

## Chapter DOC 333

### INTENSIVE SANCTIONS

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**Note:** Chapter DOC 333 was created as an emergency rule effective 7-23-92.

**DOC 333.01 Authority and purpose.** This chapter is promulgated under the authority of ss. 227.11 (2) (a) and 301.048, Stats., to provide rules for the administration of the intensive sanctions program. The purposes of the intensive sanctions program are to:

- (1) Provide a cost-effective sentencing and placement option which satisfies punishment and public safety issues for offenders who would otherwise be incarcerated;
- (2) Provide public safety through the administration of sanctions and supervision standards appropriate to the needs and requirements of the offender;
- (3) Provide the necessary treatment and services to assist the offender in making meaningful, positive changes;
- (4) Promote a crime-free lifestyle by requiring offenders to be employed, perform community service, make restitution and remain drug free; and
- (5) Increase communication among victims, victim service agencies and legal professionals.

**History:** Cr. Register, February, 1993, No. 446, eff. 3-1-93.

**DOC 333.02 Applicability.** This chapter applies to the department of corrections and to inmates in its custody who are eligible for a minimum security/intensive sanctions confinement classification. This chapter and other administrative rules referenced in this chapter are the only administrative rules of the department that apply to inmates in the intensive sanctions program. Any inconsistencies between rule provisions within this chapter and other chapters shall be resolved in favor of this chapter.

**History:** Cr. Register, February, 1993, No. 446, eff. 3-1-93.

**DOC 333.03 Definitions.** In this chapter:

- (1) "Administrator" means the administrator of the division of intensive sanctions or that person's designee.
- (2) "Classification chief" means the chief of the department's office of classification or that person's designee.
- (3) "DAI" means the department's division of adult institutions.
- (4) "Department" means the Wisconsin department of corrections.
- (5) "DIS" means the division of intensive sanctions or the intensive sanctions program.
- (6) "Intensive sanctions program placement" or "DIS placement" means a placement in which a person is sentenced, transferred or paroled to the intensive sanctions program or participating in the program as an alternative to revocation, in accordance with s. 301.048 (2), Stats.

(7) "Major penalty" means placement in a Type 1 prison, jail, county reforestation camp, residential treatment facility or community-based residential facility under s. 301.048 (3) (a) 1., Stats.

(8) "Minimum security DIS classification" or "MS/DIS" means the inmate security classification described under s. DOC 302.12 (1) (e) 1.

**Note:** DOC 302.12 (1) (e) was repealed eff. 2-1-02.

(9) "Minor penalty" means one or more of the following:

- (a) Intensive or other field supervision.
- (b) Electronic monitoring.
- (c) Community service.
- (d) Restitution.
- (e) Other programs as prescribed by DIS.
- (f) Reprimand, either oral or written.
- (g) Loss of one or more privileges which includes any activity, including employment, outside the home.

(10) "Offense" is a violation of a rule of supervision.

(11) "PRC" means the program review committee.

(12) "Rules of supervision" means the conditions of placement in the community.

(13) "Secretary" means the head of the department or that person's designee.

(14) "State correctional facility" or "state correctional institution" means the prisons named under s. 302.01, Stats.

(15) "Type 1 prison" has the meaning given in s. 301.01 (5), Stats.

**History:** Cr. Register, February, 1993, No. 446, eff. 3-1-93.

**DOC 333.04 Eligibility for MS/DIS classification.** A person is eligible for an MS/DIS confinement classification if both of the following apply:

- (1) The person is any of the following:
  - (a) Sentenced by a court to a felony in accordance with ss. 301.048 (2) (am) 1. and 973.032, Stats.
  - (b) Paroled by the parole commission in accordance with ss. 301.048 and 304.06, Stats.
  - (c) Transferred to DIS by the department in lieu of revocation of probation or parole upon agreement between the department and the inmate in accordance with s. 301.048 (2) (am) 4., Stats.
  - (d) Transferred to DIS by DAI in accordance with s. 301.048 (2) (am) 2., Stats. and s. DOC 302.20, provided that the inmate has a case plan that includes an intended residence, either a school or job placement or an alternative acceptable to the PRC and a proposal for meeting treatment goals in the community.

(2) The person is not serving a life sentence in a Type 1 prison.

**History:** Cr. Register, February, 1993, No. 446, eff. 3-1-93; **corrections in (1) (a), (c) and (d) made under s. 13.93 (2m) (b) 7., Stats.**

**DOC 333.05 DIS placement.** (1) Before the inmate's placement in the community, in the case of a transfer from DAI, and as soon as practicable in the case of other placements under s. 301.048 (2), Stats.:

(a) The inmate shall be assigned to a DIS agent and DIS staff shall provide the inmate with the name and business address of the inmate's agent, the agent's supervisor and the DIS sector chief.

(b) DIS staff shall advise the inmate's employer, appropriate school administrators and persons sharing the residence with the inmate of their responsibilities to the inmate and the program. Other occupants of the residence shall agree in writing to searches of the residence, including the grounds, in accordance with s. DOC 333.18.

(c) The inmate shall sign an agreement to abide by the rules of supervision.

(2) DIS staff shall explain to the inmate the DIS rules of supervision. DIS staff shall describe how the electronic monitoring equipment works, any special limitations on transportation methods or routes, the places the inmate is authorized to visit, the hours the inmate is authorized to be absent from his or her residence, the area designated as the limits of the inmate's confinement and treatment and services available, to include mental health outpatient treatment and services and alcohol or other drug abuse outpatient treatment and services.

(3) DIS staff shall inform the inmate of his or her program assignment. "Program" includes work, school, treatment, community service, an approved alternative program or a combination of any of the foregoing and a more specific activity such as a particular job within a work assignment.

(4) Notwithstanding ch. DOC 309, DIS may limit the recreation or leisure time activities and personal property that an inmate may have in a Type 1 prison, a jail, a county reforestation camp, a residential treatment facility or a community-based residential facility.

(5) If the inmate was transferred to DIS from DAI in accordance with s. 301.048, Stats., the department shall give notice of the transfer to the committing court, the municipal police chief, the county sheriff and the district attorney for the area where the inmate plans to reside. Notice shall also be given to victim - witness coordinators and victims registered with the parole eligibility notification system as appropriate. The notice shall be given prior to placement in the community.

(6) In the case of an inmate transferred from DAI, DIS staff and DAI staff shall coordinate transportation arrangements between the state correctional facility and the approved DIS placement.

**History:** Cr. Register, February, 1993, No. 446, eff. 3-1-93.

**DOC 333.06 Changes in DIS program assignment.**

(1) DIS staff may change an inmate's program assignment at any time by giving written notice to the inmate.

(2) The criteria under s. DOC 302.16, the availability of programs in the community and any other factor relevant to the inmate's rehabilitation and the protection of the community shall be considered in making the decision.

(3) An inmate may submit a written appeal of the change in assignment to the DIS sector chief within 10 days after receipt of the notice of assignment. The decision of the DIS sector chief shall be final.

**History:** Cr. Register, February, 1993, No. 446, eff. 3-1-93.

**DOC 333.07 Rules of supervision.**

The following provisions together with ss. DOC 333.12 (2) and 333.13 (6) and (7) apply to the conduct of inmates in DIS placements and are the DIS rules of supervision, a copy of which shall be provided to each in-

mate prior to, or as soon as practicable after placement in the community:

(1) The violation of any of the following provisions by an inmate who is not in a state correctional institution is an offense:

(a) An inmate shall abide by all the rules of the inmate's employer or the educational or training facility to which the inmate is assigned.

(b) Except for retaining an attorney, an inmate may not enter into a contract or other agreement without prior written approval of DIS staff. Contracts which require prior approval include but are not limited to the purchase of property and time payments.

(c) An inmate shall abide by this chapter and other rules referenced in this chapter, the specific policies, procedures and rules of any facility in which the inmate is housed and all state and federal statutes and local ordinances.

(d) Any intentional failure of the inmate to return to the DIS residence on schedule or leaving the confines of the authorized area to which he or she is assigned, without permission, is an offense and may be referred for prosecution as an escape under ss. 301.048 (5) and 946.42 (3) (a), Stats.

(e) If an inmate is attending school, the inmate shall attend all regularly scheduled classes even if the instructor does not require attendance, unless the inmate obtains authorization not to attend class from DIS staff. Unless the inmate lacks the ability, he or she shall maintain passing grades in all courses and a cumulative 2.0 grade point average or better on a 4.0 scale without any incompletes.

(f) Unless approved in advance by DIS staff, an inmate may not enroll in or attend evening courses, courses requiring attendance at events away from the school site, or courses which include theater activities, field trips, athletic functions or social events.

(g) Inmates shall report all arrests and police or other law enforcement contacts to DIS staff immediately.

(h) Inmates shall submit a schedule of daily activities to DIS staff as directed by the staff.

(i) Inmates shall make themselves available for tests and searches ordered by DIS staff in accordance with this chapter.

(j) Inmates shall attend and participate in programs and treatment mandated by DIS staff.

(k) An inmate may not change his or her schedule or DIS program including specific residence, school, work or treatment situation without prior approval by DIS staff.

(L) An inmate may not purchase, lease, possess, trade, sell, or operate a motor vehicle without advance approval by DIS staff. To obtain approval to operate a motor vehicle, the inmate shall demonstrate proof of insurance, have a valid Wisconsin driver's license and, if the vehicle is owned by another person, have the written permission of the owner to operate the vehicle. Approval shall be denied if ownership, possession or use of a motor vehicle is inconsistent with the inmate's rehabilitation.

(m) An inmate shall be responsible for maintaining telephone service compatible with the DIS electronic monitoring equipment and DIS programming needs. Personal use of the telephone line may be restricted to allow for proper functioning of the electronic monitoring equipment.

(n) When directed by DIS staff, an inmate shall wear an electronic device continuously on the inmate's person and comply with other requirements of the electronic monitoring system as directed.

(o) An inmate may not tamper with the electronic monitoring equipment. Inmates are responsible for lost, stolen or damaged electronic monitoring equipment, except that inmates are not responsible for malfunctioning of equipment caused by faulty manufacturing.

(p) Pursuant to s. 301.135 (4), Stats., an inmate shall pay an electronic monitoring fee which equals the department's cost for the electronic monitoring, unless DIS staff waive the fee. Failure

of an inmate to make payments on schedule may result in imposition of a sanction under s. 301.048 (3), Stats. Inmates may not be terminated from a DIS placement solely for failure to pay an electronic monitoring fee.

(q) An inmate shall maintain personal cleanliness, grooming and appearance as directed by DIS staff consistent with case plan objectives. Personal cleanliness and appearance includes both the person and the residence.

(r) An inmate shall sign an authorization giving DIS staff access to all health care records and health care information relating to the inmate's drug prescriptions and relating in any way to the use of alcohol or drugs, alcohol or drug treatment and mental health treatment or services.

**(2)** All of the offenses listed in ss. DOC 303.12 to 303.631 shall apply to inmates in DIS placement who are not in a state correctional institution, with the following exceptions, substitutions and modifications:

(a) Section DOC 303.15 on sexual conduct does not apply.

(b) The following is substituted for s. DOC 303.18 on inciting a riot: Any inmate who intentionally encourages, directs, commands, coerces or signals one or more other persons to participate in a riot is guilty of an offense. "Riot" means a serious disturbance caused by a group of 2 or more persons which creates a serious risk of injury to persons or property.

(c) The following is substituted for s. DOC 303.19 on participating in a riot: Any inmate who intentionally or recklessly participates in a riot, as defined under par. (b), or who intentionally or recklessly remains in a group of 2 or more inmates which has been ordered to disperse if some members of the group are participating in a riot, is guilty of an offense.

(d) Section DOC 303.20 on group resistance and petitions does not apply.

(e) The following is substituted for s. DOC 303.05 on conspiracy:

1. If an inmate plans or agrees to do acts which are forbidden under this chapter with another person or persons, the inmate is guilty of an offense.

2. The penalty for conspiracy may be the same as the penalty for the most serious of the planned offenses;

(f) The following is substituted for s. DOC 303.22 on escape:

1. An inmate who does any of the following without permission is guilty of an offense:

- Leaves a place without proper authorization from DIS staff;
- Leaves the custody of a staff member;
- Does not follow his or her assigned schedule;
- Leaves the confines of an area to which he or she is assigned.

(g) The following is substituted for s. DOC 303.27 on lying: Any inmate who knowingly makes a false written or oral statement to a DIS staff member is guilty of an offense.

(h) Section DOC 303.29 on talking does not apply.

**Note:** DOC 303.29 was repealed eff. 1-1-01.

(i) Section DOC 303.30 on unauthorized forms of communication does not apply.

(j) The following is substituted for s. DOC 303.32 on enterprises and fraud: Any inmate who offers to buy or orders any item with the intention of not paying for it or incurs debt without permission of DIS staff is guilty of an offense.

(k) Section DOC 303.33 on attire does not apply.

**Note:** DOC 303.33 was repealed eff. 1-1-01.

(L) Section DOC 303.40 on unauthorized transfer of property does not apply.

(m) Section DOC 303.42 on possession of money does not apply.

(n) The following is substituted for s. DOC 303.43 on possession of intoxicants:

1. Except as specifically authorized by DIS staff, any inmate who knowingly has in his or her possession or uses any intoxicating substance as defined under s. DOC 303.02 (14) which is not prescribed by an approved physician is guilty of an offense.

2. All intoxicating substances prohibited by this chapter shall be confiscated.

(o) Section DOC 303.46 on possession of excess smoking materials does not apply.

**Note:** DOC 303.46 was repealed eff. 1-1-01.

(p) The following is substituted for s. DOC 303.47 on possession of contraband-miscellaneous: Any inmate who knowingly possesses any items of a type which is not allowed under s. DOC 333.13 (6) (b) 1. through 6 or under the inmate's special conditions of DIS placement is guilty of an offense.

(q) Section DOC 303.48 on unauthorized use of the mail does not apply.

(r) The following is substituted for s. DOC 303.49 on punctuality and attendance: Inmates shall attend and be on time for all events, classes, meetings, appointments, jobs and other activities, services or treatment for which they are scheduled. Any inmate who violates this section is guilty of an offense, unless one of the following applies:

1. DIS staff have been notified that the inmate is sick.

2. DIS staff have granted the inmate permission to be in some other location.

3. DIS staff have authorized the inmate to change his or her schedule.

(s) Section DOC 303.50 on loitering does not apply.

(t) The following is substituted for s. DOC 303.51 on leaving assigned area: Any inmate who leaves an area where he or she is attending a scheduled activity or who leaves the immediate area of a work or school assignment before the activity or the work or school assignment is over is guilty of an offense, unless absence from the assigned area has been approved by DIS staff.

(u) Section DOC 303.52 on entry of another inmate's quarters does not apply.

(v) Section DOC 303.54 on improper storage does not apply.

(w) Section DOC 303.55 on dirty quarters does not apply.

(x) The following is substituted for s. DOC 303.57 on misuse of prescription medication: Any inmate who knowingly does any of the following is guilty of an offense:

1. Takes more of a prescription medication than was prescribed.

2. Takes a prescription medication which was not prescribed for him or her.

(y) Section DOC 303.59 on use of intoxicants applies except that subs. (2) (a) and (3) are modified to include tests, examinations and specimens requested in accordance with this chapter.

(z) Section DOC 303.63 on violations of institution policies and procedures does not apply.

**(3)** In addition to the rules listed under this subsection, which includes the list of offenses under ss. DOC 303.12 to 303.631 as affected by this subsection, DIS staff may develop additional rules of supervision for an inmate's DIS placement which are reasonably calculated to serve the interests stated in s. DOC 333.01. These additional rules may be modified at any time with written notice to the inmate.

**(4)** Violation of any of the rules of supervision is an offense.

**History:** Cr. Register, February, 1993, No. 446, eff. 3-1-93; corrections in (2) (e) (intro.) and (n) 1. made under s. 13.93 (2m) (b) 7., Stats.

**DOC 333.08 Discipline.** (1) An inmate in a DIS placement may receive a sanction under s. 301.048 (3), Stats. if the department determines, after completing a review under sub. (2), that the inmate has committed one of the following:

(a) A violation of a state or federal statute or a local ordinance.

(b) A violation of the rules of any facility, institution or program in which the inmate is held or to which the inmate is assigned.

(c) A violation of this chapter, including any rules referenced and incorporated in this chapter.

(d) A violation of the rules of supervision.

**(2)** The review procedure to determine if the inmate has committed a violation shall be conducted as follows:

(a) A written violation report shall be prepared by a DIS staff member which:

1. Sets forth all facts obtained in the DIS staff member's investigation and includes the proposed penalty and a written statement or a report of an oral statement from the inmate. No statement concerning the alleged violation shall be taken from the inmate until 24 hours after the inmate receives a written notice of the alleged violation which shall include the rule allegedly violated, how the rule was violated and the date and place of the violation. The requirement of prior written notice may be waived by the inmate in writing. A defective notice can be cured by issuing a proper notice.

2. Includes witness statements or summaries of witness statements.

3. Identifies the evidence and the names of witnesses reported by the inmate. The DIS staff member shall include in his or her report what efforts were made to interview witnesses and gather evidence identified by the inmate.

(b) A copy of the violation report shall be served on the inmate within 5 working days after review and approval by a supervisor who was not involved in the alleged violation and did not prepare the violation report. A minor penalty may be imposed by DIS staff after approval by the supervisor and prior to service of the violation report on the inmate.

(c) A major penalty may be imposed by a DIS staff member after review and approval of the violation report by the supervisor under par. (b), service of the violation report on the inmate and completion of the following appeal procedure:

1. The inmate may appeal the violation report to the sector chief or designee by service of a written appeal within 5 working days of receipt of the violation report.

2. If the appeal is to the sector chief's designee, the designee shall not be the immediate supervisor of the DIS staff member who conducted the investigation.

3. The sector chief or designee shall review the violation report and the appeal and issue a final decision within 7 working days of receipt of the appeal.

4. A major penalty may be imposed at any time after the expiration of the appeal time if the inmate does not appeal.

**(3)** A "major offense" is a violation of one or more of the rules of supervision for which a major penalty may be imposed if the accused inmate is found guilty.

**(4)** A "minor offense" is any violation of one or more of the rules of supervision which is not a 'major offense' under sub. (5) or which a DIS supervisor has not classified as a major offense. If an offense not listed in sub. (5) is a 'major offense' for an inmate, it shall be identified as a 'major offense' in the DIS rules of supervision.

**(5)** Any violation of the following sections is a major offense:

<u>Section</u>	<u>Title</u>
DOC 303.12	Battery
DOC 303.13	Sexual assault—intercourse
DOC 303.14	Sexual assault—contact
DOC 333.07 (2) (b)	Inciting a riot
DOC 333.07 (2) (c)	Participating in a riot

DOC 333.07 (2) (f)	Leaving assigned place
DOC 303.23	Disguising identity
DOC 303.34	Theft
DOC 303.35	Damage or alteration of property
DOC 303.37	Arson
DOC 303.41	Counterfeiting and forgery
DOC 303.45	Possession, manufacture and alteration of weapons
DOC 333.07 (2) (x)	Misuse of prescription medication
DOC 333.07 (2) (y)	Use of intoxicants

**History:** Cr. Register, February, 1993, No. 446, eff. 3-1-93.

**DOC 333.09 Termination of DIS placement. (1)** If an inmate has been transferred to DIS from a state correctional facility under s. 301.048 (2), Stats., the placement in DIS may be terminated for any of the following reasons:

(a) If there is a change of circumstances such as the loss, for any reason, of a job, school or treatment program.

(b) If the department determines that the inmate has committed one or more of the following violations:

1. Violation of a state or federal statute or local ordinance.

2. Violation of the rules of any facility, institution or program in which the inmate is held or to which the inmate is assigned.

3. Violation of the DIS rules of supervision.

(c) For any other reason, which, in the discretionary judgment of the department, is reasonably calculated to serve the interests stated in s. DOC 333.01.

**(2)** If an inmate is placed in DIS as an alternative to revocation of probation or parole pursuant to s. 301.048 (2) (am) 4., Stats. or is placed in DIS as a condition of parole by the parole commission pursuant to s. 301.048 (2) (am) 3., Stats. the placement in DIS shall be terminated if the inmate's probation or parole is revoked under ch. DOC 331.

**History:** Cr. Register, February, 1993, No. 446, eff. 3-1-93; corrections in (2) made under s. 13.93 (2m) (b) 7., Stats.

**DOC 333.10 Termination procedure. (1)** The proposed termination of a DIS placement by DIS staff under s. DOC 333.09 (1) shall be reviewed by the PRC which shall consist of 2 or more members appointed by the administrator. The administrator may designate persons to sit as alternates.

**(2)** The PRC may recommend to the administrator or the administrator's designee that the inmate's DIS placement be terminated and the inmate returned to a type 1 prison or that the inmate be transferred to another community or another living arrangement or that any other appropriate action be taken. PRC review of the inmate's DIS placement shall be conducted in accordance with ss. DOC 302.19 and 302.20, except that "administrator or his or her designee" shall be substituted for "superintendent" in those provisions and no disciplinary hearing shall be held to determine if a violation has occurred. The decision of the administrator or the administrator's designee shall be final.

**(3)** If the placement is to be terminated under s. DOC 333.09 (1) (b), the review process in s. DOC 333.08 (2) shall be completed before the placement is terminated.

**(4)** An inmate who has been removed from a DIS placement pending completion of the review procedure in s. DOC 333.08 (2) and who is found not guilty of the alleged violation shall be returned to the placement as soon as practicable following the determination.

**(5)** Prior to completion of the termination procedure or the revocation procedure under ch. DOC 331, the department may take any action it considers necessary for protection of the public including detention of the inmate in any state correctional institution, county jail or other facility that has agreed to hold DIS

inmates in detention status, provided that the conditions for detention under s. DOC 333.11 are met.

(6) If an inmate is unable to attend work, school or treatment programs due to the termination procedure, DIS staff shall notify the appropriate school official, employer or treatment staff.

**History:** Cr. Register, February, 1993, No. 446, eff. 3-1-93.

**DOC 333.11 Detention for inmates in DIS placements.** (1) In this section, "detention" means secure or non-secure confinement in a Type 1 prison, jail, county reforestation camp, residential treatment facility or community-based residential facility under s. 301.048 (3) (a) 1., Stats.

(2) An inmate may be placed in detention by any DIS staff or by a law enforcement officer at the request of DIS staff and kept there 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 DIS placement, the inmate will seek to intimidate a witness in a pending investigation, disciplinary action or termination action.

(b) If the inmate remains in the DIS placement, the inmate will encourage others by example, expressly, or by the inmate's presence, to defy staff authority and thereby erode staff's ability to control a particular situation.

(c) If the inmate remains in the DIS placement, it will create a substantial danger to the physical safety of the inmate or another person.

(d) If the inmate remains in the DIS placement, there is a substantial danger that the inmate will try to escape.

(e) If the inmate remains in the DIS placement, a criminal, disciplinary or termination investigation will thereby be inhibited.

(f) If the inmate remains in the DIS placement, there is a substantial danger that the inmate will commit a crime.

(g) If, in the discretionary judgement of DIS staff, the inmate's retention in the DIS placement is not reasonably calculated to serve the interests stated in s. DOC 333.01.

(3) DIS supervisory staff shall review the placement of an inmate in detention within 3 working days after it takes place. Before this review, the inmate shall be provided with the reason for detention and with an opportunity to respond, either orally or in writing. Review of the decision shall include consideration of the inmate's response to the detention. If, upon review, it is determined that detention is not appropriate, the inmate shall be returned to the DIS placement.

(4) No inmate may remain in detention more than 21 days, except that the administrator may extend this period for up to 21 additional days for cause. After the review under sub. (3), DIS supervisory staff shall review the status of each inmate in detention every 7 days to determine whether detention continues to be appropriate. If upon review it is determined that detention is not appropriate, the inmate shall be returned to his or her DIS placement.

(5) When an inmate is placed in detention, the person who makes the placement shall state in writing the reasons for the detention. The inmate shall be given a copy of the written statement. Upon review, the supervisory staff person shall indicate on the statement approval or disapproval of detention.

**History:** Cr. Register, February, 1993, No. 446, eff. 3-1-93.

**DOC 333.12 Inmate funds.** (1) An inmate in a DIS placement is not eligible for compensation under s. DOC 309.55.

(2) The inmate shall sign an agreement acknowledging the department's authority to collect all funds earned and compensation received by the inmate while in a DIS placement and to disburse those funds in accordance with this section. Refusal to sign an agreement is an offense.

(3) The DIS business manager or a financial institution designated to handle DIS inmate accounts shall establish a separate DIS account for each inmate and make disbursements in accordance with this section. All paychecks from DIS work assignments and

other funds received for inmates shall be sent to the DIS business manager or a financial institution designated to handle DIS inmate accounts.

(4) Upon an inmate's placement in DIS, funds in an inmate's general account, if any, shall be transferred to his or her DIS account.

(5) The DIS business manager or the designated financial institution shall disburse money received while an inmate is in a DIS placement in the following order:

(a) Payment of restitution under s. 973.20, Stats., and payment of the crime victim and witness assistance surcharge under s. 973.045 (4), Stats., and s. DOC 309.465;

(b) Unless waived by DIS staff, an electronic monitoring fee pursuant to s. 301.135 (4), Stats., to cover the actual costs associated with electronic monitoring and

(c) The balance to the inmate in a DIS placement.

(6) Prior to disbursing funds under sub. (5) (c), the business manager or designated financial institution may disburse money from the inmate's DIS account to pay the inmate's obligations that have been acknowledged by the inmate in writing or that have been reduced to judgment or court order.

(7) Income earned by or received for the benefit of an inmate while in DIS placement is not subject to release account deductions under s. DOC 309.466.

(8) After approval for DIS placement, an inmate who is transferred from a state correctional facility may receive a single disbursement from his or her release account under s. DOC 309.466 for initial expenses such as security deposits, clothing, fees, tuition and books, if approved by DIS staff.

(9) Upon termination of a DIS placement, funds in an inmate's DIS account shall be deposited in the inmate's general account after disbursements under sub. (5) and (6) are made.

(10) Before releasing an inmate to field supervision as a parolee, the DIS business manager shall inform the parole agent of the balance in the inmate's DIS account. The agent shall instruct the business manager as to where the funds shall be transferred.

**History:** Cr. Register, February, 1993, No. 446, eff. 3-1-93.

**DOC 333.13 Resources for DIS inmates.** (1) **DISCLAIMER.** The department does not assume responsibility for the condition or safety of any DIS residence, including the inmate's food and property at the residence, or for the safety of others or their property at a DIS residence. In this subsection, "DIS residence" does not include a type 1 prison, jail, county reforestation camp, residential treatment facility or a community-based residential treatment facility.

(2) **ACCESS TO LEGAL MATERIALS.** Inmates shall be permitted to do reasonable legal research at local law libraries with the prior approval of DIS staff. "Reasonable research" means a maximum of four hours per week, including travel time. Inmates with court imposed deadlines may request additional research time.

(3) **MEDICAL CARE.** (a) Inmates with private health insurance may use any medical personnel and facilities covered by their policy with prior approval of DIS staff.

(b) DIS staff shall assist inmates without private health insurance to identify the public health and social service agencies which can assist them with their health care needs. Prior approval by the assigned agent is required for utilization of medical personnel or facilities.

(4) **RELIGIOUS SERVICES.** With the prior approval of DIS staff, inmates motivated by religious beliefs shall be given a reasonable opportunity to attend religious services. "Reasonable opportunity" means required worship time not to exceed 2 hours per week, including travel time. "Religious services" does not include social activities sponsored by a religion or related to religious activities. Inmates may request additional time for required worship.

(5) **RECREATION TIME.** Recreation time shall be administered as follows:

(a) In this subsection, "recreation time" means activities outside the inmate's residence other than those required for job, school or treatment programs and include, but are not limited to exercise and recreational activities. Time which the inmate must be permitted to spend at religious services or law libraries under subs. (2) and (4) is not recreation time. Recreation time may be used by an inmate for legal research at law libraries or religious services, in addition to the time provided under subs. (2) and (4).

(b) Recreation time may be provided at the discretion of DIS staff. Recreation time shall be conditioned upon satisfactory participation in the program.

(c) A request for recreation time shall be made by an inmate in writing to his or her agent. All recreation time shall have prior approval by DIS staff and shall be included in the inmate's schedule. The request shall include the following:

1. Date and starting and ending time of recreation activity.
2. Specific location of recreation.
3. Names of persons involved in the recreation activity.
4. Description of the recreation activity.

(d) An inmate may lose the privilege of participating in recreation activities through the disciplinary process under s. DOC 333.08.

**(6) PROPERTY.** (a) Inmates may have personal property in their possession or in their residence in accordance with this subsection and the inmate's rules of supervision.

(b) An inmate in a DIS placement may possess any personal property except:

1. Property which is prohibited by state, federal or local law or this chapter.
2. An alcohol beverage as defined in s. 125.02 (1), Stats., or a controlled substance as defined in s. 961.01 (4), Stats., which was not prescribed by an approved physician.
3. Any item designed exclusively to be used as a weapon or to be used in the manufacture of a weapon.
4. Drug paraphernalia, as defined in s. DOC 303.44.
5. Obscene material, as defined in s. DOC 309.05 (6) (c) 8.

**Note:** DOC 309.05 (6) (c) 8. was repealed eff. 10-1-98.

6. Property which is prohibited by the inmate's rules of supervision.

(c) Items not permitted under this section or under an inmate's rules of supervision are contraband. An inmate may be subject to discipline for possessing contraband. The items may be seized in accordance with the procedure in s. DOC 303.10, except that contraband shall not be disposed of, if a violation report will be or has been issued, until the procedures in s. DOC 333.08 have been completed.

**(7) INMATE CONTACTS.** Special conditions may be placed on an inmate's contacts while in a DIS placement, including mail, visits and telephone if, in the discretion of DIS staff, it will be helpful to the rehabilitation of the inmate or the protection of the public. Communication with the courts or the parties identified in s. DOC 309.04 (4) shall not be restricted.

**History:** Cr. Register, February, 1993, No. 446, eff. 3-1-93; **corrections in (6) (b) 2. and (7) made under s. 13.93 (2m) (b) 7., Stats.**

**DOC 333.14 Use of force.** The use of force on inmates in DIS placements shall comply with s. DOC 306.07, modified as follows:

**(1)** In addition to the conditions for use of non-deadly force under s. DOC 306.07 (2), non-deadly force may be used by DIS staff against a DIS inmate if the user of force reasonably believes it is necessary to prevent the inmate from fleeing the control of the correctional staff member.

**(2)** Deadly force may not be used by DIS staff against a DIS inmate except to prevent death or great bodily injury to oneself or another.

**(3)** If the DIS inmate is held in a state correctional institution, the use of force rules under ch. DOC 306 apply.

**History:** Cr. Register, February, 1993, No. 446, eff. 3-1-93; **corrections in (intro.) and (1) made under s. 13.93 (2m) (b) 7., Stats.**

**DOC 333.15 Mechanical restraints.** **(1)** Mechanical restraints which may be used on inmates in DIS placements are limited to handcuffs, handcuffs with restraining belt or chain, restraining chain and leg restraints.

**(2)** Mechanical restraints may be used only in the following circumstances:

(a) To protect staff or others from a DIS inmate who poses an immediate risk of flight or physical injury to others unless restrained.

(b) To protect a DIS inmate who poses an immediate threat of physical injury to himself or herself unless restrained.

(c) To protect staff when staff is conducting a search of the inmate's residence.

(d) When taking a DIS inmate into custody.

(e) To transport a DIS inmate.

**(3)** Mechanical restraints may not be used:

(a) As a method of punishment.

(b) About the head or neck of an inmate.

(c) In a way that causes undue physical discomfort, inflicts physical pain or restricts the blood circulation or breathing of the inmate.

(d) To restrain an inmate to a moving vehicle.

**(4)** A DIS staff member shall observe a DIS inmate in restraints at least once every 15 minutes until the restraints are removed or the inmate is admitted to a state correctional institution, a detention facility, a mental health facility or a medical facility.

**(5)** If feasible, an inmate shall be released from restraints to perform bodily functions and for meals.

**(6)** A written record shall be made each time the inmate is placed in restraints. The record shall include:

(a) The inmate's full name, number, and the date and time the inmate was placed in restraints.

(b) The name of the staff member who placed the inmate in restraints.

(c) The reason for placing the inmate in restraints.

(d) A statement indicating when and under what circumstances the restraints were removed.

**(7)** DIS staff shall periodically examine the supply of mechanical restraints. Any excessively worn or defective restraints shall be removed from the supply. Only commercially manufactured mechanical restraints may be used.

**(8)** If the DIS inmate is held in a state correctional institution, the mechanical restraints rules under ss. DOC 306.09 and 306.10 apply.

**History:** Cr. Register, February, 1993, No. 446, eff. 3-1-93.

**DOC 333.16 Oleoresin of capsicum, firearms and other weapons.** **(1)** OLEORESIN OF CAPSICUM. For the purpose of this section, "oleoresin of capsicum" means the oleoresin extracted from fruits of plants of the genus capsicum. The oleoresin contains the active ingredient capsaicin and related compounds classified as capsaicinoids.

**(2)** USE OF OLEORESIN OF CAPSICUM. An employee may carry or use oleoresin of capsicum, as permitted under s. 941.26 (4) (a), Stats., while on duty, only under the following conditions:

(a) After successfully completing a department approved training program or, if applicable, after successfully updating training according to department policy and procedure.

(b) While acting in self-defense or defense of a third person, as allowed under ss. 941.26 (4) (c) 1. and 939.48, Stats.

(c) Toward an offender, another person or an animal.

**(3) PROHIBITED USE.** An employee may not use oleoresin of capsicum under [any of] the following:

- (a) Against another employee, except for training purposes.
- (b) Toward an offender merely because the offender refuses to follow orders.
- (c) Merely to cause bodily harm or bodily discomfort.

**(4) APPROVED PRODUCTS.** An employee shall carry and use only products and delivery systems approved by the department.

**(5) MEDICAL CARE.** An employee shall immediately provide medical attention to the person exposed to oleoresin of capsicum.

**(6) DOCUMENTATION.** The employee involved in the use of oleoresin of capsicum shall document its use according to department policy and procedure.

**(7) FIREARMS OR OTHER WEAPONS.** No employee may carry or use a firearm or other weapons while on duty, except as permitted under s. DOC 333.16 (2).

**History:** Cr. Register, February, 1993, No. 446, eff. 3-1-93; r. and recr. Register, April, 1997, No. 496, eff. 5-1-97.

**DOC 333.17 Escapes. (1) PLAN.** The administrator shall develop and annually review and update a written plan to be implemented if an escape occurs from a DIS placement. The plan shall provide for all of the following:

(a) If DIS staff believe that an inmate may have escaped because the inmate has left an assigned area, or has not returned to the DIS residence on schedule, the electronic monitoring equipment indicates someone has tampered with it or DIS staff have received other relevant information, DIS staff shall attempt to contact the inmate.

(b) If DIS staff believe, for the reasons set forth in par. (a), the inmate has escaped or if an inmate is 4 or more hours late returning to the DIS residence without authorization from appropriate DIS staff, DIS staff shall communicate an apprehension request on the inmate to law enforcement agencies.

(c) After an apprehension request has been made for the inmate, the escape shall be reported orally and in writing to the administrator.

(d) DIS staff shall notify the administrator and law enforcement agencies orally and in writing when an inmate who has escaped is apprehended.

**(2) REPORTS OF ESCAPES.** Reports of escapes required to be made under sub. (1) shall include, if known:

- (a) The method of escape.
- (b) Who was involved in the escape.
- (c) A description of the escapee, including clothing worn.
- (d) Action taken by DIS staff.
- (e) A brief evaluation of the factors which may have contributed to the escape.
- (f) The identification of persons who may have information about the escape.

**(3) ORDER TO DUTY.** In the event of an escape, the administrator may order any off-duty staff member to duty.

**(4) AUTHORITY OF HOSTAGE.** If a DIS staff member, including the administrator, is taken as a hostage in an escape or escape attempt, that hostage has no authority to order any action or inaction by DIS staff. Any orders issued by a hostage shall be disregarded by the DIS staff.

**History:** Cr. Register, February, 1993, No. 446, eff. 3-1-93.

**DOC 333.18 Search of DIS inmate's residence.**

**(1)** A search of a DIS inmate's residence, including the grounds, his or her vehicle, areas occupied by other occupants of the residence or any property under the inmate's control, may be made at any time by any DIS staff member. There is no requirement that there be any evidence that contraband is concealed in the residence before a search is conducted.

**(2)** Before the search occurs, it shall be approved orally or in writing by a DIS supervisor unless exigent circumstances, such as suspicion the inmate will destroy contraband or use a weapon, require search without approval.

**(3)** There shall be a written report of all searches conducted under sub. (1). This report shall be prepared by the DIS staff who conducted the search. The report shall state:

- (a) The identity of the DIS staff who conducted the search and the supervisor who approved it.
- (b) The date and time of the search.
- (c) The identity of the inmate whose residence or property was searched.
- (d) The location of the property which is searched.
- (e) The reason for conducting the search. If the search was a random search, the report shall state that fact.
- (f) Any objects which were seized pursuant to the search.
- (g) Whether any damage was done to the premises during the search.

**(4)** If any objects were seized or property was damaged during the search of an inmate's residence or property, the inmate shall be informed in writing. The inmate shall be reimbursed for damage to any property which is not contraband. Property which is damaged shall be valued at its fair market value, not its replacement cost.

**(5)** In conducting a search, DIS staff shall disturb the effects of the inmate as little as possible, consistent with thoroughness.

**(6)** DIS staff shall not read legal materials belonging to the inmate during a search.

**History:** Cr. Register, February, 1993, No. 446, eff. 3-1-93.

**DOC 333.19 Search of DIS inmates. (1)** Searches of inmates approved for DIS placements shall comply with s. DOC 306.16, modified as follows:

(a) In addition to the reasons for a personal search of an inmate listed under s. DOC 306.16 (2), a personal search of an inmate in a DIS placement may be conducted by DIS staff before an inmate enters and after an inmate leaves the security enclosure of a jail or detention facility and when an inmate is taken into custody;

(b) In addition to the reasons for a strip search of an inmate listed under s. DOC 306.16 (3), a strip search may be conducted before an inmate enters and after an inmate leaves the security enclosure of a jail or detention facility and when an inmate is taken into custody;

(c) In addition to the reasons for a body contents search listed under s. DOC 306.16 (5), a body contents search may be conducted under the following circumstances:

- 1. Immediately before transfer to the DIS placement;
  - 2. Upon arrival at the DIS placement;
  - 3. If an inmate is found to possess intoxicating substances or intoxicating substances are detected or found in the inmate's residence or in an area controlled, occupied or inhabited by the inmate;
  - 4. As part of a random testing program of all DIS inmates. Selection of inmates for random testing may not be done for the purpose of harassing or intimidating inmates; or
  - 5. As DIS supervisory staff determine to be appropriate, if an inmate has a history of alcohol or other drug abuse.
- (d) "Administrator" is substituted for "superintendent".

**(2)** If the DIS inmate is held in a correctional institution, the search rules under ss. DOC 306.13 to 306.16 apply.

**History:** Cr. Register, February, 1993, No. 446, eff. 3-1-93.

**DOC 333.20 Search of staff.** Section DOC 306.18 shall regulate the search of DIS staff, except that a search is authorized before and after a staff member has contact with a DIS inmate or if there are reasonable grounds to believe the staff member is con-

cealing an unauthorized object and except that “administrator” is substituted for “superintendent”. The report of a strip search shall be filed with the administrator.

**History:** Cr. Register, February, 1993, No. 446, eff. 3-1-93.

**DOC 333.21 Use of contraband and test results in disciplinary review process.** (1) Contraband seized during a search which is done in violation of this chapter may be used as evidence in the disciplinary review process under s. DOC 333.08.

(2) Results of physical examinations and tests performed on body content specimens for the purpose of detecting intoxicating substances may be used as evidence in the disciplinary review process under s. DOC 333.08.

**History:** Cr. Register, February, 1993, No. 446, eff. 3-1-93.

**DOC 333.22 Emergencies.** (1) An emergency is an immediate threat to the safety of DIS staff, inmates or the public. An emergency includes, but is not limited to:

(a) Failure of the DIS inmate’s electronic surveillance equipment;

(b) Malfunctioning of the DIS inmate’s telephone system; or

(c) A strike of department employees.

(2) The administrator shall have a written plan to be implemented in the event of an emergency that complies with the requirements of s. DOC 306.23 (2) and (3), except that copies need not be filed with DAI.

(3) If an emergency occurs that prevents the normal functioning of DIS, the administrator may suspend those sections of this chapter or other administrative rules to which this chapter refers that specifically relate to the emergency until the emergency is ended.

**History:** Cr. Register, February, 1993, No. 446, eff. 3-1-93.

**DOC 333.23 Inmate travel.** Inmates who are confined in a Type 1 prison or a jail are not eligible for out-of-state travel. All other inmates may travel out-of-state only with the prior written authorization of the administrator or his or her designee. An inmate may travel within the state only with the prior written authorization of DIS staff.

**History:** Cr. Register, February, 1993, No. 446, eff. 3-1-93.

**DOC 333.24 Discharge.** An inmate may be discharged from custody and control of the department under s. 301.048 (6), Stats., only upon the written authorization of the administrator or his or her designee.

**History:** Cr. Register, February, 1993, No. 446, eff. 3-1-93.

**DOC 333.25 Inmates in type 1 prisons.** Inmates in DIS placements who are in state correctional institutions are subject to the rules which govern those institutions, as modified by this chapter.

**History:** Cr. Register, February, 1993, No. 446, eff. 3-1-93.

**DOC 333.26 Inmate complaints.** (1) Inmates in DIS shall be provided an opportunity for review of decisions through

the inmate complaint process. This process is used to encourage communication and cooperation between inmates and staff while resolving problems in an orderly and uniform fashion.

(2) In this section:

(a) “Calendar days” means all days including Saturdays, Sundays and legal holidays.

(b) “Complaint” means a written statement by a DIS inmate which identifies a decision, states the reasons for the complaint and complies with the time limit stated in this section, except that a late complaint may be accepted for cause.

(c) “Request for review” means a written request submitted by a DIS inmate to his or her agent’s supervisor which states the reason for the request and complies with the time limits set forth in this section, except that a late request may be accepted for cause.

(d) “Working days” means all days except Saturdays, Sundays and legal holidays.

(3) Decisions related to the following may not be challenged through the inmate complaint process:

(a) Custody and detention.

(b) Parole revocation or any sanctions.

(c) Violation of criminal law or ordinance.

(d) Denial of firearms in accordance with the Federal Gun Control Act of 1968 and s. 941.29, Stats.

(e) All decisions, special conditions or terms of supervision imposed by a court or the parole commission.

(f) Discharge under s. 301.048 (6), Stats., and s. DOC 333.25.

(g) A PRC’s decision.

(h) A decision on a challenge to an inmate record.

(i) The denial of a special action parole under s. 304.02, Stats.

(4) The procedure for filing an inmate complaint is as follows:

(a) An inmate shall file a complaint with his or her agent within 14 calendar days after the occurrence giving rise to the complaint.

(b) The agent shall issue a written decision within 7 working days of receipt of the complaint.

(c) If the review by the agent does not produce a resolution, the inmate may file a request for review with the agent’s supervisor within 5 working days of receipt of the agent’s decision.

(d) The supervisor shall issue a written decision within 10 working days of receipt of the request for review.

(e) If the review by the supervisor does not produce a resolution, the inmate may file a request for review within 5 working days of receipt of the supervisor’s decision to the sector chief who shall issue a final written decision within 10 working days of receipt of the request for review.

(5) While the review process is pending, the inmate shall comply with the decision or directive being reviewed.

(6) An inmate may not be sanctioned for filing a complaint.

(7) The complaint process shall be expedited in circumstances where the complaint will be invalidated by the passage of time limits.

**History:** Cr. Register, February, 1993, No. 446, eff. 3-1-93.