

September 3, 2010

NOTICE OF PROPOSED RULE DEVELOPMENT

DEPARTMENT OF CORRECTIONS

CHAPTER NO.: 33-602

RULE:	RULE NO.:
Administrative Confinement	33-602.220
Protective Management	33-602.221
Disciplinary Confinement	33-602.222

PURPOSE AND EFFECT: The purpose and effect of the proposed rules is to: amend Form DC4-650, incorporated by reference in Rule 33-602.220, to state that the form should be placed in an inmate's infirmary or medical record upon completion of or discharge from observation status; to replace references to "psychologists" and "psychological specialists" with "mental health clinicians" and "mental health specialists," respectively; to clarify library privileges in administrative confinement; to replace references to "certified research aides" with "certified law clerks"; and to generally clean up form references and amend the language for grammatical accuracy.

SUBJECT AREA TO BE ADDRESSED: Security Operations

SPECIFIC AUTHORITY: 944.09 FS

LAW IMPLEMENTED: 20.315, 944.09, 944.34, 945.04 FS

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY. THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Kendra Lee Jowers, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-602.220 Administrative Confinement.

(1) Definitions.

(a) No change.

(b) Bureau of Braille and Talking Book Library – ~~refers to~~ the agency that provides books on tape, Braille

books, and other auxiliary aids for individuals who, due to a disability, are unable to read books in print.

(c) Central Office ADA Coordinator – ~~refers to~~ the employee responsible for implementing the provisions of Title I and Title II of the Americans with Disabilities Act and Section 504 of the 1973 Rehabilitation Act within the Department.

(d) through (f) No change.

(g) Clinical health care personnel – where used herein, refers to a physician, clinical associate, nurse, ~~correctional medical technician certified~~ ~~Correctional Medical Technician Certified~~ (CMTC), mental health clinician ~~psychologist~~, psychology intern, psychology resident, or mental health specialist ~~psychological specialist~~.

(h) Institutional Classification Team (ICT) – where used herein, refers to the team consisting of the warden ~~Warden~~ or assistant warden ~~Assistant Warden~~, classification supervisor ~~Classification Supervisor~~, a correctional officer chief, and other members as necessary when appointed by the warden or designated by rule. The ICT is responsible for making work, program, housing, and inmate status decisions at a facility and for making other recommendations to the State Classification Office (SCO).

(i) State Classification Office (SCO) – ~~refers to~~ a staff member at the central office ~~Central Office~~ level who is responsible for the review of inmate classification decisions. Duties include approving, modifying, or rejecting ICT recommendations.

(j) Security pen – ~~refers to~~ a specially designed flexible ink pen that bends under pressure and has a tip that retracts under excessive pressure.

(k) Senior correctional officer – ~~refers to~~ a staff member with the rank of correctional officer lieutenant or above.

(l) No change.

(m) Institutional Classification Team Docket – ~~refers to~~ the official record of an Institutional Classification Team hearing.

(n) Offender Based Information System (OBIS) – ~~refers to~~ an electronic data system used by the Department of Corrections to record and retrieve offender information.

(o) Major rule violation – where used herein, refers to ~~means~~ any assault, battery, or attempted assault or battery; any intentional lewd or lascivious exhibition in the presence of staff or visitors; any spoken or written threat towards any person; inciting or attempting to incite or participating in any riot, strike, mutinous act, or disturbance;

fighting; possession of weapons, ammunition, explosives, or escape paraphernalia; and any escape or escape attempt.

(p) Lewd or Lascivious Exhibition – An inmate commits a lewd or lascivious exhibition when the inmate:

1. Intentionally masturbates;

2. Intentionally exposes the genitals without authorization; or

3. Intentionally commits any other sexual act that does not involve actual physical or sexual contact with the victim, including, but not limited to, sadomasochistic abuse, sexual bestiality, or the simulation of any act involving sexual activity in the presence of a staff member or volunteer.

(2) Procedures for Placement in Administrative Confinement.

(a) Administrative confinement is a temporary confinement status that may limit conditions and privileges as provided in subsection (5) as a means of promoting the security, order, and effective management of the institution. Otherwise the treatment of inmates in administrative confinement shall be as near to that of the general population as assignment to administrative confinement shall permit. Any deviations shall be fully documented as set forth in the provisions of this rule.

(b) When a decision is made to place an inmate in administrative confinement, the reason for such placement shall be explained to the inmate and the inmate shall be given an opportunity to present verbal comments on the matter. The inmate shall also be allowed to submit a written statement. Prior to placing the inmate in administrative confinement, the inmate shall be given a pre-confinement health assessment to include a physical and mental health evaluation that shall be documented in the health care record. Inmates shall be weighed upon admission to administrative confinement, at least once a week while in administrative confinement, and upon leaving administrative confinement. The weight of the inmate shall be recorded on Form DC6-229, Daily Record of Special Housing. Form DC6-229 is incorporated by reference in Rule 33-601.800, F.A.C. When an official places an inmate in administrative confinement, this action shall be documented in the electronic classification contact log in OBIS. This entry shall fully state the circumstances surrounding and reasons for placing the inmate in administrative confinement and a summary of the inmate's comments. The reason must correspond with one of the criteria for placement provided in subsection (3) of this rule. This electronic entry shall be completed the same day the inmate is placed into confinement, and will establish the ICT 72-hour review appointment. Any written statements provided by the inmate shall be forwarded to the ICT for their consideration during the forthcoming 72-hour review.

(c) No change.

(3) Reasons for Placement in Administrative Confinement with time limits. Placement of an inmate in administrative confinement is authorized for the following reasons:

(a) through (b) No change.

(c) Inmates shall be placed in administrative confinement pending review of the inmate's request for protection from other inmates; (Rule 33-602.221, F.A.C.). The inmate shall be placed in administrative confinement by a senior correctional officer when the inmate presents a signed written statement alleging that the inmate fears for his safety from other inmates; and that the inmate feels there is no other reasonable alternative open to him. A senior correctional officer shall place an inmate in administrative confinement, pending review for protective management, based on evidence that such a review is necessary and the senior correctional officer determines that no other reasonable alternative is available. The inmate shall be encouraged to provide information and otherwise cooperate with the investigation of the matter. The protective management process, including the ICT's action, shall be completed within 15 working days from the initial confinement of the inmate.

1. The ~~ICT Institutional Classification Team (ICT)~~ shall complete an OBIS electronic classification contact log entry approving the inmate's continuation in confinement. This entry will initiate an appointment for an investigation to be conducted. The investigator shall enter the results of the investigation in the electronic classification contact log in OBIS; this entry will automatically schedule an ICT review appointment.

2. If the inmate submits a request for release in writing at any time during the ICT review or investigation process, the housing supervisor shall provide the inmate with a Form DC6-203, Protection Waiver/Appeal Decision. Form DC6-203 is incorporated by reference in subsection (11) of this rule. The inmate shall complete Form DC6-203 and return it to the housing supervisor for submission to the ICT along with the inmate's written request.

3. Once the investigation is complete, the ICT shall interview the inmate to determine whether the inmate has a legitimate, verifiable need for protection. The ICT shall review all documentation available concerning the need for protection to include any written statements submitted by the inmate. The inmate's written request for release and ~~Form the~~ DC6-203 will also be reviewed. The following elements shall be considered in determining whether protective management is necessary:

a. through f. No change.

g. Other factors such as physical size, build, and age producing a risk from the general inmate population.

4. The ICT shall make recommendations concerning protective management based on the facts within 15 working days from the date of initial confinement. The ICT's findings and recommendations shall be entered in the electronic classification contact log in OBIS; this entry will automatically schedule an SCO review appointment. Whether the ICT recommends protective management or not, the inmate shall remain in administrative confinement at that facility pending review by the SCO. All non-electronic related documentation shall be made available to the SCO by the ICT. The ~~SCO State Classification Office~~ shall approve, disapprove, or return for additional information the recommendation of the ~~ICT Institutional Classification Team~~.

5. The ~~SCO State Classification Office (SCO)~~ shall determine within five working days whether protection is necessary based upon the investigation and any follow-up they deem appropriate. The SCO shall approve or disapprove placement of the inmate in protective management. The SCO's decision shall be documented in the electronic classification contact log in OBIS. If the SCO determines that a need for protection exists, they shall direct that the inmate ~~shall~~ be placed in a protective management unit or transferred to resolve the inmate's need for protection. If a decision is made to transfer the inmate for housing in a protective management unit or to resolve the inmate's need for protection at the inmate's current location, the inmate shall be kept in administrative confinement until the transfer is completed. Transfers for protection needs shall be effected within five working days. SCO members are authorized to approve transfers. If the SCO determines that protective management is not necessary, the inmate may appeal this decision directly to the Office of the Secretary pursuant to Rules 33-103.007 and 33-103.011, F.A.C. The inmate shall be notified of the SCO's decision by the ICT. At the time of notification, the inmate shall be asked if he wants to appeal the decision. The inmate's acknowledgement of being informed of the SCO denial and the inmate's decision on whether or not to appeal shall be documented on the electronically produced Notification of Protective Management Disapproval, Form DC6-137, and the electronic contact log. Form DC6-137 is incorporated by reference in subsection (11) of this rule. The inmate shall remain in administrative confinement until the appeal process is complete.

6. No change.

(d) No change.

(e) An investigation, evaluation for change of status, or transfer is pending and the presence of the inmate in the general population might interfere with that investigation or present a danger to the inmate, other inmates, or to the security and order of the institution. An investigating officer shall have the authority to request that the senior

correctional officer place the inmate in administrative confinement for this reason and the length of time spent in this status shall not exceed 15 working days unless one 5 working day extension is granted by the ICT. This extension shall be documented on the Daily Record of Special Housing, Form DC6-229. If it is necessary to continue the inmate's confinement beyond this first extension, written authorization must be obtained from the SCO for a 30 day extension. This authorization shall be attached to ~~the~~ Form DC6-229. The SCO shall have the authority to authorize one additional 30 day extension. Examples of circumstances for placing an inmate in administrative confinement for this reason include:

1. No change.

2. Special review against other inmates, disciplinary, program change, or management transfer. Transfers for this reason shall be given priority.

3. through 4. No change.

(f) No change.

(4) Administrative Confinement Facilities.

(a) The number of inmates housed in an administrative confinement cell shall not exceed the number of bunks in the cell. The only exception to this policy is during an emergency situation as declared by the warden or duty warden. The regional director of institutions and the emergency action center in central office shall be advised of the emergency. If the emergency situation exists in excess of 24 hours, the warden or duty warden must get specific written authorization from the regional director of institutions to continue to house inmates beyond the 24-hour period. Prior to placing inmates in the same cell, the inmates will be interviewed by the housing supervisor to ensure that none of the inmates ~~constitutes~~ constitute a threat to any of the others.

(b) No change.

(c) Prior to placement of an individual in an administrative confinement cell, it shall be thoroughly inspected to ensure that it is in proper order, and the inmate housed in that cell shall then be held responsible for the condition of the cell. Form DC6-221, Cell Inspection, shall be used for this purpose. Form DC6-221 is incorporated by reference in Rule 33-601.800, F.A.C. Routine searches of each cell may be conducted at any time, but will be conducted, at a minimum, each time an inmate is removed from the cell for a shower. All searches shall be documented on Form DC6-229, Daily Record of Special Housing. All inmates will be searched prior to entering the confinement unit and upon departure. All items entering the confinement unit will be thoroughly searched, to include at a minimum, food

cart and trays, laundry and linens, and inmate property.

(d) The administrative confinement cells shall be physically separate from other confinement cells, and the cell doors will feature remotely controlled locking devices, whenever possible given the physical design of the facility. ~~The and the~~ number of inmates housed in an administrative confinement cell shall not exceed the number of bunks in the cell. Whenever such location is not possible, physical barriers shall preclude the cross association of those in administrative confinement with those in other ~~status~~ confinement status. Administrative confinement cells shall be built to permit verbal communication and unobstructed observation by the staff. The officers assigned will exercise care to maintain the noise within the unit to a reasonable level. Visual inspections shall be conducted of each cell, to include at a minimum, observations for clothes lines, pictures attached to the walls and lockers, windows or light fixtures covered with paper, clothes or towels, and air and heater vents that have been obstructed. When sufficient natural light is unavailable, interior cell lights shall be left on during day and evening hours.

(5) Conditions and Privileges.

(a) No change.

(b) Bedding and Linen linen – bedding and linen for those in administrative confinement shall be issued and exchanged the same as is provided to the general inmate population. Any exceptions shall be based on potential harm to individuals or a threat to the security of the institution. The shift supervisor or the confinement lieutenant must approve the action initially. Such exceptions shall be documented on Form DC6-229, and the chief ~~Chief~~ of security ~~Security~~ shall make the final decision in regard to the appropriateness of the action no later than the next working day following the action.

(c) Personal Property – inmates shall be allowed to retain the same personal property as is permitted general population inmates unless there is a indication of a security problem, in which case removal or denial of any item shall be documented on Form DC6-229. An Inmate Impounded Personal Property List, Form DC6-220, designating what personal items were removed, shall be completed by security staff and signed by the inmate. The original will be placed in the inmate's property file and a copy of the form will be given to the inmate. Form DC6-220 is incorporated by reference in Rule 33-602.201, F.A.C. Inmates shall be allowed to possess religious items pursuant to the provisions of Rule 33-602.201, F.A.C. All property retained by the inmate must fit into the storage area provided.

(d) Comfort Items – inmates in administrative confinement shall be permitted the same personal hygiene items

and other medically needed or prescribed items as is permitted general population inmates unless there is an indication of a security problem. Inmates in administrative confinement shall not possess any products that contain baby oil, mineral oil, cocoa butter, or alcohol. In the event certain items that inmates in administrative confinement are not normally prohibited from possessing are removed, the senior correctional officer shall be notified and must approve the action taken, or the item must be returned to the inmate. Action taken shall be recorded on the Daily Record of Special Housing, Form DC6-229, which must be reviewed by the ~~chief~~ Chief of ~~security~~ Security. Property receipts shall be given for any personal property removed. The following comfort items shall be provided as a minimum: toothbrush, toothpaste, bar of soap, towel or paper towels, ~~and~~ feminine hygiene products for women, and toilet tissue.

(e) through (f) No change.

(g) Canteen Items – inmates in administrative confinement shall be allowed to make canteen purchases once every other week. Items sold to administrative confinement inmates shall be restricted when reasonably necessary for institutional safety and security.

1. No change.

2. Inmates in administrative confinement shall be allowed to purchase a maximum of five non-food canteen items. Stamps, envelopes, security pens, and notebook paper; each count as one item. For example, three security pens count as one item. Twenty-five stamps or fewer shall count as one item and two packages or less of notebook paper shall count as one item.

(h) No change.

(i) Visiting – all visits for inmates in administrative confinement must be approved in advance by the warden or designee. The warden or designee shall notify the control room in writing when approval is given in advance of the visitor arriving at the institution. Requests for inmates in administrative confinement to visit shall be in writing to the ICT. Those inmates who are a threat to the security of the institution shall be denied visiting privileges.

Attorney-client visits shall be in accordance with Rule 33-601.711, F.A.C., and shall not be restricted except on evidence that the visit would be a threat to security and order. The warden or designee shall determine whether a pre-approved visit will be contact or non-contact in accordance with ~~based on one or all of the criteria set forth in subsection (2) of Rule 33-601.735, F.A.C.~~

(j) No change.

(k) Legal Access – legal materials shall be as accessible to inmates in administrative confinement as to inmates in general population as long as security concerns permit. An inmate in confinement may be required to conduct legal business by correspondence rather than a personal visit to the law library if security requirements prevent a personal visit. However, all steps shall be taken to ensure the inmate is not denied needed access while in confinement. Although the inmate may not be represented by an attorney at any administrative hearing, access shall be granted for legal visits at any reasonable time during normal business hours to the inmate’s attorney or aide to that attorney. Indigent inmates shall be provided paper and writing utensils in order to prepare legal papers. Inmates who are not indigent shall be allowed to purchase paper, security pens, and envelopes for this purpose through a canteen order. An inmate with disabilities that hinder the preparation of legal correspondence will be allowed the use of auxiliary aids (writer/reader). An inmate who is provided an auxiliary aid shall also be allowed access to a certified law clerk ~~research aide~~ for the purpose of preparing legal documents, legal mail, or filing a grievance.

(l) No change.

(m) Writing Utensils ~~utensils~~ – inmates in administrative confinement may possess a maximum of four (4) security pens. Other types of pens and pencils shall be confiscated and stored until the inmate is released from administrative confinement status. Inmates who are in possession of working pens or pencils when placed in administrative confinement will be issued a security pen. Inmates who are not indigent must purchase additional pens when needed from the canteen. If security pens are unavailable, the inmate shall be allowed to sign out a regular pen from the confinement housing officer. All care shall be taken to ensure that an indigent inmate who requests access to a pen in order to prepare legal documents or legal mail or to file a grievance with the Department ~~department~~ has access to a pen for a time period sufficient to prepare the legal mail, documents, or grievances. An inmate who has been provided a “writer/reader” shall be allowed access to such for the purpose of reading or preparing correspondence.

(n) Reading materials – inmates in administrative confinement shall be provided access to admissible reading material as provided in Rule 33-501.401, F.A.C., unless there is an indication of a threat to the safety, security, or sanitation of the institution. If it is determined that there is a safety, security, or sanitation risk, the items will be removed. Such removal of reading materials shall be documented on Form DC6-229 in accordance with paragraph (9)(c) of this rule.

(o) Library – only one book at a time may be checked out. Books shall be checked out once weekly and inmates

may possess no more than one soft-back library book at any given time. An inmate who receives services from the Bureau of Braille and Talking Book Library shall be allowed to have his or her tape player and devotional and scriptural materials and any other books on tape that are in compliance with the admissibility requirements of ~~the~~ Rule 33-501.401, F.A.C. Inmates will be allowed to check out one book on tape per week and possess no more than one checked-out book at any given time. The actual number of tapes may be more than one per book.

(p) Exercise – those inmates confined on a 24-hour basis excluding showers and clinic trips may exercise in their cells. However, if confinement extends beyond a 30-day period, an exercise schedule shall be implemented to ensure a minimum of three hours per week of exercise out of doors. Such exercise periods shall be documented on Form DC6-229, Daily Record of Special Housing. The ICT is authorized to restrict exercise for an individual inmate only when the inmate is found guilty of a major rule violation. Inmates shall be notified in writing of this decision and may appeal through the grievance procedure. The denial of exercise shall be for no more than 15 days per incident and for no longer than 30 days in cumulative length. If the inmate requests a physical fitness program handout, the wellness specialist or the confinement officer shall provide the inmate with an in-cell exercise guide and document such on ~~the Daily Record of Special Housing~~, Form DC6-229. Medical restrictions can also place limitations on the exercise periods. A disabled inmate who is unable to participate in the normal exercise program will have an exercise program developed for him or her that will accomplish the need for exercise and take into account the particular inmate's limitations. Recreational equipment may be available for the exercise period provided such equipment does not compromise the safety or security of the institution. The reasons for any exercise restrictions shall be documented on ~~the Daily Record of Special Housing~~, Form DC6-229.

(q) If items of clothing, bedding, or property are removed in order to prevent the inmate from inflicting injury to himself or herself or others, to prevent destruction of property or equipment, or to prevent the inmate from impeding security staff from accomplishing functions essential to the unit and institutional security, staff shall re-assess the need for continued restriction every 72 hours thereafter. The warden, based on this assessment, will make the final determination on the continued denial or return of the items. The items will be returned to the inmate when no further behavior or threat of behavior of the type leading to the restriction has occurred.

(6) Restraint and Escort Requirements.

(a) Prior to opening any cell for any purpose, including exercise, medical or disciplinary call-outs, telephone calls, recreation, and visits, all inmates in the cell shall be handcuffed behind their backs, unless documented

medical conditions require that an inmate be handcuffed in front. In such cases, waist chains will be used in addition to the handcuffs.

(b) through (e) No change.

(f) Any inmate who has demonstrated behavior that is or could be harmful to him or herself shall be designated as a special risk inmate. If the inmate demonstrates bizarre, mentally disordered, or self-destructive behavior, the medical department shall be immediately contacted to determine if special watch or suicide watch procedures shall be initiated. Suicidal inmates shall be removed to a designated area where a correctional officer or health care staff provides observation. Visual checks shall be made in accordance with medical protocols or at least every 30 minutes and shall be documented on Form DC4-650, Observation Checklist, until the inmate is no longer considered a special risk inmate. All actions taken by staff with regard to special risk inmates shall be documented on Form DC6-229 and followed with an Incident Report, Form DC6-210. ~~Form DC6-210 is incorporated by reference in Rule 33-602.210, F.A.C.~~ Form DC4-650 is incorporated by reference in subsection (11) of this rule.

(g) No change.

(7) Visits to Administrative Confinement. The following staff members shall be required to officially inspect and tour the administrative confinement unit. All visits by staff, other than the 30 minute checks described in paragraph (a) below, shall be documented on the Inspection of Special Housing Record, Form DC6-228. Form DC6-228 is incorporated by reference in Rule 33-601.800, F.A.C. The staff member shall also document his or her visit on the Daily Record of Special Housing, Form DC6-229, if any discussion of significance or action or behavior of the inmate occurs or any important information is obtained that ~~which~~ may have an influence or effect on the status of confinement. These visits shall be conducted at a minimum of:

(a) ~~Every At least every~~ 30 minutes by a correctional officer, but on an irregular schedule. These checks shall be documented on Form DC6-209, Housing Unit Log.

(b) through (c) No change.

(d) Weekly by the chief ~~Chief~~ of security ~~Security~~ (when on duty at the facility) except in case of riot or other institutional emergency.

(e) through (h) No change.

(8) Review of Administrative Confinement.

(a) No change.

(b) Any inmate assigned to administrative confinement for more than 30 days shall be given a psychological screening assessment by a mental health professional to determine his or her mental condition. The assessment shall include a personal interview if determined necessary by mental health staff. All such assessments shall be documented in the mental health record. The mental health clinician ~~psychologist~~ or mental health ~~psychological~~ specialist shall prepare a report to the ICT regarding the results of the assessment with recommendations. The ICT shall then make a decision regarding continuation of confinement. If the decision is to continue confinement, a psychological screening assessment shall be completed at least every 90-day period.

(c) If an inmate is confined for more than 30 days, the ICT shall interview the inmate and shall prepare a formal assessment and evaluation report after each 30 day period in administrative confinement. Such reports may be in a brief paragraph form detailing the basis for confinement, what has transpired since the last report, the decision concerning continued confinement, and the basis for that decision.

(d) No change.

(9) Administrative Confinement Records.

(a) Form DC6-229, A Daily Record of Special Housing, ~~Form DC6-229~~, shall be maintained for each inmate as long as the inmate is in administrative confinement. ~~The~~ Form DC6-229 shall be utilized to document any activity such as cell searches, items removed, showers, recreation, haircuts and shaves, and also unusual occurrences such as refusal to come out of a cell or refusal to eat. If items that inmates in administrative confinement are not prohibited from possessing are denied or removed from the inmate, the shift supervisor or the confinement lieutenant must approve the action initially. The central office ADA coordinator shall be contacted within 24 hours if any item is removed that would be considered an auxiliary aid or device that ensures a disabled inmate an equal opportunity as a non-disabled inmate. The items denied or removed shall be documented on Form DC6-229 and the chief ~~Chief~~ of security ~~Security~~ shall make the final decision in regard to the appropriateness of that action no later than the next working day following the action. The housing supervisor shall make a notation of any unusual occurrences or changes in the inmate's behavior and any action taken. Changes in housing location or any other special action shall also be noted. ~~The~~ Form DC6-229 shall be maintained in the housing unit for 30 days, at which time the form shall be forwarded to the ICT for review. Once reviewed, these forms shall be forwarded to classification to be filed in the institutional inmate record.

(b) Form DC6-229B, A Daily Record of Special Housing – Supplemental, ~~Form DC6-229B~~, shall be completed

and attached to the current ~~Daily Record of Special Housing~~, Form DC6-229, whenever additional written documentation is required concerning an event or incident related to the specific inmate. Form DC6-229B is incorporated by reference in Rule 33-601.800, F.A.C.

(c) Form DC6-228, ~~An Inspection of Special Housing Record, Form DC6-228~~, shall be maintained in each administrative confinement unit. Each staff person shall sign such record when entering and leaving the confinement unit. Prior to leaving the confinement unit, each staff member shall indicate any specific problems including any inmate who requires special attention. No other unit activities shall be recorded on Form DC6-228. Upon completion, ~~the~~ Form DC6-228 shall be maintained in the housing unit and forwarded to the chief ~~Chief~~ of security ~~Security~~ on a weekly basis where it shall be maintained on file pursuant to the current retention schedule.

(d) Form DC6-209, ~~A Housing Unit Log, Form DC6-209~~, shall be maintained in each confinement unit. Officers shall record all daily unit activities on Form DC6-209, to include any special problems or discrepancies noted. The completed Form DC6-209 shall be forwarded daily to the chief of security for review.

(10) Staffing Issues.

(a) Officers assigned to a confinement unit shall be reviewed at least every 18 months. The shift supervisor or confinement lieutenant shall initiate the review by having the officer complete section I of the Special Housing Unit Rotation Review, Form DC6-295. Form DC6-295 is incorporated by reference in Rule 33-602.222, F.A.C. The required supervisor shall conduct an interview with the officer and complete section II of ~~the~~ Form DC6-295 and forward the form to the chief of security. The chief of security shall review personnel records, to include performance appraisals, incident reports, use of force reports, and any other documentation relevant to the officer's assignment and job performance; and shall interview the officer and officer's ~~officers'~~ supervisors for the period of review when necessary. The chief of security shall, upon completion of his or her review, complete section III of Form DC6-295 and forward the recommendation to the warden. The warden shall review the recommendation, request additional information if necessary, and make the final determination as to whether the officer continues in the current assignment or is rotated to another assignment. The warden's decision will be documented in section VI of ~~the~~ Form DC6-295 and returned to the chief of security for action. The chief of security shall maintain the completed Form DC6-295. Any officer assigned to a confinement post shall be authorized a minimum period of five days annual leave or a five day assignment to a less stressful post every six months.

(b) The inspector general ~~Inspector General~~ shall notify the warden and regional director of institutions of any

officer involved in eight or more use of force incidents in an 18 month period. The regional director of institutions shall review the circumstances for possible reassignment.

(11) Forms. The following forms referenced in this rule are hereby incorporated by reference. A copy of any of these forms may be obtained from the Forms Control Administrator, ~~Office of Research, Planning and Support Services~~, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500.

(a) Form DC4-650, Observation Checklist, effective ~~date~~ _____ 4-8-08.

(b) Form DC6-203, Protection Waiver/Appeal Decision, effective ~~date~~ 1-19-03.

(c) Form DC6-137, Notification of Protective Management Disapproval, effective 1-19-03.

Rulemaking Authority 944.09 FS. Law Implemented 20.315, 944.09, 945.04 FS. History—New 4-7-81, Amended 6-23-83, 3-12-84, Formerly 33-3.081, Amended 4-22-87, 8-27-87, 7-10-90, 12-4-90, 3-24-97, 4-26-98, 10-5-98, Formerly 33-3.0081, Amended 2-12-01, 2-5-02, 1-19-03, 4-1-04, 3-5-06, 10-31-06, 4-8-08, 6-25-08, 6-8-09, 7-5-10, Amended.

33-602.221 Protective Management.

(1) Definitions.

(a) Administrative confinement – ~~Confinement refers to~~ the temporary removal of an inmate from the general population in order to provide for security and safety until such time as a more permanent inmate management decision can be concluded ~~such as disciplinary confinement, close management, protective management or transfer.~~

(b) Bureau of Braille and Talking Book Library – ~~refers to~~ the agency that provides books on tape, Braille books, and other auxiliary aids for individuals who, due to a disability, are unable to read books in print.

(c) Central Office ADA Coordinator – ~~refers to~~ the employee responsible for implementing the provisions of Title I and Title II of the Americans with Disabilities Act and Section 504 of the 1973 Rehabilitation Act within the Department.

(d) Classification – ~~refers to~~ the system of processes that ~~which~~ divides inmates into groups for a variety of purposes including facility placement, custody assessment, work and program assessment and placement, housing assessment and placement, periodic reviews, and community, transition, and special needs assessments.

(e) Classification – External – ~~external, refers to~~ processes related to decisions regarding the custody and

facility-placement of an inmate outside the secure perimeter of a facility.

(f) Classification – Internal – ~~internal, refers to~~ processes related to decisions regarding housing, work, and program-placement of an inmate within the secure perimeter of a facility.

(g) Housing Supervisor – ~~refers to the~~ correctional officer sergeant ~~Correctional Officer Sergeant~~ or above in charge of the protective management unit for a particular shift.

(h) Clinical Health Care Personnel – where used herein, refers to a physician, clinical associate, nurse ~~Physician, Clinical Associate, Nurse, correctional medical technician certified~~ ~~Correctional Medical Technician Certified (CMTC), mental health clinician~~ Psychologist, psychology intern, psychology resident, or mental health specialist ~~Psychologist Specialist~~.

(i) Institutional Classification Team (ICT) – where used herein, refers to the team consisting of the warden or assistant warden, classification supervisor, a correctional officer chief, and other members as necessary when appointed by the warden or designated by rule. The ICT is responsible for making work, program, housing, and inmate status decisions at a facility and for making other recommendations to the State Classification Office (~~SCO~~).

(j) Protective Management – ~~where used herein refers to~~ a special management status for the protection of inmates ~~from other inmates~~ in an environment as representative of that of the general population as is safely possible.

(k) Senior Correctional Officer – ~~refers to~~ a staff member with the rank of correctional officer lieutenant ~~Correctional Officer Lieutenant~~ or above.

(l) Special Management – ~~refers to~~ the separation of an inmate from the general population in a structured environment for purposes of safety, security, and order of the facility.

(m) Special Risk Inmate – ~~refers to~~ any inmate who has demonstrated behavior that is or could be harmful to himself.

(n) State Classification Office (SCO) – ~~refers to~~ a staff member at the central office ~~Central Office~~ level who is responsible for the review of inmate classification decisions. Duties include ~~the~~ approving, modifying, or rejecting ICT of Institutional Classification Team recommendations.

(o) Review – where used herein, refers to the evaluation of pertinent information or documentation concerning an inmate's protection status to determine if changes or modifications are required or recommended.

(p) Visit – where used herein, refers to the official inspection and tour of a protective management unit by a

staff member.

(2) Procedures for Placement ~~placement~~ in Protective Management.

(a) Protective management is not disciplinary in nature, and inmates in protective management are not being punished and are not in confinement. The treatment of inmates in protective management shall be as near that of the general population as the individual inmate's safety and security concerns permit.

(b) Inmates on death row, in close management, or in disciplinary confinement are not eligible for placement in protective management. However, if an inmate in one of these statutes requests protection, procedures outlined in Rule 33-602.220, F.A.C., shall be completed.

(c) If it is determined that an inmate on death row, in close management, or in disciplinary confinement needs protection, the inmate will be afforded such protection in his or her current status. Upon completion of that special status, the ICT institutional classification team (ICT) shall review the inmate's need for protection and make recommendations to the SCO state classification office (SCO), who shall determine the appropriate action to resolve the inmate's protection needs.

(d) When the SCO determines that protective management is appropriate for an inmate, the inmate shall be interviewed by the housing supervisor and a review shall be initiated to assess the inmate's potential risk to or from other inmates in the unit. The completion of this review will be documented on Form DC6-235, Record of Protective Management. Form DC6-235 is incorporated by reference in subsection (10) of this rule. If the inmate can not be placed for this reason, the housing supervisor shall place or maintain the inmate in administrative confinement until the issue can be expeditiously resolved. The case shall be immediately forwarded to the ICT for review. The ICT shall review the case and interview the inmate and forward recommendations to the SCO. The SCO shall review the case and may interview the inmate and make a final decision to resolve protection issues.

(3) Protective Management Facilities.

(a) The number of inmates housed in a protective management cell housing units shall not exceed the number of beds in the cell. Exceptions may be made during an emergency situation as approved by the warden or duty warden, but such exceptions shall not continue for more than 24 hours without the specific written authorization of the regional director of institutions. Prior to placing inmates in the same cell, a determination shall be made by the housing supervisor that none of the inmates constitutes ~~constitute~~ a threat to any of the others, The housing supervisor shall ~~and~~ document such determination on Form DC6-235, Record of Protective Management.

(b) No change.

(c) Prior to placement of an individual in a protective management cell, the cell shall be thoroughly inspected to ensure that ~~it the cell~~ is in proper order. The officer conducting the inspection will complete and sign Form DC6-221, the Cell Inspection, Form DC6-221, attesting to the conditions of the cell. The inmate housed in that cell shall then be held responsible for the condition of the cell. Form DC6-221 is incorporated by reference in Rule 33-601.800, F.A.C.

(d) The protective management housing units shall be physically separate from other housing units, whenever possible given the physical design of the facility, and the number of inmates housed in protective management shall not exceed the number of bunks in the protective housing unit. Whenever such location is not possible, physical barriers shall preclude the cross association of those in protective management with those in other statuses. Protective management housing units shall be built to permit verbal communication and unobstructed observation by the staff.

(4) Conditions and Privileges.

(a) Clothing – ~~The inmates may wear shower slides or personal canvas shoes while in their housing units, but regulation shoes shall be required for work assignments. Otherwise the~~ clothing for inmates in protective management shall be the same as that issued and exchanged to the general inmate population except when there is an indication of a security or health problem or when additional clothing is required for a work assignment. In such cases the exceptions shall be documented on Form DC6-235, Record of Protective Management, and approved by the chief of security. Any item may be removed from the cell in order to prevent the inmate from inflicting injury to himself or herself or others, to prevent the destruction of property or equipment, or to prevent the inmate from impeding security staff from accomplishing functions essential to the unit and institutional security. If an inmate's clothing is removed, a modesty garment shall be immediately obtained and given to the inmate. If the inmate chooses not to wear the garment, the garment shall be left in the cell and this action shall be noted on Form DC6-235, ~~Record of Protective Management~~, stating the reasons for such denial. Under no circumstances will an inmate be left without a means to cover him or herself.

(b) No change.

(c) Personal Property – inmates shall be allowed to retain the same personal property as is permitted general population inmates unless there is an indication of a security problem, in which case removal or denial of any item

shall be documented on Form DC6-235, Record of Protective Management, ~~and~~ Form DC6-220, Inmate Impounded Personal Property List, will be completed by security staff and signed by the inmate designating what personal items were removed. The original will then be placed ~~placed~~ in the inmate's property file, and a copy of the form will be given to the inmate for his or her records. Form DC6-220 is incorporated by reference in Rule 33-602.201, F.A.C. All property retained by inmates must fit into the storage area provided, which shall be the same size as provided for general population inmates.

(d) Comfort Items – inmates in protective management shall be permitted the same comfort items, personal hygiene items, and other medically needed or prescribed items as is permitted general population inmates unless there is an indication of a security problem. In the event that comfort items are taken from inmates in protective management, the senior correctional officer on duty shall be notified and must approve or disapprove the action taken. Action taken shall be documented on the Record of Protective Management, Form DC6-235, which must be reviewed by the chief of security. Property receipts shall be given for any personal property removed. The following comfort items shall be provided as a minimum: toothbrush, toothpaste, bar of soap, towel or paper towels, toilet tissue, and feminine hygiene products for women.

(e) Personal Hygiene – inmates in protective management shall meet the same standards in regard to personal hygiene as required of the general inmate population.

1. As a minimum each inmate in protective management shall shower at least three times per week or every day that the ~~an~~ inmate works.

2. No change.

(f) through (j) No change.

(k) Legal Access – inmates in protective management shall have access to the law library during evening or other hours when general population inmates are not present. If security reasons prevent a visit, access shall be provided through correspondence or visits from a certified law clerk ~~the inmate research aide~~. All steps shall be taken to ensure the inmate is not denied needed legal access while in protective management. Inmates shall be provided paper and writing utensils in order to prepare legal papers. Typewriters or typing services are not considered required items and will not be permitted in protective management housing units. However, an inmate with disabilities that hinder the preparation of legal correspondence will be allowed the use of auxiliary aids (writer reader). An inmate who is provided an auxiliary aid will be allowed access to a certified law clerk ~~research aide~~ for

the purpose of preparing legal documents, legal mail, or filing a grievance.

(l) No change.

(m) Writing utensils – inmates in protective management shall be allowed to possess pens and pencils of the same type and number as those in general population. If it is determined that there is a safety, security, or sanitation risk, these items shall be confiscated and stored until the inmate is released from protective management status. The inmate shall be issued a security pen; if a security pen is unavailable the inmate shall be allowed to sign out a regular pen from the housing officer. All care shall be taken to ensure that an indigent inmate who requests access to a pen in order to prepare legal documents or legal mail or to file a grievance with the Department ~~department~~ has access to a pen for a time period sufficient to prepare the legal mail documents or grievances. An inmate who has been provided a “writer/reader” shall be allowed access to such for the purpose of preparing correspondence.

(n) Reading materials – reading materials, including scriptural and devotional materials and books that are in compliance with admissibility requirements in Rule 33-501.401, F.A.C., for inmates in the general population are allowed for those inmates in protective management units. If it is determined that there is a safety, security, or sanitation risk, the items will be removed. Such removal of reading materials will be documented on Form DC6-235 in accordance with paragraph (4)(c) of this rule. An inmate who receives services from the Bureau of Braille and Talking Book Library shall be allowed to have his or her ~~their~~ tape players and devotional and scriptural materials and any other books on tape that are in compliance with admissibility requirements in Rule 33-501.401, F.A.C.

(o) No change.

(p) Exercise – an exercise schedule shall be implemented to ensure a minimum opportunity of three hours per week of exercise out of doors. The ICT is authorized to restrict exercise for an individual inmate when the inmate is found guilty of a major rule violation as defined in Rule 33-602.220, F.A.C. Inmates shall be notified in writing of this decision and may appeal through the grievance procedure. The denial of exercise shall be for no more than 15 days per incident and for no longer than 30 days in cumulative length. If the inmate requests a physical fitness program handout, the wellness specialist or the housing officer shall provide the inmate with an in-cell exercise guide and document such on the Record of Protective Management, Form DC6-235. Medical restrictions may also place limitations on exercise periods. A disabled inmate who is unable to participate in the normal exercise program will have an exercise program developed for him or her that will accomplish the need for exercise and take into account the particular inmate’s limitations. Similar recreational equipment shall be available as is available for

general population inmates for the exercise period provided that such equipment does not compromise the safety or security of the institution. The reasons for any exercise restrictions shall be documented on ~~the Report of Protective Management~~, Form DC6-235.

(q) Religious activities – a weekly non-denominational service shall be held for protective management inmates in the chapel. This service shall be held at the protective management housing unit if security reasons prevent chapel service. The chaplain shall arrange for religious consultations between inmates and outside volunteers, counsel with clergy, and the opportunity to receive religious sacraments similar to that afforded to the general population when requested.

(r) Self-improvement programs – self-improvement programs shall be available in the protective management ~~their~~ housing unit, or in separate locations within the institution that conform with the need for security. Self-improvement programs include academic education, vocational training, correspondence courses or self-directed study activities, religious activities, quiet activities, and ~~or~~ letter writing.

(s) Any other activities that ~~which~~ take place outside the inmate's cell ~~–~~ Inmates may refuse opportunities for out-of-cell activities; however, such refusals shall constitute a portion of the required minimum hours of out-of-cell time. Refusals shall be documented on Form DC6-235, Record of Protective Management.

(t) Other privileges shall be restricted on a daily case-by-case basis when such restrictions are necessary for the security, order or effective management of the institution. All such restrictions shall be documented on Form DC6-235, Record of Protective Management, and reported to the ICT. The ICT is authorized to restrict privileges on a continuing basis after a determination that such restrictions are necessary for the security, order, or effective management of the institution. The ICT's decision for continuing restriction shall be documented on Form DC6-235, ~~Record of Protective Management~~.

(5) Work Assignments.

(a) Within 10 days of the protective management determination, work opportunities consistent with medical grades shall be available to inmates in protective management during the day, evening, or night hours. All inmates shall be provided the opportunity for work assignments regardless of medical grade except when precluded by doctor's orders for medical reasons. Work shall be cancelled for an individual inmate or a work squad when staff concludes the work or work assignment would subject the inmate to danger or if adequate staff protection is not available. Each occurrence of work cancellation will be documented with reasons for the action on Form DC6-210,

Incident Report, and shall be reviewed by the warden or ICT the next working day. Refusal of a work assignment shall result in disciplinary action pursuant to Rules 33-601.301-.314, F.A.C. Inmates who refuse work assignments will not be allowed other housing unit activities. Those who accept work assignments shall be subject to awards of gain time pursuant to Rule 33-601.101, F.A.C., in the same manner as general population inmates.

(b) Inmates in protective management who are medically able to work and who do work shall be afforded an opportunity for at least an additional 20 hours of out-of-cell time per week for activities. Each protective management unit shall have a day room or common area equipped with similar equipment, recreational and otherwise, as those for general population inmates provided that such equipment does not compromise the safety or security of the institution.

(6) No change.

(7) Contact by Staff.

(a) The following staff members shall be required to officially inspect and tour the protective management unit. All visits by staff shall be documented on Form DC6-228, Inspection of Special Housing Record. Form DC6-228 is incorporated by reference in Rule 33-601.800, F.A.C. The staff member shall also document his or her visit on the Record of Protective Management, Form DC6-235, if, during the visit by staff, any discussion of significance or, action or behavior of the inmate occurs or any information is obtained that ~~which~~ may have an effect on the status of protective management. These visits shall be conducted at a minimum of:

1. ~~Every At least every~~ 30 minutes by a correctional officer, but on an irregular schedule.

2. through 4. No change.

5. Weekly by the ~~chief~~ Chief of ~~security~~ Security (when on duty at the facility) except in case of riot or other institutional emergency.

6. through 8. No change.

9. At least once a month by a member of the ~~ICT Institutional Classification Team~~ to ensure that the inmate's welfare is properly provided for, and to determine the time and method of release or any program changes.

(b) Any inmate who has demonstrated behavior that is or could be harmful to him or herself shall be designated as a special risk inmate. If the inmate demonstrates bizarre, mentally disordered, or self-destructive behavior, the medical department shall be immediately contacted to determine if special watch or suicide watch procedures shall be initiated. Suicidal inmates shall be removed to a designated area where a correctional officer or health care staff

provides observation. Visual checks shall be made in accordance with medical protocols or at least every 30 minutes and shall be documented on Form DC4-650, Observation Checklist, until the inmate is no longer considered a special risk inmate. All actions taken by staff with regard to special risk inmates shall be documented on Form DC6-229, Daily Record of Special Housing, and followed with an Incident Report, Form DC6-210. Form DC6-229 is incorporated by reference in Rule 33-601.800, F.A.C., and Form DC4-650 is incorporated by reference in Rule 33-602.220, F.A.C.

(8) Review of Protective Management.

(a) The ~~ICT Institutional Classification Team~~ shall review inmates in protective management every week for the first 60 days. The goal shall be toward returning the inmate to general population as soon as the facts of the case indicate that this can be done safely.

(b) Any inmate assigned to protective management for more than 30 days shall be given a psychological screening assessment by a mental health professional to determine his or her mental condition. The assessment shall include a personal interview if deemed necessary by the mental health professional. All such assessments shall be documented in the mental health record. The ~~mental health clinician psychologist~~ or ~~mental health psychological specialist~~ shall prepare a report to the ICT regarding the results of the assessment with recommendations. The ICT shall then make a decision regarding continuation of the protection needs. Any recommendations by the ~~mental health clinician psychologist~~ or ~~mental health psychologist specialist~~ that the inmate be released from protective management shall be forwarded by the ICT to the SCO. If the decision is to continue protective management, a psychological screening assessment shall be conducted at least every 90-day period.

(c) In addition to the ICT's review as outlined in paragraph (8)(a) above, the ICT shall interview each inmate in protective management at least every 30 days and shall prepare a formal assessment and evaluation report. Such reports may be in a brief paragraph form detailing the basis for protection, what has transpired since the last report, the decision concerning continued protection, and the basis for that decision.

(d) The ~~SCO State Classification Office (SCO)~~ shall review all reports prepared by the ICT concerning an ~~inmate's inmates~~ protective management and may interview the inmate before determining the final disposition of the inmate's protective management status. However, the ~~SCO State Classification Office~~ shall conduct an on-site interview with each inmate at least once every six months or as often as necessary to determine if continuation, modification, or removal from protective management status is appropriate.

(e) If the inmate submits a request for release in writing at any time after being placed in protective management, the housing supervisor shall provide the inmate with a Form DC6-203, Protection Waiver/Appeal Decision. Form DC6-203 is incorporated by reference in Rule 33-602.220, F.A.C. The inmate shall complete Form DC6-203 and return it to the housing supervisor for submission to the ICT along with the inmate's written request. The ICT shall docket and review the inmate's request, and interview the inmate. The ICT shall submit their recommendation along with ~~the~~ Form DC6-203 and any other documentation to the SCO for final consideration. The SCO review and decision shall be conducted during the next routine on-site visit.

(9) Protective Management Records.

(a) A printed copy of the electronic Report of Protective Management, shall be kept for each inmate placed in protective management.

(b) Form DC6-228, ~~An~~ Inspection of Special Housing Record, ~~Form DC6-228~~ shall be maintained in each protective management unit. Each staff person shall sign the record when entering and leaving the protective management unit. Prior to leaving the protective management unit, each staff member will indicate any specific problems including any inmate who requires medical attention. No other unit activities shall be recorded on Form DC6-228.

(c) Form DC6-235, ~~A~~ Record of Protective Management, Form DC6-235 shall be maintained for each inmate as long as the inmate is in protective management. Once the inmate is released from protective management, Form DC6-235 will be forwarded to classification to be filed in the institutional inmate record. This form shall be used to record any action, remarks, or disposition made on a specific inmate. Notations shall be made on Form DC6-235 by medical staff, the ICT, the SCO, or other staff dealing directly with the inmate. If items are denied or removed from the inmate, the senior correctional officer on duty must approve the action. The central office ADA coordinator will be contacted within 24 hours if any item is removed that would be considered an auxiliary aid or device that ensures a disabled inmate of equal opportunity as a non-disabled inmate. The items denied or removed will be documented on ~~the~~ Form DC6-235, and the chief of security will make the final decision in regard to the appropriateness of that action no later than the next working day following this action. The housing supervisor will document any unusual occurrences or changes in the inmate's behavior and any action taken. Changes in housing location or any other special action will also be documented.

(d) Form DC6-209, ~~A~~ Housing Unit Log, ~~Form DC6-209~~, shall be maintained in each protective management

unit. Officers shall record all daily unit activities on Form DC6-209, to include any special problems or discrepancies noted. The completed Form DC6-209 shall be forwarded daily to the chief of security for review.

~~Form DC6-209 is incorporated by reference in Rule 33-601.800, F.A.C.~~

(10) No change.

Rulemaking Authority 944.09 FS. Law Implemented 20.315, 944.09, 944.34, 945.04 FS. History--New 6-23-83, Amended 3-12-84, Formerly 33-3.082, Amended 6-4-90, 7-10-90, 12-4-90, 4-26-98, Formerly 33-3.0082, Amended 2-12-01, 1-19-03, 4-1-04, 6-8-09, 7-5-10, Amended.

33-602.222 Disciplinary Confinement.

(1) Definitions.

(a) Bureau of Braille and Talking Book Library – ~~refers to~~ the agency that provides books on tape, Braille books, and other auxiliary aids for individuals who, due to a disability, are unable to read books in print.

(b) Central Office ADA Coordinator – ~~refers to~~ the employee responsible for implementing the provisions of Title I and Title II of the Americans with Disabilities Act and Section 504 of the 1973 Rehabilitation Act within the Department.

(c) Clinical Health Care Personnel – where used herein, refers to a physician, clinical associate, nurse correctional medical technician certified (CMTC), mental health clinician ~~psychologist~~, psychology intern, psychology resident, or mental health ~~psychological specialist~~.

(d) Review ~~–~~ where used herein, refers to the evaluation of pertinent information or documentation concerning an inmate's disciplinary confinement status to determine if changes or modifications in the confinement status are required or recommended.

(e) Visit ~~–~~ where used herein, refers to the official inspection and tour of a confinement unit by a staff member.

(f) Disciplinary Confinement ~~– refers to~~ a form of punishment in which inmates found guilty of committing violations of the Department ~~department~~ rules are confined for specified periods of time to individual cells based upon authorized penalties for prohibited conduct.

(g) Disciplinary Hearing ~~– refers to~~ an administrative proceeding in which it is determined if sufficient evidence exists to find an inmate guilty of a rule violation.

(h) Disciplinary Team ~~– refers to~~ a team made up of at least two staff persons appointed by the warden, one of

whom shall be a correctional officer lieutenant or above.

(i) Institutional Classification Team (ICT) – where used herein, refers to the team consisting of the warden or assistant warden, classification supervisor, a correctional officer chief, and other members as necessary when appointed by the warden or designated by rule. The ICT is responsible for making work, program, housing, and inmate status decisions at a facility and for making other recommendations to the State Classification Office ~~state classification office.~~

(j) Security Pen – Pens ~~refers to~~ a specially designed flexible ink pen that bends under pressure and has a tip that retracts under excessive pressure.

(k) Shift Supervisor – refers to the correctional officer in charge of security on any work shift.

(l) State Classification Office (SCO) – refers to a staff member at the central office level responsible for the review of inmate classification decisions including approving, modifying, or rejecting ICT recommendations.

(m) No change.

(2) Placement in Confinement.

(a) No change.

(b) Disciplinary confinement cells shall be physically separate from other confinement statuses whenever possible. Whenever such location is not possible, physical barriers shall preclude the cross association of those in disciplinary confinement with those in other housing statuses. The disciplinary confinement cells shall be approximately the same square footage as utilized for general population. Disciplinary confinement units shall be built to permit verbal communication and unobstructed observation by staff. Visual inspections shall be conducted of each cell, to include at a minimum, observations for clothes lines, pictures attached to the walls and lockers, windows or light fixtures covered with paper, clothes or towels, and air and heater vents that have been obstructed. When sufficient natural light is unavailable, interior cell lights shall be left on during day and evening hours.

(3) Disciplinary Confinement Cells.

(a) Inmates shall not be housed in disciplinary confinement cells in greater number than there are beds in the cells. The only exception to this policy is during an emergency situation as declared by the warden or duty warden. Any emergency situation shall be communicated to the regional director of institutions and to the Emergency Action Center in the central office. If this exception exists in excess of 24 hours, the warden or duty warden must get specific written authorization from the regional director of institutions to continue to house inmates beyond the 24-

hour period in such conditions. Prior to placing inmates in the same cell, the inmates shall be interviewed by the housing supervisor to ensure that none of the inmates ~~constitutes~~ constitute a threat to any of the others.

(b) All disciplinary confinement cells shall be equipped with toilet facilities and running water for drinking and other sanitary purposes. Water in the cell can be turned off by correctional staff due to an inmate's inappropriate behavior that causes an interruption in the water system or the intentional misuse of water for an unauthorized purpose. In such event, the inmate occupant will be furnished an adequate supply of drinking water by other means to prevent dehydration. These actions shall be documented on Form DC6-229, Daily Record of Special Housing. Form DC6-229 ~~is has been~~ incorporated by reference in Rule 33-601.800, F.A.C.

(c) Prior to the inmate's placement into, and after the inmate's removal from, a disciplinary confinement cell, the cell shall be thoroughly inspected to ensure that it is in proper order, and the inmate housed in that cell will then be held responsible for the condition of the cell. The correctional officer conducting the inspection shall complete and sign Form DC6-221, Cell Inspection, attesting to the condition of the cell. Form DC6-221 is incorporated by reference in Rule 33-601.800, F.A.C. Routine searches of each cell are authorized at any time, but shall be conducted, at a minimum, each time an inmate is removed from the cell for a shower. All searches shall be documented on Form DC6-229, Daily Record of Special Housing. All inmates shall be searched prior to entering the confinement unit and upon departure. All items entering the confinement unit shall be thoroughly searched, to include at a minimum, food carts and trays, laundry and linens, and inmate property.

(d) The officers assigned shall exercise care to maintain noise ~~levels~~ in confinement units at a reasonable level so as not to interfere with normal operating activities.

(4) Conditions and Privileges.

(a) through (b) No change.

(c) Personal Property. Inmates in confinement shall be allowed to retain stamps, eyeglasses, hearing aids, personal watches, and rings unless there is an indication of a security problem. Inmates in disciplinary confinement may also possess religious items pursuant to the provisions of Rule 33-602.201, F.A.C. If removal of any item in the inmate's possession is determined necessary, ~~the~~ correctional staff shall document their actions on ~~the~~ Form DC6-229, Daily Record of Special Housing, which shall be approved by the chief of security. The correctional staff shall issue the inmate a receipt for her or his confiscated items by completing the Inmate Impounded Personal Property List, Form DC6-220. Form DC6-220 is incorporated by reference in Rule 33-602.201, F.A.C. Inmates in

disciplinary confinement shall not possess any products that contain baby oil, mineral oil, cocoa butter, or alcohol.

(d) through (i) No change.

(j) Legal visits. Attorney-client visits shall be allowed as provided in Rule 33-601.711, F.A.C., ~~Legal Visitors~~, and shall not be restricted except on evidence that the visit would be a threat to security and order. The warden or his or her designee must approve all visits in advance.

(k) Legal Access.

1. No change.

2. Indigent inmates shall be provided paper, envelopes, and security pens in order to prepare legal papers or notify visitors of confinement status. An inmate with disabilities that hinder the preparation of legal correspondence will be allowed the use of auxiliary aids (writer/reader). An inmate who is provided an auxiliary aid shall also be allowed access to a certified law clerk for the purpose of preparing legal documents, legal mail, or filing a grievance.

(l) No change.

(m) Correspondence.

1. Inmates in disciplinary confinement shall be allowed routine correspondence privileges unless restricted as provided in Rule 33-601.308, F.A.C., ~~Disciplinary Action~~. Inmates shall be encouraged to write their families to advise them of their anticipated visiting status. Indigent inmates shall be provided paper and envelopes for this purpose.

2. Grievance forms, Form DC6-236, Inmate Request, and Form DC1-303, Request for Administrative Remedy, shall be made available to the inmate at any time, regardless of his or her confinement status, and shall be transmitted to the addressee without delay. Forms DC6-236 and DC1-303 are incorporated in Rule 33-103.011, F.A.C.

(n) No change.

(o) Reading Material. Scriptural and devotional reading materials that are in compliance with admissibility requirements in Rule 33-501.401, F.A.C., shall be permitted for those inmates in disciplinary confinement units unless there is an indication of a threat to the safety, security, or sanitation of the institution. If it is determined that there is a safety, security, or sanitation risk, the items will be removed. Such removal of reading materials shall be documented on Form DC6-229 in accordance with paragraph (9)(b) of this rule. An inmate who receives services from the Bureau of Braille and Talking Book Library shall be allowed to have his or her ~~their~~ tape players and

devotional and scriptural materials that are in compliance with this rule.

(p) Exercise.

1. No change.

2. If the inmate requests a copy of the physical fitness program, the wellness specialist or confinement unit correctional officer shall provide the inmate with an in-cell exercise guide and document this action on ~~the Form DC6-229, Daily Record of Special Housing.~~

3. The ICT is authorized to restrict exercise for an individual inmate only when the inmate is found guilty of a major rule violation as defined in Rule 33-602.220, F.A.C. Inmates shall be notified in writing of this decision and may appeal through the grievance procedure. The denial of exercise shall be no more than 15 days per incident and for no longer than 30 days cumulative length and shall be documented on Form DC6-229, ~~Daily Record of Segregation.~~ Exceptions to this restriction may be made only when documented facts show that such exercise periods should not be granted. Restrictions may also be placed on the exercise periods by professional medical staff. A disabled inmate who is unable to participate in the normal exercise program will have an exercise program developed for him or her that will accomplish the need for exercise and take into account the particular inmate's limitations. The reasons for any exercise restrictions shall be documented on ~~the Daily Record of Segregation,~~ Form DC6-229.

(q) Weighing. Inmates shall be weighed upon entering disciplinary confinement, at least once a week while in disciplinary confinement, and upon leaving disciplinary confinement. The weight of the inmate shall be documented on Form DC6-229, Daily Record of Special Housing Segregation.

(r) If items of clothing, bedding, or property are removed in order to prevent the inmate from inflicting injury to him or herself or others, to prevent destruction of property or equipment, or to prevent the inmate from impeding security staff from accomplishing functions essential to the unit and institutional security, staff shall re-assess the need for continued restriction every 72 hours thereafter. The warden, based on this assessment, will make the final determination on the continued denial or return of the items. The items will be returned to the inmate when no further behavior or threat of behavior of the type leading to the restriction has occurred.

(5) No change.

(6) Restraint and Escort Requirements.

(a) Prior to opening a cell door for any reason, including exercise, medical or disciplinary call-outs, telephone

calls, recreation, and visits, all inmates in the cell shall be handcuffed behind their backs, unless documented medical conditions require that an inmate be handcuffed in front. In such cases, waist chains will be used in addition to the handcuffs, and the escort officers shall be particularly vigilant.

(b) through (e) No change.

(7) Visits to Disciplinary Confinement.

(a) The following staff members shall be required to officially inspect and tour the disciplinary confinement unit. All visits by staff, other than the 30 minute checks described in subparagraph 1. below, shall be documented on the Inspection of Special Housing Record, Form DC6-228. Form DC6-228 is incorporated in Rule 33-601.800, F.A.C. The staff member shall also document his or her visit on the Daily Record of Special Housing, Form DC6-229, if any discussion of significance or, action or behavior of the inmate, or any other important information is obtained which may have an influence or effect on the status of confinement. These visits shall be conducted a minimum of:

1. through 10. No change.

(b) Any inmate who has demonstrated behavior that is or could be harmful to him or herself shall be designated as a special risk inmate. If the inmate exhibits bizarre, mentally disordered, or self-destructive behavior, the medical department shall be immediately contacted by correctional staff to determine if special watch or suicide watch procedures should be initiated. Suicidal inmates shall be removed to a designated area where a correctional officer or medical staff can provide observation. Visual checks shall be made in accordance with medical protocols or the Inmate Suicide Precautions procedure at least every 30 minutes and shall be documented on Form DC4-650, Observation Checklist, until the inmate is no longer considered a special risk inmate. Form DC4-650 is incorporated by reference in Rule 33-602.220, F.A.C. All actions taken by staff with regard to special risk inmates shall be documented on Form DC6-229 and followed with an Incident Report ~~incident report~~, Form DC6-210. ~~Form DC6-210 is incorporated by reference in Rule 33-602.210, F.A.C.~~

(8) Review and Release from Disciplinary Confinement.

(a) through (b) No change.

(b) Any inmate assigned to disciplinary confinement for more than 30 days shall be given a psychological screening assessment by a mental health professional to determine the inmate's mental condition. The assessment shall include a personal interview if deemed necessary by the mental health professional. The mental health clinician

~~psychologist~~ or mental health psychological specialist shall prepare a report to the ICT regarding the results of the assessment with recommendations. The ICT shall then make a decision regarding continuation of confinement. If the decision is to continue confinement, a psychological screening assessment shall be completed at least every 90-day period.

(c) No change.

(d) The SCO shall review the report prepared by the ICT and the mental health clinician ~~psychologist~~ or mental health psychological specialist concerning the inmate's disciplinary confinement at the next on-site visit, and shall interview the inmate before determining the final disposition of the inmate's disciplinary confinement.

(e) No change.

(9) Daily Record of Special Housing Segregation.

(a) Form DC6-229, A Daily Record of Special Housing, ~~Form DC6-229~~, shall be maintained for each inmate as long as the inmate is in disciplinary confinement.

(b) ~~The~~ Form DC6-229 shall be utilized to document any activity such as cell searches, items removed, showers, weighing of inmates, recreation, haircuts and shaves, and also unusual occurrences such as refusal to come out of a cell or refusal to eat. If items that inmates in disciplinary confinement are not prohibited from possessing are denied or removed from the inmate, the shift supervisor or the confinement lieutenant must approve the action initially. The central office ADA coordinator shall be contacted within 24 hours if any item is removed that would be considered an auxiliary aid or device that ensures a disabled inmate an equal opportunity as a non-disabled inmate. The items denied or removed shall be documented on Form DC6-229, and the chief of security shall make the final decision in regard to the appropriateness of that action no later than the next working day following the action. The housing supervisor shall make a notation of any unusual occurrences or changes in the inmate's behavior and any action taken. Changes in housing location or any other special action shall also be noted. Form DC6-229 shall be maintained in the housing unit for 30 days. After each 30-day review by a member of the ICT, Form DC6-229 shall be forwarded to classification to be filed in the institutional inmate record.

(10) Form DC6-229B, A Daily Record of Special Housing – Supplemental, ~~Form DC6-229B~~, shall be completed and attached to the current ~~Daily Record of Special Housing~~, Form DC6-229, whenever additional written documentation is required concerning an event or incident related to the specific inmate. Form DC6-229B is incorporated by reference in Rule 33-601.800, F.A.C.

(11) No change.

(12) Form DC6-209, A Housing Unit Log, ~~Form DC6-209~~, shall be maintained in each confinement unit.

Officers shall record all daily unit activities on Form DC6-209, to include any special problems or discrepancies noted. The completed Form DC6-209 shall be forwarded daily to the chief of security for review.

(13) Staffing issues.

(a) Officers assigned to a disciplinary confinement unit shall be reviewed at least every 18 months. The shift supervisor or confinement lieutenant shall initiate the review by having the officer complete section I of the Special Housing Unit Rotation Review, Form DC6-295. Form DC6-295 is incorporated by reference in subsection (14) of this rule. The supervisor shall conduct an interview with the officer, ~~and~~ complete section II of Form DC6-295, and forward the form to the chief of security. The chief of security shall review personnel records, to include performance appraisals, incident reports, use of force reports, and any other documentation relevant to the officer's assignment and job performance; and shall interview the officer and the officer's supervisors for the period of review when necessary. The chief of security shall, upon completion of his or her review, complete section III of Form DC6-295 and forward the recommendation to the warden. The warden shall review the recommendation, request additional information if necessary, and make the final determination as to whether the officer continues in the current assignment or is rotated to another assignment. The warden's decision shall be documented in section IV of Form DC6-295 and returned to the chief of security for action. The chief of security shall maintain the completed Form DC6-295. Any officer assigned to a confinement post shall be authorized a minimum period of five days annual leave or a five day assignment to a less stressful post every six months.

(b) The inspector general ~~Inspector General~~ shall notify the warden and regional director of institutions of any officer involved in eight or more use of force incidents in an 18-month period. The regional director of institutions shall review the circumstances for possible reassignment.

(14) No change.

Rulemaking Authority 944.09 FS. Law Implemented 20.315, 944.09 FS. History--New 3-12-84, Formerly 33-3.084, Amended 7-10-90, 4-28-96, 12-7-97, 3-23-99, Formerly 33-3.0084, Amended 2-12-01, 2-15-02, 4-1-04, 1-16-06, 10-31-06, 6-25-08, 6-8-09, 7-5-10, Amended.