

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:

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(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 shall, insofar as feasible, be the same as those in the status from which the inmate came prior to TLU placement. An inmate who had been earning compensation shall continue to be compensated at the rate earned in his or her previous status, except that an inmate employed by corrections industries shall be compensated in accordance with s. HSS 313.08. If 1983 Wisconsin Act 528 does not apply to the inmate, he or she shall continue to earn extra good time credit. The inmate may be required to wear mechanical restraints, as defined in s. HSS 306.09 (1), while outside the cell if the superintendent or his or her designee determines that the use of mechanical restraints is necessary to protect staff or inmates or to maintain the security of the institution.

History: Cr. Register, August, 1980, No. 296, eff. 9-1-80; am. (3), Register, April, 1985, No. 352, eff. 5-1-85; emerg. am. (6), eff. 11-18-85; am. (6), Register, May, 1986, No. 365, eff. 6-1-86; am. (6), Register, February, 1987, No. 374, eff. 3-1-87; am. (6), Register, June, 1989, No. 402, eff. 7-1-89.

#### 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 bring-

ing both disciplinary and criminal proceedings against an individual based on a single incident, implying that no double jeopardy problems are raised by this practice. *Barler 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

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