

## Chapter HSS 306

## SECURITY

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**HSS 306.01 Applicability and purpose.** (1) Pursuant to authority vested in the department of health and social services by ss. 46.03 (6) (b), 53.07 and 227.014 (2), Stats., the department adopts this chapter for purposes of establishing security procedures at correctional institutions and establishing guidelines which permit inmates to participate in activities within a secure surrounding that may assist them in a successful reintegration into the community.

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

**HSS 306.02 Definitions.** In this chapter:

(1) "Bureau of institutions" means the bureau of adult institutions, division of corrections, department of health and social services.

(2) "Department" means the department of health and social services.

(3) "Director of the bureau of institutions" means the director of bureau of institutions, division of corrections, department of health and social services, or designee.

(4) "Director of the bureau of institutional health services" means the director of the bureau of institutional health services, the department of health and social services, or designee.

(5) "Director of the bureau of program resources" means the director of the bureau of program resources, the division of corrections, the department of health and social services, or designee.

(6) "Disciplinary hearing" means a hearing authorized under ch. HSS 303 for the disciplining of inmates for misconduct.

(7) "Division" means the division of corrections, the department of health and social services.

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(8) "Secretary" means the secretary of the department of health and social services, or designee.

(9) "Security director" means the security director at an institution, or designee.

(10) "Superintendent" means the superintendent at an institution, or designee.

**History:** Cr. Register, August, 1980, No. 296, eff. 9-1-80; correction in (1) made under s. 13.93 (2m) (b) 6, Stats., Register, April, 1985, No 352.

**HSS 306.03 Security policy.** Primary security objectives of the division of corrections are to protect the public, staff, and inmates and to afford inmates the opportunity to participate in a safe setting in activities that equip them to be successfully reintegrated into the community.

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

**HSS 306.04 Responsibility of employes.** Every employe of the division of corrections is responsible for the safe custody of the inmates confined in the institutions.

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

**HSS 306.045 Voluntary confinement.** (1) The security director may place an inmate in voluntary confinement if:

(a) The inmate requests the placement in writing; and

(b) The security director is satisfied that the placement is necessary for the safety and welfare of the inmate.

(2) An inmate shall remain in voluntary confinement for at least 72 hours from the time of placement unless the security director approves prior release.

(3) If the security director does not approve an inmate's release from voluntary confinement before 72 hours elapse, the inmate shall be released after 72 hours, if:

(a) The inmate requests release in writing; or

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

(4) An inmate in voluntary confinement shall be in maximum close custody as defined in s. HSS 302.12 (1) (a).

(5) Inmates in voluntary confinement shall have the following privileges and property:

(a) During the first 72 hours, privileges and property at least equivalent to privileges and property allowed to inmates in temporary lock-up (TLU) status, s. HSS 303.11;

(b) After 72 hours, privileges and property at least equivalent to privileges and property allowed to inmates in program segregation, s. HSS 303.70; and

(c) Additional privileges and property as determined by what is ordinarily allowed inmates by the rules governing the location of the unit in which the inmate is voluntarily confined.

(a) The identity of the staff member 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 living quarters were searched;

(d) The reason for conducting the search. If the search was a random one, the report shall so state;

(e) Any objects which were seized pursuant to the search; and

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

(3) If any objects are seized or property damaged pursuant to the search of an inmate's living quarters, the inmate shall be informed in writing what those objects are. 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 the cost to replace it.

(4) In conducting such searches, correctional staff shall disturb the effects of the inmate as little as possible, consistent with thoroughness. Inmate's quarters shall not be left unlocked after a search.

(5) Staff shall not read any inmate's legal materials during such searches.

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

**HSS 306.16 Search of inmates.** (1) There are 3 types of searches of inmates:

(a) A "personal search" is a search of an inmate's person, including, but not limited to, the inmate's pockets, frisking his or her body, an examination of the inmate's shoes and hat, and an inspection of the inmate's mouth.

(b) A "strip search" is a search in which the inmate is required to remove all of his or her clothes. Permissible inspection includes examination of the inmate's clothing and body and visual inspection of his or her body cavities. A strip search may only be conducted in a clean and private place. Visual inspection of body cavities may be by any staff. Except in emergencies, a strip search must be conducted by a person of the same sex as the inmate being searched.

(c) A "body cavity search" is a strip search in which body cavities are inspected by the entry of an object or fingers into body cavities. Such inspections shall be by medical staff.

(2) A personal search of an inmate may be conducted by any correctional staff member:

(a) If the staff member has reasonable grounds to believe that the inmate possesses contraband;

(b) At the direction of the shift supervisor; or

(c) In the circumstances defined under sub. (3) (a)-(d).

(3) A strip search may be conducted:

(a) Before an inmate leaves or enters the security enclosure of a maximum or medium security institution or the grounds of a minimum security institution;

(b) Before an inmate enters or leaves the segregation unit of a correctional institution;

(c) Before and after a visit to an inmate;

(d) At the direction of the shift supervisor who is satisfied that there are reasonable grounds to believe the inmate possesses contraband; or

(e) In the absence of the shift supervisor, if a staff member is satisfied that there are reasonable grounds to believe the inmate possesses contraband.

(4) A body cavity search may only be conducted if the superintendent or person in charge of the institution approves, upon probable cause to believe that contraband is hidden in a body cavity.

(5) A written report or written log entry of all strip searches under sub. (3) (d), of all body cavity searches and of all searches in which contraband is found shall be filed with the security director. This report shall state:

(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 inmate searched;

(d) The reason for the search. If the search was a random search, the report shall so state;

(e) Any objects seized pursuant to the search; and

(f) The identity of other staff members present when the search was conducted.

(6) Correctional staff should strive to preserve the dignity of inmates in all searches conducted under this section.

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

(8) In deciding whether there are reasonable grounds to believe an inmate possesses contraband or probable cause that it is hidden in a body cavity, a staff member should consider:

(a) The observation of a staff member;

(b) Information provided by a reliable informant;

(c) The experience of a staff member; and

(d) Prior seizures of contraband from the person or living quarters of the inmate.

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

**HSS 306.17 Search of visitors.** (1) Before a visit by a non-inmate to a correctional institution is permitted, the staff member responsible for the admission of visitors must be satisfied that the visitor is not carrying any unauthorized objects into the institution.

(2) Each correctional 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 all objects which may not be carried into the institution and shall permit visitors to store objects in these places.

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

(4) Before admitting a visitor, the staff member responsible for admission of visitors may require a visitor to submit to a personal search or strip search as defined in HSS 306.16 (1) (a) and (b). Such a search may be conducted only with the approval of the superintendent or the person in charge of the institution, and the bureau director, who shall require the search only if there are reasonable grounds to believe the visitor is concealing an unauthorized object.

(5) Before an inspection or search is conducted pursuant to subs. (3) and (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 permit it, the visitor shall not be admitted to the institution at that time.

(6) If in an inspection pursuant to sub. (3) or a search under sub. (4) an unauthorized object is found, the visitor may be denied the visit to the institution on the occasion and the privilege to visit further may be suspended.

(7) If a visitor is refused entry to an institution for refusal to permit a search or if a search is conducted of a visitor pursuant to sub. (5), the staff member shall submit to the security director and to the bureau director a written report which shall state:

(a) The identity of the staff member and the person who approved the search;

(b) The identity of the visitor and the inmate being visited;

(c) The date and time of the search or proposed search;

(d) The reason for the request to permit a search which shall include the basis for the belief that unauthorized objects were concealed by the visitor; and

(e) Whether unauthorized objects were seized pursuant to the search and their description.

(8) If an unauthorized object is found pursuant to a personal search or inspection of a visitor and it is illegal to conceal or possess the object, the shift supervisor shall so inform the sheriff and shall turn the object over to the sheriff or dispose of it in accordance with institutional procedure. If it is not illegal to possess or conceal the object, it shall be returned to the visitor.

(9) All inspections and searches shall be conducted in a courteous manner. Correctional staff should strive to protect the dignity of visitors who are inspected or searched.

**HSS 306.18 Search of staff.** (1) The superintendent may require that correctional staff members be searched before they enter and before they leave a correctional institution. Such a search may be accomplished by requiring the staff member to empty pockets and containers and submit themselves and objects they carry into the institution to inspection by a device designed to detect metal or other unauthorized objects, a personal search, or a strip search, as defined under HSS 306.16 (1). Before a strip search of a staff member is conducted, the approval of the superintendent or the person in charge of the institution and the bureau director is required. Such approval shall be given only if there are reasonable grounds to believe the staff member is concealing an unauthorized object. A staff member who refuses to submit to a search shall not be admitted to the institution and may be subject to disciplinary action.

(2) If an unauthorized object is found pursuant to a search conducted pursuant to this section and it is illegal to conceal or possess the object, the shift supervisor shall so inform the sheriff and shall turn the object over to the sheriff or dispose of it in accordance with established procedure. If it is not illegal to possess or conceal the object, it shall be returned to the staff member when he or she is leaving the institution.

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

(4) Each institution shall inform staff in writing what objects they may not carry into the institution.

(5) If a strip search is conducted pursuant to this section, a report containing the information required by HSS 306.17 (7) shall be filed with the bureau director and security director.

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

**HSS 306.19 Factors to consider to decide if search is necessary.** In determining whether a staff member should search another staff member, a visitor or an inmate in situations in which there must be either reasonable grounds or probable cause to believe the person being searched possesses contraband, the following factors should be considered:

(1) The reliability of the information relied on; in evaluating reliability, attention should be given to whether the information is detailed and consistent and whether it is corroborated.

(2) The reliability of the informant; in evaluating reliability, attention should be given to whether the informant has supplied reliable information in the past, and whether the informant has reason to supply inaccurate information.

(3) The activity of any inmate that relates to whether the person to be searched might carry contraband.

(4) Information provided by the person who may be searched which is relevant to whether he or she possesses contraband.

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

**HSS 306.20 Report of contraband seized.** Each month the security director of each correctional institution shall submit to the director of the bureau of institutions, a report of all contraband seized, the place and time it was seized, and the identity of the person possessing the contra-

band. If the contraband was not found in the possession of a person, the report shall so state.

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

**HSS 306.21 Use of contraband as evidence at disciplinary hearing.** Contraband seized during a search which is done in violation of this chapter may be used as evidence at a disciplinary hearing conducted pursuant to ch. HSS 303.

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

**HSS 306.22 Disturbance plan.** (1) A "disturbance" is any of the following:

- (a) An assault on any person by 2 or more inmates;
- (b) The taking of a hostage by an inmate;
- (c) The destruction of state property or the property of another by 2 or more inmates;
- (d) The refusal by 2 or more inmates, acting in concert, to comply with an order, to return to cells or rooms; or
- (e) Any words or acts which incite or encourage inmates to do any of the above.

(2) The purposes of the disturbance plan shall be:

- (a) To insure the safety and welfare of the general public, staff, and inmates;
- (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 these rules, and to provide relevant information to the police so that participants can be arrested and prosecuted. The highest priority shall be given to insuring the safety and welfare of the general public, staff, and inmates.

(3) Each institution must have a written plan, a copy of which shall be filed with the director of the bureau of institutions, to control and stop a disturbance. This plan shall be prepared by the security director and shall be reviewed at least once a year. It shall provide for:

- (a) The containment and ending of the disturbance, including procedures for preventing escape during the disturbance;
- (b) The opportunity for inmates not involved in the disturbance to withdraw from the disturbed area;
- (c) Immediate determination of the cause of the disturbance;
- (d) The identification of the leaders of the disturbance;
- (e) The use of force;
- (f) Notification of the director of the bureau of institutions, of the disturbance;
- (g) Notification of supervisory personnel of the disturbance;
- (h) The confinement of participants after the disturbance has ended;

- (i) Investigation of the disturbance;
  - (j) The repair of damaged equipment and property;
  - (k) Medical treatment for the injured and any essential medical care;
  - (l) Notification of law enforcement agencies of the disturbance;
  - (m) The chain-of-command in the event of the incapacitation or taking of hostages of supervisory personnel;
  - (n) Training of staff;
  - (o) The notification of and communication with the news media;
  - (p) Communication among staff;
  - (q) Action to be taken in the event a hostage is taken;
  - (r) Keeping a list of off-duty employes. Off-duty employes may be required to report for duty during a disturbance or if a disturbance is anticipated;
  - (s) Notification of the division of emergency government; and
  - (t) Interviewing and counseling of involved staff and inmates.
- (4) A staff member taken hostage has no authority to order any action or inaction by staff.
- (5) If a disturbance occurs that prevents the normal functioning of the institution, the superintendent may suspend the administrative rules of the division or any parts of them, except ss. HSS 306.06-306.08, until the disturbance is ended and order is restored to the institution. Provisions should be made for access to medical care.

(6) If a disturbance occurs and a person is injured or if it results in the suspension of these rules, a disturbance review panel will be convened to investigate the disturbance. This panel shall be made up of persons selected in accordance with s. HSS 306.07 (7) (d) and shall report in accordance with s. HSS 306.07 (7) (e). This panel shall be provided with staff adequate to conduct a thorough investigation of the disturbance.

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

**HSS 306.23 Emergencies.** (1) An emergency is an immediate threat to the safety of the staff or inmates of a correctional institution, other than a disturbance as defined in s. HSS 306.22 (1). An emergency may include, but is not limited to:

- (a) An epidemic;
- (b) A malfunctioning of the water, electrical, or telephone system;
- (c) A fire;
- (d) A bomb threat or explosion;
- (e) A strike of employes;
- (f) Any natural disaster; or
- (g) A civil disturbance.

(2) (a) The purposes of the emergency plan shall be: