposed to a chemical agent with an opportunity to shower and change clothes. If living quarters have been exposed to a chemical agent, staff shall require the area to be properly cleaned and bedding and mattresses to be changed and thoroughly cleaned before being reuse.

(b) Staff shall promptly notify medical personnel of a youth's exposure to a chemical agent. Medical personnel shall determine if medical assistance is required.

(c) When area clean up is necessary, staff shall follow directions as prescribed by the manufacturer.

(5) **INCIDENT REPORT.** (a) As soon as possible after an incapacitating device or chemical agent has been used, all staff who were involved shall submit an incident report to the superintendent and the administrator. A monthly report of the use of inca-

pacitating devices and chemical agents shall be submitted by each institution to the administrator.

(b) Each incident report shall include all of the following:

1. The youth's name, the date and time of the incident, names of staff present when the incapacitating device or chemical agent was used, reasons for using the incapacitating device or chemical agent and treatment given.
2. A description of the incident which caused the use of the incapacitating device or chemical agent.
3. The steps taken prior to the use of the incapacitating device or chemical agent and why those steps did not control the incident.
4. The type of incapacitating device or chemical agent used and method of application.
5. The youth's response to the incapacitating device or chemical agent.
6. Any actions taken following the use of the incapacitating device or chemical agent.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 376.09 Mechanical restraints.** (1) **TYPES OF MECHANICAL RESTRAINTS.** Mechanical restraints include, but are not limited to, handcuffs with restraining belt or chain, restraining chains, leg restraints and leather and plastic restraints.

(2) **USE OF MECHANICAL RESTRAINTS.** Mechanical restraints may be used in any of the following situations if the superintendent determines that the use of mechanical restraints is necessary to protect staff, youth or the public or to maintain the security of the institution:

- (a) To transport a youth within or outside an institution.
- (b) For a youth who is in security status while the youth is outside the place of confinement or for a youth who is out of control.
- (c) To protect staff, youth or other persons from a youth who poses an immediate risk of physical injury to others unless restrained.
- (d) To protect a youth who poses an immediate threat of physical injury to self unless restrained.

(3) **APPROVAL FOR USE OF MECHANICAL RESTRAINTS.** A youth may be placed in mechanical restraints only with the authorization of the superintendent.

(4) **PROHIBITED USE OF MECHANICAL RESTRAINTS.** Mechanical restraints may not be used in any of the following ways:

- (a) When the use of mechanical restraints is medically contra-indicated.
- (b) About the head or neck of a youth in a manner not prescribed by the manufacturer.
- (c) In a way that causes undue physical discomfort or inflicts physical pain to a youth.
- (d) As a method of punishment.
- (e) To secure a youth to a motor vehicle.

(5) **USE OF FULL BODY RESTRAINTS.** Full body restraints may be used only for the following reasons with authorization from the superintendent:

- (a) To protect a youth who poses an immediate threat of physical injury to self unless placed in full body restraints.
- (b) To protect a youth in a health emergency that requires full body restraints.
- (c) To protect staff, youth or other persons from a youth who poses an immediate risk of physical injury to others unless placed in full body restraints.
- (d) To immobilize a youth in full body restraints, because the

youth's conduct significantly disrupts the security or function of the institution and less restrictive ways to control the behavior have failed.

**(6) PROCEDURE FOR PLACING A YOUTH IN FULL BODY RESTRAINTS.** When staff place a youth in full body restraints sub. (5) (a) to (d) all of the following apply:

(a) The shift supervisor shall be present and shall notify the superintendent, a health services professional and the psychologist on call.

(b) A minimum of 3 staff shall be present when the youth is placed in full body restraints.

(c) A video and audio recording shall be made as directed by the superintendent.

(d) A staff psychologist or psychiatrist shall arrange for an on-site evaluation within 3 hours after the application of full body restraints unless the superintendent authorizes an extension, which may not exceed 8 hours.

(e) The psychologist or psychiatrist shall recommend to the superintendent whether the youth should remain in full body restraints and what actions should be taken to protect the youth.

(f) A health services professional shall conduct a physical examination as soon as possible, but not later than one hour after application of full body restraints. A physical examination shall be conducted every 4 hours thereafter by a health services professional.

(g) Staff shall directly observe a youth immobilized in full body restraints at least every 15 minutes.

(h) Youth may be partially released from full body restraints if it is safe to do so to perform bodily functions and for meals. Three staff members, one of whom shall be a supervisor, shall be present before and during the release.

(i) The youth shall be released immediately if it becomes apparent that full body restraints present a medical risk to the youth.

**(7) RECORD OF USE OF FULL BODY RESTRAINTS.** A record must be kept of youth placed in full body restraints under sub. (5) (a) to (d) which shall include the following:

(a) The youth's full name and identifying number.

(b) The date and time of immobilization.

(c) Names of the staff members and supervisor present when the youth was placed in full body restraints.

(d) The reasons for placing the youth in full body restraints.

(e) The dates and times that the youth was observed by staff as required by sub. (6) (g), the name of the staff making the observation and comments on the youth's condition and behavior while in full body restraints.

(f) The dates and times full body restraints were removed.

(g) Medication given and the time it was given.

(h) The dates and times that the youth was observed by clinical staff, a health services professional or a licensed psychologist or psychiatrist, the recommendations made by those persons and whether staff implemented the recommendations.

**(8) RELEASE FROM FULL BODY RESTRAINTS.** The superintendent may authorize partial or complete release from full body restraints at any time.

**(9) TIME IN FULL BODY RESTRAINTS.** No youth may be immobilized in full body restraints for longer than 12 hours, unless the youth is examined by a psychologist, psychiatrist or the crisis intervention worker, who shall make a written recommendation to the superintendent as to whether the youth should continue to remain in full body restraints. An examination by a psychologist, psychiatrist or crisis intervention leader shall occur thereafter at

least every 12 hours that a youth is in full body restraints. The superintendent may authorize the use of restraints for more than 12 hours. The superintendent shall notify the administrator of the decision to continue the use of full body restraints beyond 12 hours and every 12 hours thereafter.

**(10) TRANSFER TO A MENTAL HEALTH FACILITY.** Staff shall initiate a transfer to a mental health facility under s. 51.35 (3), Stats., if appropriate. Staff shall not retain a youth in full body restraints under sub. (5) (a) to (d) for more than 24 hours, unless a transfer to a mental health facility has been initiated by the institution.

**(11) MONTHLY REPORT ON FULL BODY RESTRAINTS.** A monthly report concerning each incident involving the use of full body restraints under sub. (5) (a) to (d) shall be submitted by the superintendent to the administrator.

**(12) SUPPLY OF MECHANICAL RESTRAINTS.** Institutions shall maintain a supply of commercially manufactured mechanical restraints approved by the department. The mechanical restraints shall be periodically examined and any excessively worn or defective mechanical restraints shall be removed from the supply and destroyed.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 376.10 Escapes. (1) PLAN.** Each institution shall have a written plan approved by the superintendent to be implemented in the event an escape occurs or is attempted. The plan shall be updated annually and shall be filed with the administrator. The plan shall provide for all of the following:

(a) Reporting the escape to the superintendent and the administrator.

(b) Staff communication.

(c) Notification to local and committing county law enforcement authorities.

(d) Notification to the community, consistent with s. 938.51 (1r), Stats.

**Note:** There is no statutory requirement for notification to the community in the event of escape.

(e) Pursuit of the escapee.

(f) An immediate count of all youth.

(g) A search of the institution and grounds.

(h) An investigation into the background, mail and visitors list of the escaped youth.

(i) An accessible list of the names, addresses and phone numbers of off-duty staff members.

(j) The operation of essential posts.

(k) Securing tools and any implement that may be fashioned into a weapon.

(L) Victim notification, if requested under s. 938.51 (4), Stats.

(m) The preservation of any evidence relevant to the escape and the chain of evidence.

(n) The repair of any facilities damaged in the escape.

(o) The responsibility of staff after an escape.

(p) Notification of the administrator and law enforcement agencies of the apprehension of an escapee.

**(2) REPORTS.** Reports of escapes required under sub. (1) (a) shall include:

(a) Date, time and location when the youth was last seen.

(b) The method of escape.

(c) Who was involved in the escape.

(d) A description of the escapee, including clothing worn.

(e) Action taken by the institution, including procedures initiated.



(f) A brief evaluation of the factors which may have contributed to the escape.

(g) The identification of persons who may have information about the escape.

(3) **HOSTAGES.** When a youth takes the superintendent or any staff hostage, the hostage shall have no authority to order any action or inaction by staff.

(4) **PURSUIT.** Any pursuit of an escaped youth by staff shall be done in cooperation with local law enforcement authorities. Until local law enforcement authorities are able to supervise pursuit, staff shall conduct the pursuit under supervision of the superintendent.

(5) **OFF-DUTY STAFF.** In the event of an escape, the superintendent may order any off-duty staff to work.

(6) **VEHICLES.** The superintendent may authorize staff to use their own vehicles to pursue an escaped youth if state-owned vehicles are unavailable.

(7) **CRIMINAL CONVICTIONS.** A youth who is in an institution because of an adult criminal court conviction who escapes from an institution shall be treated as an adult in regard to confidentiality of information.

(8) **PUBLIC INFORMATION RELEASE.** After 12 hours, the department may release information to the public if permitted under s. 938.78 (3), Stats., for youth adjudicated for certain criminal offenses. The information may include the youth's name, age, physical description, including clothing, the date and time of the escape and the institution where the escape occurred.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00; correction in (1) (L) made under s. 13.93 (2m) (b) 7., Stats., Register, June, 2000, No. 534.

**DOC 376.11 Search of institution grounds.** Staff may conduct a search of any area within the buildings or grounds of an institution at any time. There is no requirement that evidence exists that contraband is concealed on institution grounds before such a search is conducted. Upon completion of the search, staff shall complete an institution incident report describing the search including any discovery of contraband.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 376.12 Search of youth living quarters. (1)** Whenever staff conduct a search of a youth's living quarters, staff in charge of the living unit at the time of the search or the staff who conducted the search shall write a report that includes all of the following:

(a) The identity of the staff who conducted the search and the supervisor who approved it.

(b) The date and time of the search.

(c) The identity of the youth whose living quarters were searched.

(d) The reason for conducting the search. If the search was a random search, the report shall state that it was a random search.

(e) Any objects that were seized pursuant to the search.

(f) Whether any damage was done to the premises during the search.

(2) If property was seized or damaged pursuant to the search of a youth's living quarters, staff shall inform the youth in writing. The institution shall pay for the cost of repair of personal property that is not contraband. In the alternative, and at the discretion of the superintendent, damaged personal property that is not contraband shall be replaced or the youth shall receive the fair market value of the property at the time it was damaged.

(3) In conducting searches, staff shall disturb the effects of youth as little as possible, consistent with thoroughness.

(4) Staff shall not read materials that they know are legal materials.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 376.13 Search of youth. (1)** Searches of youth may be conducted as follows:

(a) *Personal search.* Staff may conduct a personal search of a youth under any of the following circumstances:

1. If staff have reasonable grounds to believe that the youth possesses contraband.

2. At the direction of the shift supervisor, either orally or in written job instructions or post orders.

3. Before a youth enters or leaves the security enclosure of an institution.

4. Before a youth enters or leaves the security unit or changes status within the security unit of an institution.

5. Before and after a youth has been with a visitor.

6. As part of a lockdown or a search of a housing unit or institution under s. DOC 376.11 or 376.12.

7. When a youth is apprehended after an escape or an attempted escape.

(b) *Strip search.* A strip search may only be conducted in a clean place and a place that is as private as is reasonably possible. Except in emergencies, a person of the same sex as the youth being searched shall conduct the strip search. A strip search of a youth may be conducted under any of the following circumstances:

1. Before a youth leaves or enters the security enclosure of an institution.

2. Before a youth leaves or enters the segregation unit of an institution.

3. Before or after a youth has been with a visitor.

4. When a youth is apprehended after an escape, an attempted escape or an attempt to hide from staff.

5. At the direction of the superintendent who may delegate to a supervisor.

6. When a youth changes status within the confines of a segregation building.

(c) *Body cavity search.* A body cavity search may only be conducted if the superintendent approves, upon probable cause to believe that contraband is hidden in a body cavity. Medical or nursing staff shall conduct body cavity searches. The superintendent shall promptly notify the administrator of all body cavity searches.

(d) *Body contents search.* A body contents search may only be conducted by persons who are appropriately licensed or certified by law to take blood samples and x-rays and perform other appropriate procedures requiring a license or certification. Staff of the same sex as the youth being searched shall collect urine specimens. Trained staff may conduct breath specimen tests. Staff may direct that a body contents search be conducted under any of the following conditions with the approval of the superintendent:

1. If one or more staff, from direct observation or reliable sources, have reasonable grounds to believe that a youth has used, possesses or is under the influence of intoxicating substances, as defined in s. DOC 373.46 (1) or possesses other contraband that may be detected by a body contents search.

2. Upon intake in the assessment and evaluation process.

3. After a youth returns to the institution from any absence from the institution.

4. After a youth has been with a visitor.

5. As part of a random testing program in which staff do not select youth by name or for a specific reason.

6. Pursuant to a court order requiring the youth to submit to drug testing.

(2) Results of searches and any contraband, test results or other evidence obtained under sub. (1) may be used as evidence at a disciplinary hearing conducted pursuant to s. DOC 373.73.

(3) Contraband shall be disposed of in accordance with s. DOC 376.17.

(4) A written report or written log entry of all searches under sub. (1) shall be filed with the superintendent. The report shall state all of the following:

- (a) The identity of the staff member who conducted the search and the shift supervisor who approved it.
- (b) The date and time of the search.
- (c) The identity of the youth searched.
- (d) The reason for the search. If the search was a random search the report shall state that it was random.
- (e) Any objects seized pursuant to the search.
- (f) The identity of all staff present when the search was conducted.

(5) Staff shall preserve the dignity of youth to the extent reasonably possible in all searches conducted under this section.

(6) Before a search is conducted pursuant to this section, a youth shall be informed that a search is about to occur, the nature of the search and the location where the search is to occur.

(7) In deciding whether there are reasonable grounds to believe a youth possesses contraband or whether there is probable cause that contraband is hidden in a body cavity, staff shall consider:

- (a) Observations of staff.
- (b) Information provided by a reliable informant.
- (c) The experience of a staff member.
- (d) Prior seizures or detection of contraband from the youth or living quarters of the youth.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 376.14 Search of visitors.** (1) Before a visitor is permitted in an institution, staff responsible for the admission of visitors shall be satisfied that the visitor is not carrying an unauthorized object into the institution.

(2) Each institution shall have information readily available to visitors informing them of the objects they may carry into the institution. Each institution shall have a place for the safekeeping of objects that may not be carried into the institution and shall permit visitors to store objects in these places.

(3) Before admitting a visitor, staff responsible for admission of visitors may request visitors to empty pockets and containers, permit the inspection of containers or submit themselves and objects they carry into the institution to inspection by a device designed to detect metal or unauthorized objects.

(4) (a) Before admitting a visitor, staff responsible for admission of visitors may request a visitor to submit to a personal search, which the superintendent and the administrator must authorize, if there are reasonable grounds to believe the visitor is concealing an unauthorized object.

(b) If following a personal search, staff has reasonable grounds to believe a strip search is necessary, staff shall request the sheriff or local law enforcement to conduct the search. If the sheriff or local law enforcement cannot or will not conduct the strip search, staff shall ask the visitor to leave.

(5) Before an inspection or search is conducted pursuant to

sub. (3) or (4), the visitor shall be informed orally and in writing, either by a sign posted in a prominent place or on a notice, that the visitor need not permit the inspection or search and that if the visitor does not give permission, the visitor shall not be admitted to the institution.

(6) If staff find an unauthorized object under sub. (3) or (4), the visitor may be denied entry to the institution and visiting privileges may be suspended.

(7) If a visitor is denied entry to an institution for refusal to permit a search or if a search is conducted of a visitor under sub. (4), the staff involved shall submit a written report to the superintendent that states all of the following:

- (a) The identity of all staff involved and the person who approved the search.
- (b) The identity of the visitor and the youth being visited.
- (c) The date and time of the search or proposed search.
- (d) The reason for the request to permit a search, including the basis for the belief that unauthorized objects were concealed by the visitor.
- (e) Whether unauthorized objects were seized pursuant to the search and a description of the objects.
- (f) Any involvement of the sheriff or local law enforcement.

(8) If an unauthorized object is found pursuant to a search of a visitor, the superintendent shall dispose of the object consistent with s. DOC 376.17.

(9) Staff shall conduct all inspections and searches in a courteous manner and shall strive to protect the dignity of visitors who are inspected or searched.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 376.15 Search of staff.** (1) A superintendent may require that staff submit to a personal search before they enter or leave an institution. As part of the personal search, the superintendent may require staff to submit themselves and objects they carry into or out of the institution to inspection by a device designed to detect metal or unauthorized objects. A superintendent may require that staff vehicles and personal possessions be searched while on institution grounds. A superintendent, with approval of the administrator, may require that staff submit to a strip search. Approval for any search shall be given only if there are reasonable grounds to believe the individual being searched is concealing an unauthorized object.

(2) Staff who refuse to submit to a search shall not be admitted to the institution and may be subject to disciplinary action.

(3) If an unauthorized object is found pursuant to a search conducted under this section, the superintendent shall dispose of the object consistent with s. DOC 376.17.

(4) All searches shall be conducted in a courteous manner. Staff shall strive to protect the dignity of staff who are searched.

(5) Each institution shall give staff written notice of the objects they may not carry into or out of the institution.

(6) If a search is conducted under this section, the staff who conducted the search shall submit a written report to the superintendent that includes the information required by s. DOC 376.13 (4).

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 376.16 Factors to consider to determine if a search is necessary.** Prior to searching a visitor, a youth or other staff, staff shall determine that reasonable grounds or probable cause exists to believe the person being searched possesses contraband. Staff shall consider all of the following factors.

(1) The reliability of information provided by an informant

indicating the existence of contraband by assessing whether the information is detailed, consistent and corroborated.

(2) The reliability of an informant by considering whether the informant has supplied reliable information in the past and whether the informant has reason to supply inaccurate information.

(3) The activity of a visitor, youth or staff that relates to whether the person to be searched might carry contraband.

(4) The information provided by the person who may be searched which is relevant to whether the person possesses contraband.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 376.17 Seizure and disposal of contraband.**

(1) Staff who reasonably believe that an item is contraband may seize the item. Items seized shall be sent to the superintendent accompanied by the written report required under ss. DOC 376.13 (4) and 376.14 (7). Items that are not contraband shall be returned to the owner consistent with institution policy and procedure. Contraband shall be returned to the owner, given to the sheriff or local law enforcement agency or disposed of in accordance with this section.

(2) If staff writes a conduct report, as defined in s. DOC 373.03 (4), the superintendent shall determine the manner of disposal of contraband under sub. (3) after completion of a disciplinary hearing under s. DOC 373.73.

(3) Disposal of contraband shall be accomplished in one of the following ways:

(a) Except as otherwise provided in this subsection, if the owner can be determined, the superintendent may direct that the contraband be returned to the owner. Contraband may not be returned to a youth unless its return is consistent with this section and the institution's policies and procedures.

(b) Property that is unlawful to possess under state or federal law shall be given to the sheriff or a local law enforcement agency.

(c) Intoxicating substances shall be given to the sheriff or a local law enforcement agency or destroyed at the direction of the superintendent.

(d) Weapons shall be given to the sheriff or a local law enforcement agency or destroyed at the direction of the superintendent.

(e) Currency shall be returned to the owner if the owner is known, except that if a youth is the owner of currency, it shall be deposited in the youth's account. Currency shall be placed in the state's general fund if the owner cannot be determined.

(f) Checks and other negotiable instruments shall be returned to the maker. If it is not possible to locate the maker, the checks or negotiable instruments shall be given to the sheriff or a local law enforcement agency.

(g) Other property, whose ownership is unknown, shall be sold through the department's purchasing office and proceeds of the sale shall be placed in the state's general fund. Items having an apparent value of \$5.00 or less shall be destroyed in accordance with the policies and procedures of the institution.

(h) If it is determined that a youth is the owner of contraband that is lawful to possess, other than currency, but return of the contraband is inconsistent with the department's rules or the institution's policies and procedures, the superintendent shall do one of the following:

1. Give the contraband to the sheriff or a local law enforcement agency.

2. Store the contraband in the institution until the youth is discharged or otherwise released from the institution.

3. Deliver the contraband by mail or commercial carrier to a person on the youth's visiting list at the expense of the youth.

4. Deliver the contraband to a person on the youth's visiting list when the person visits the institution.

5. Destroy the contraband, consistent with institution policy and procedure.

(4) A youth who is the owner of property under sub. (3) shall receive notice of the proposed disposition of the property at least 3 days prior to the disposition. The youth may appeal the decision by filing a complaint under ch. DOC 380. The property shall not be disposed of until the complaint is resolved.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 376.18 Report of contraband seized.** Each month the superintendent of each institution shall submit to the administrator a report of all contraband seized, the place and time it was seized, and the identity of the person possessing the contraband. If the contraband was not found in the possession of a person, the report shall state that fact.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 376.19 Lockdown.** In the event of a safety or security need, the superintendent may at any time lockdown an institution to investigate and control the situation. The superintendent shall give the secretary and the administrator advance notice, when possible, of any lockdown. If advance notice cannot be given, the superintendent shall notify the secretary and the administrator of a lockdown as soon as possible.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 376.20 Disturbance plan.** (1) In this section, a disturbance means any of the following have occurred:

(a) Two or more youth assault any person.

(b) A youth has taken a hostage.

(c) Two or more youth destroy state property or the property of another person.

(d) Two or more youth, acting in concert, refuse to comply with an order to return to living quarters or to go to a place.

(e) One or more youth incite or encourage one or more youth by words or acts to do any of the acts referred to in pars. (a) to (d).

(2) Each institution shall have a written plan, a copy of which shall be filed with the administrator, to control and stop a disturbance. The plan shall be prepared by the superintendent and shall be reviewed at least once a year.

(3) The purposes of the disturbance plan are:

(a) To ensure, as the highest priority, the safety and welfare of the general public, staff and youth.

(b) To protect property.

(c) To maintain and restore order to the institution.

(d) To identify any person who participated in the disturbance, to provide for disciplinary action to be taken according to ch. DOC 373 and to provide relevant information to the sheriff or local law enforcement agency so that participants can be prosecuted.

(4) Staff who are taken hostage have no authority to order any action or inaction by staff.

(5) If a major disturbance occurs that prevents the normal functioning of the institution, the superintendent may suspend the administrative rules of the department that relate to the division, except ss. DOC 376.05 to 376.09, until the disturbance is ended and order is restored to the institution.

(6) A superintendent shall immediately notify the administrator of a disturbance.

(7) If a disturbance occurs and a person is injured or if it results in a suspension of the rules under sub. (5), the secretary may convene a disturbance review panel to investigate the disturbance. The panel shall be made up of persons selected in accordance with sub. (8). The panel shall have adequate staff to conduct a thorough investigation of the disturbance.

(8) A disturbance review panel shall consist of 5 persons selected as follows:

(a) Two members designated by the secretary, one of whom shall be a member of the public and one of whom shall be a member of the department staff who shall serve as chairperson.

(b) Two members designated by the administrator, one of whom shall be a member of the administrator's central office staff and one of whom shall be a member of the public.

(c) One member to be designated by the superintendent of the institution where the incident occurred from the institution staff.

(9) A disturbance review panel shall submit a written report to the secretary that includes the facts relevant to the incident and states a conclusion as to whether the department's rules were complied with.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00.

**DOC 376.21 Emergencies.** (1) In this section, "emergency" means an immediate threat to the safety of the staff or youth of an institution, as determined by a superintendent, other than a disturbance as defined in s. DOC 376.20 (1). An emergency may include, but is not limited to:

(a) An epidemic.

(b) A malfunctioning of institution systems including the water, electrical or telephone system.

(c) A fire.

(d) A bomb threat or explosion.

(e) An employee strike.

(f) A natural disaster.

(g) A civil disturbance.

(2) Each institution shall have a written plan, a copy of which shall be filed with the administrator, to be implemented in the event of an emergency.

(3) The purposes of the emergency plan shall be:

(a) To ensure as the highest priority, the safety and welfare of the general public, staff and youth.

(b) To protect property.

(c) To maintain or restore order to the institution.

(d) To identify any person who contributed to the creation of an emergency and to provide this information to the sheriff or local law enforcement agency for prosecution.

(4) If an emergency occurs that prevents the normal functioning of the institution, the superintendent may suspend the administrative rules of the department that relate to the division, except ss. DOC 376.05 to 376.09, until the emergency is ended and order is restored to the institution.

(5) The superintendent shall provide immediate notification of an emergency to the administrator.

(6) If an emergency occurs, the secretary may convene a review panel to investigate the emergency. The panel shall be made up of persons selected in accordance with s. DOC 376.20 (8). The panel shall be provided with staff adequate to conduct a thorough investigation of the emergency.

**History:** Cr. Register, June, 2000, No. 534, eff. 7-1-00; correction in (1) (intro.) and (6) made under s. 13.93 (2m) (b) 7., Stats., Register, June, 2000, No. 534.