

**TEXAS DEPARTMENT OF CRIMINAL JUSTICE
INSTITUTIONAL DIVISION**



DEATH ROW PLAN

MARCH 1999

DEATH ROW PLAN TABLE OF CONTENTS

DEFINITIONS	1
A. Death Row Segregation	1
B. Death Row Work Capable	1
 I. DEATH ROW SEGREGATION	 1
A. Death Row Segregation	1
B. Orientation for Newly Received Death Row Offenders	2
C. Death Row Classification Committee (DRCC)	3
D. Review Procedures for Segregation Offenders	3
DRCC REVIEW CODES	4
E. Record Keeping	4
F. Confinement Procedures	4
G. Recreation Schedule	5
H. Visitation	6
I. Meals	6
J. Commissary	7
K. Property	7
L. Showering	8
M. Correspondence	9
N. In-Cell Programs	9
O. Management Procedures	9
P. Review Procedures for Work Capable Status	16
Q. Admission Summary	17
R. Appeal Process	17
 II. DEATH ROW WORK CAPABLE	 17
A. Death Row Classification Committee (DRCC)	17
B. Confinement Procedures	17
C. Recreation	17
D. Visitation	17
E. Meals: Work Capable Feeding Procedures	18
F. Commissary: Work Capable Offenders	18
G. Property	18
H. Showering	18
I. Correspondence	19
J. In-Cell Programs	19
K. Escort Procedures for Work Capable Offenders	19
L. Procedures for Removal from Work Capable Status	19
M. Access to General Library and Law Library	20
N. Appeal Process	20

DEATH ROW PLAN

The purpose of the *Death Row Plan* is to provide uniform rules and regulations in managing Death-Sentenced offenders.

DEFINITIONS

- A. Death Row Segregation - A death-sentenced offender not allowed to work. Death Row Segregation offenders may be assigned to Levels I, II, or III. Offenders assigned to Levels II or III require more intensive supervision due to poor institutional behavior.
- B. Death Row Work Capable - A death-sentenced offender assigned to and required to work at a meaningful prison job, if available.

I. DEATH ROW SEGREGATION

A. Death Row Segregation

A Death Row Segregation offender may be assigned to Level I, Level II, or Level III, based upon his behavior. The Death Row Classification Committee (DRCC) shall have the authority to change the level to which an offender is assigned.

- 1. Level I - Offenders assigned to Level I are generally maintaining good behavior but for one or more reasons are not eligible for Work Capable due to:
 - a. Escape, attempted escape, or possession of escape paraphernalia;
 - b. History of prior convictions involving assaultive behavior;
 - c. History of offender misconduct resulting in the application of serious institutional disciplinary procedures;
 - d. History of below average performance in work;
 - e. History of Security Threat Group (STG) affiliation or involvement;
 - f. History of medical or psychiatric conditions;
 - g. Presence within the unit of personal enemies;
 - h. History of serious destruction of State property;

- i. Incapable of working in available prison jobs;
 - j. Not psychologically cleared by unit Psychiatric Team; and
 - k. Refusal to participate during classification process.
 - 2. Level II - Offenders assigned to Level II may be chronic rule violators but do not show a recent (within the last three [3] months) history of in-prison assaultive or aggressive behavior. The offender may have been assigned to Level III but due to a positive change in behavior and attitude, the DRCC has reviewed his status and reclassified the offender to Level II. The offender may have been involved in an incident or has received a disciplinary case which warrants placement in a more restrictive level.
 - 3. Level III - Offenders assigned to Level III are chronic rule violators and are assaultive or aggressive in nature (i.e., history of institutional violence, offender assaults with weapons, history of weapons possession, assaults or attempted assault on offenders or staff, fighting with or without a weapon). The offender may be:
 - a. A current escape risk (escape or escape attempt was assaultive in nature or it was determined on the basis of the circumstances surrounding the escape or escape attempt that the offender had a high potential for assaultiveness);
 - b. A threat to the order and security of the institution as evidenced by repeated serious disciplinary violations (assaultive in nature); or
 - c. A threat to the physical safety of other offenders or staff due to assaultive behavior that includes assaultive offenders identified and confirmed as being members of an STG.
- B. Orientation for Newly Received Death Row Offenders - shall be conducted as outlined in the *Classification Plan*. They shall also receive the following:
- 1. *Disciplinary Rulebook*;
 - 2. *Orientation Handbook*;
 - 3. List of unit officials.

Death Row security staff shall also obtain the following information:

- 1. Full name;
- 2. Date received;
- 3. Death Row number;
- 4. County of conviction;

5. Date of birth;
6. Race;
7. Information on current offense (include information pertaining to drugs, alcohol, or sex if involved in offense);
8. Any prior TDCJ incarcerations and ID number;
9. Any prior TDCJ offenses (include information pertaining to drugs, alcohol, or sex if involved in offense);
10. Any other state or federal incarcerations and offenses;
11. Any escapes on record;
12. Any possible gang tattoos (contact the STG Intelligence Officer if tattoo is identified as gang-related).

C. Death Row Classification Committee (DRCC)

1. The Warden shall be responsible for appointing the members of the DRCC which shall be comprised of the following staff:
 - a. Warden or designee (Captain or above)
 - b. Lieutenant or above
 - c. Security Representative (Sergeant or Correctional Officers assigned to Death Row area)
 - d. Representative from the Health Services Division (medical or psychiatric) shall be used as members to the committee who would function in a consultative capacity for issues impacting the physical and mental well being of the offenders. (Voting member)
2. The Warden or designee shall be responsible for scheduling systematic reviews by the DRCC of offenders assigned to Death Row Segregation to include:
 - a. 30/90 day unit reviews for possible change in level designation.
 - b. Paper gown/paper mask restriction
 - c. Property restriction
 - d. Food loaf restriction
 - e. Single-man recreation/group - Offenders are ineligible for Work Capable status while on single-man recreation restriction.
 - f. Work Capable reviews

D. Review Procedures for Segregation Offenders

1. Newly received Death Row offenders should be reviewed by the DRCC within 48 hours of arrival for their initial leveling. New arrivals should generally be classified as Level I.
2. Level I - Offenders assigned to Level I shall be reviewed for Work Capable

status no less than six (6) months and not more than one (1) year after completing the initial intake process or no less than six (6) months and not more than one (1) year from their last Work Capable status review.

3. Level II - Offenders assigned to Level II shall be reviewed for a possible change in level status every ninety (90) days from their initial placement in Level II.
4. Level III - Offenders assigned to Level III shall be reviewed for possible change in level status every thirty (30) days from their initial placement in Level III.

The offender need not be present at the 30/90 day review hearings unless it is deemed appropriate by the DRCC. If the offender is on any type of restriction (i.e., property restriction, paper gown restriction, paper mask restriction, food loaf restriction, or single-man recreation) the DRCC shall also review the offender for continuation or removal of these restrictions. Offenders will be notified in writing of DRCC decisions by use of the I-204 (Management Level Review/Determination form). Offenders assigned to Level II or Level III will be ineligible for Work Capable status.

DRCC REVIEW CODES

- | | |
|----|--|
| 01 | Assignment to Unit |
| 09 | Death Row Review (Work Capable Status) |
| 10 | Death Row Custody Change/No Committee Action |
| 21 | 30-day Review |
| 23 | 90-day Review |
| 28 | Administrative Segregation Restriction |

E. Record Keeping

One (1) unit file shall be maintained on each Death Row offender to include Work Capable/Segregation records and all pertinent information. The Administrative Segregation Supervisor shall be responsible for ensuring that each file contains the following information:

1. I-203/I-204 forms
2. Disciplinary reports (major and minor)

F. Confinement Procedures

1. Offenders confined to Death Row Segregation shall be placed in segregation in accordance with prescribed confinement procedures relating to the level of segregation required. (Refer to Section I.A., 1 through 3).

The DRCC may also determine any special conditions or restrictions, which should be imposed on Death Row Segregation offenders for security purposes. These special conditions include:

- a. Level of segregation;
 - b. Recreation/exercise precautions (single/group);
 - c. Personal Property restrictions;
 - d. Known assault risks;
 - e. Known enemies (by name and TDCJ-ID number);
 - f. STG (gang) affiliations;
 - g. Restraint requirements (for movement);
 - h. Physical health conditions;
 - i. Mental health conditions;
 - j. Special diet requirements (medical and/or religious);
 - k. Medication requirements; and
 - l. Any other special circumstances related to the offender's segregation.
2. A Death Row Segregation offender shall be advised of the criteria for Work Capable status, which will be considered at subsequent review hearings. The

2. Level II - Offenders assigned to this level shall be allowed out-of-cell recreation four (4) days per week with one (1) hour out-of-cell physical recreation each of the four (4) days; one (1) hour of the weekly out-of-cell recreation shall be outdoors, weather permitting.
3. Level III - Offenders assigned to this level shall be allowed out-of-cell recreation three (3) days per week with one (1) hour out-of-cell physical recreation each of the three (3) days; one (1) hour of the weekly out-of-cell recreation shall be outdoors, weather permitting.

H. Visitation

1. Death Row Segregation offenders shall be allowed visitation privileges according to the level to which they have been assigned:

- a. Level I - one (1) general visit per week.
- b. Level II - two (2) general visits per month.
- c. Level III - one (1) general visit per month.

2. Visitation hours for segregation offenders shall be scheduled according to the *Offender Visitation Plan*. Ministerial/Spiritual Advisor and Execution visitation shall be scheduled as follows:

- a. Ministerial/Spiritual Advisor

Visits shall be conducted according to AD-07.30, "Procedures for Religious Programming" and SM-01.25, "Death Row Spiritual Advisor Visitation Guidelines." An offender may not receive a ministerial/spiritual advisor visit and a general visit with the same individual during the same week. Attorney and ministerial/spiritual advisor visits will not count against general visitation privileges.

- b. Execution Visitation

On the scheduled day of execution, an offender may receive visits from 8 a.m.-12 noon. Exceptions may be made to allow additional family members to visit prior to the offender's scheduled day of execution.

I. Meals

Death Row Segregation offenders shall have access to nutritionally adequate meals. Specific dietary requirements shall be met for those offenders whose medical or dental condition requires dietary management. The Death Row Segregation Supervisor and the Food Service Manager will need to coordinate the number and

type of food trays to be delivered to Death Row Segregation offenders. Offenders in Death Row Segregation shall receive the following type of food tray according to the level to which they have been assigned.

1. Level I - regular food tray with dessert
2. Level II - regular food tray, no dessert
3. Level III - regular food tray, no dessert

J. Commissary

Death Row Segregation offenders shall have access to commissary in accordance with the level to which they have been assigned:

1. Level I - same access to commissary as minimum custody general population offenders (\$75.00 every two [2] weeks) to include approved TDCJ electrical appliances (i.e., fan, typewriter, radio, and other similar items);
2. Level II - purchase of one (1) item each of personal hygiene items every two (2) weeks;
3. Level III - no commissary privileges allowed.

Specific limitations may be placed on an offender's property by the DRCC pursuant to Section I of this Plan. Commissary items may be delivered to Death Row Segregation offenders.

K. Property

Death Row Segregation offenders shall retain personal property allowed in accordance to the level to which they have been assigned. The DRCC may restrict property of Death Row Segregation offenders which present a danger to the security of staff, the offender or others or a danger of escape.

1. Death Row Segregation offenders in Level I, Level II, and Level III are allowed the following basic personal property items:
 - a. Legal materials/legal research materials (no metal fasteners/paper clips);
 - b. Approved religious book or articles necessary for the practice of the offender's religion that does not violate the security of the institution;
 - c. TDCJ approved publications in accordance with correspondence rules;
 - d. Photographs
 - e. Letters;
 - f. Correspondence supplies;

- g. "Keep-on-Person" medications per Health Service Policy;
 - h. Health care devices and supplies prescribed for the offender by Health Services;
 - i. One (1) small comb or brush;
 - j. One (1) bar of State-issued soap;
 - k. One (1) pair of shower slides;
 - l. One (1) pair of TDCJ-ID authorized or issued shoes (non-steel toe);
 - m. Two (2) sheets;
 - n. Blankets (per AD-09.26 "Allocation of Necessities");
 - o. One (1) cell towel;
 - p. One (1) roll of toilet tissue;
 - q. One (1) toothbrush;
 - r. One (1) tube of toothpaste/tooth powder;
 - s. Necessities - daily change of socks, underwear, and a change of State-issued clothes at least three (3) times per week to be furnished at shower time and exchanged on a one-for-one basis;
 - t. Personal jewelry items in accordance with AD-03.72, "Guidelines for TDCJ Offender Personal Property and Confiscation and Disposal of Contraband."
 - u. Gender-related items to include bras, panties, sanitary napkin belt, sanitary napkins, tampons, douche items; and
 - v. Small amount of cleaning supplies as the administration deems appropriate.
2. The following additional property is allowed according to the level to which a Death Row Segregation offender is assigned:
- a. Level I -
 - (1) Items purchased through the Commissary to include approved TDCJ-ID electrical appliances (fan, typewriter, and other similar items);
 - (2) General library books;
 - (3) In-cell arts and crafts (piddling) items in accordance with AD-14.59, "Offender Piddling and Crafts Sales."
 - b. Level II - approved personal hygiene items purchased through the Commissary.
 - c. Level III - no additional personal property items allowed.

L. Showering

Offenders in Death Row Segregation shall be provided the opportunity to take a shower seven (7) days per week. Death Row Segregation offenders shall be furnished and are expected to wear clean clothes as outlined in AD-09.26, "Allocation of Necessities." They must also adhere to grooming standards as outlined in AD-03.83, "TDCJ Offenders Who Refuse To Comply With Grooming

Standards.” Security staff shall issue the offender a disposable razor to be replaced every week and for female offenders to be replaced every month. Razors shall be issued to Level I and Level II offenders each week to be maintained in their personal property unless the Warden deems such possession to be a security risk. A razor shall be issued to a Level III offender after he enters the shower. The razor shall be returned to the security staff by the offender before he returns to his cell. Security staff shall store the razor in such a manner as to ensure each offender receives his own razor. Items allowed in an offender’s possession during showering are as follows:

1. Level I - soap, shampoo/conditioner, towel, shower slides, razor.
2. Level II – soap, shampoo/conditioner, towel, shower slides, razor.
3. Level III – State-issued soap, towel, shower slides. Female offenders may take undergarments and feminine hygiene products (as necessary) to the shower.

M. Correspondence

Death Row Segregation offenders shall be provided with writing instruments, stationery and postage either from their Inmate Trust Fund account or through the provisions for Indigent Supplies.

N. In-Cell Programs

Death Row Segregation offenders may have access to in-cell programs which are consistent with security requirements. These programs may be in the area of education as well as arts and crafts pursuant to AD-14.59 “Offender Piddling and Crafts Sales.” The Warden, Assistant Warden or designee may, on a case-by-case basis, suspend an in-cell program when an offender has abused that privilege. Offenders assigned to Level II or Level III are ineligible for In-Cell Programs.

O. Management Procedures

The following are guidelines related to the management of segregation areas. Each Warden is responsible for ensuring that these procedures are followed.

1. Death Row Segregation Housing Practices:
 - a. Each unit shall immediately develop and implement procedures to ensure that categories and levels of Death Row Segregation can be identified by the cell number or row of the segregation housing area. Offenders in Level I, Level II, and Level III should be housed in separate physical locations (e.g., different rows, or with partitions between the groups). If this separation of levels cannot be accomplished in this manner, every effort shall be made to maintain

an empty cell between the levels. It is recommended that whenever it is necessary to designate cells on a single row to house different levels of Death Row Segregations offenders (e.g., 10 cells for Level III and 15 cells for Level II with an empty cell between the groups), the first group of cells on the row should be designated for Level II offenders and the last group of cells should be designated for Level III offenders. The rows or group of cells designated for specific levels of Death Row Segregation offenders should remain constant to the extent possible (i.e. only under special circumstances such as lack of bed space for another level of Death Row Segregation shall the designation of rows or cells change in the Administration Segregation housing area).

- b. Offenders in Death Row Segregation shall be single-celled.
- c. Offenders in Death Row Segregation shall be assigned to housing areas that are specifically designated for their custody requirements. The housing recommendations of treatment professionals, as noted in each offender's Health Summary for Classification form, shall be followed by classification committees, classification and security staff.

2. Property Restriction:

Supervisors must notify the DRCC that an offender has been placed on property restriction by use of the I-203 (Placement on Restriction) form.

- a. An offender determined by the DRCC and documented by security in the form of a disciplinary report to have misused or destroyed property may lose the privilege or items as deemed appropriate by the DRCC. The type of items an offender may have restricted are, but not limited to, mattress, blankets, sheets, and lighting.
- b. The Death Row Segregation Supervisor shall have the authority to take the misused or destroyed property from the offender. The property may be retained for up to 24 hours without committee review. A DRCC will be scheduled within 24 hours for property review, if property is to be retained for more than 24 hours.
- c. The DRCC has the authority to have the property confiscated for 72 hours from the time it was originally taken and then the property must be returned to the offender unless there has been further misuse or destruction of property by the offender (does not include contraband items). If the offender continues to misuse or destroy property, the DRCC may restrict the loss of items for a period of up to 30 days.

The DRCC will review the continued loss of items at least every 30 days until the DRCC deems the restriction no longer appropriate.

- d. The exception to the above time frames occurs if the DRCC has restricted an offender's mattress, blanket, sheets or lighting. A restriction of these items shall require a review every 24 hours by the DRCC to determine the continuation or removal of the restriction. When considering the restriction of any of the above items, the DRCC will take into consideration health issues related to the removal of these items (i.e. offender's current health status, temperature and other environmental factors that could impact the offender's health).

3. Paper Gown Restriction:

Supervisors must notify the DRCC that an offender has been placed on Paper Gown Restriction by use of the I-203 (Placement on Restriction) form.

- a. When it has been determined that a Death Row Segregation offender has thrown substances or objects, has destroyed his State-issued clothing or has utilized his clothing as a weapon, he will be subject to disciplinary action in accordance with *TDCJ-ID Disciplinary Rules and Procedures for Offenders* and may be reviewed for placement on paper gown restriction.
- b. The Death Row Segregation Supervisor shall have the authority to place an offender on paper gown restriction. Placement of an offender on paper gown restriction shall be documented by the Death Row Segregation Supervisor with written notification to the DRCC. The DRCC shall review the placement of an offender on said restriction within 24-hours.
- c. The DRCC may continue the gown restriction for up to 72-hours and then the restriction will be automatically discontinued if the offender has not exhibited any of the behavior that originally caused him to be placed on paper gown restriction.
- d. If the offender continues to throw substances or objects, destroy his State-issued clothing or utilize his clothing as a weapon, the DRCC may, with proper documentation, continue the paper gown restriction with review every 72-hours until such behavior ceases or the DRCC deems the restriction no longer appropriate.

- e. When considering the continuation of the paper gown restriction, the DRCC will take into consideration health-related issues concerning the placement of an offender in a paper gown (i.e., offender's current health status, temperature and other environmental factors that would impact the offender's health).
- f. The offender shall be issued only one (1) clean paper gown daily. If the offender receives a visit during the time he is being required to wear a paper gown, he shall be issued a set of State-issued clothing to wear during the visit. The clothing shall be retrieved and the offender shall resume wearing the paper gown after the visit is completed.

4. Paper Mask Restriction:

Supervisors must notify the DRCC that an offender has been placed on Paper Mask Restriction by use of the I-203 (Placement on Restriction) form.

- a. Offenders assigned to Death Row Segregation who spit on staff or other offenders shall be subject to disciplinary action in accordance with *TDCJ Disciplinary Rules and Procedures for Offenders* and may be reviewed for placement on paper mask restriction.
- b. The Death Row Segregation Supervisor shall have the authority to place an offender on paper mask restriction with the review by the DRCC within 24-hours. The Death Row Segregation Supervisor shall be responsible for documenting and notifying the DRCC of any offender placed on paper mask restriction.
- b. The DRCC may continue the mask restriction for up to 72-hours and then the restriction shall be automatically discontinued if the offender has not exhibited any of the behavior that originally caused him to be placed on paper mask restriction.
- d. If the offender continues to spit on staff or other offenders, the DRCC may, with proper documentation, continue the paper mask restriction with review every 72-hours until such behavior ceases or the DRCC deems the restriction no longer appropriate.
- e. While on paper mask restriction, the offender shall be instructed by staff to place the mask on his face prior to being removed from the cell. If the offender refuses to place the mask on his face or destroys the mask, he shall not be removed from the cell (unless the offender

is being transferred to another unit, or under circumstances deemed absolutely necessary by the Death Row Segregation Supervisor) and shall be subject to disciplinary action. The offender may be instructed to place the paper mask on any time he is in direct contact with staff.

- f. The paper mask will be replaced on an "as needed" basis.
- g. If the offender receives a visit during the time he is being required to wear a paper mask, the mask shall be removed prior to entering the visitation area. Upon exiting the visitation area, the offender shall resume wearing the mask.

5. Food Loaf:

Supervisors must notify the DRCC that an offender has been placed on Food Loaf Restriction by use of the I-203 (Placement on Restriction) form.

- a. When it has been determined that a Death Row Segregation offender in Level I, II, or III has exhibited any of the following behavior, he shall be subject to disciplinary action in accordance with *TDCJ Disciplinary Rules and Procedures for Offenders* and may be reviewed for placement on the food loaf:
 - (1) Refusing to return a food tray, cup or utensils;
 - (2) Throwing food, food tray, cup, utensils or other substances including human waste;
 - (3) Refusing to return uneaten food; or
 - (4) Refusing to allow food tray slot closure; destroying or tampering with the food tray slot.
- b. If an offender engages in any of the behavior described above, the food loaf may be substituted for his regular meal for a period of seven (7) days. The highest-ranking supervisor on duty may place an offender on the food loaf pending review by the DRCC. The DRCC must review an offender's placement on the food loaf within 24-hours of the documented behavior. The food loaf restriction shall begin on the day the offender is served his first food loaf. The first day may include one (1), two (2) or three (3) meals. Regardless of the number of meals served, it will be counted as the first day. If all three (3) meals have already been served, the food loaf restriction should be documented to start the following day. The DRCC may continue the food loaf for up to seven (7) days and then the restriction shall be automatically discontinued if the offender has not exhibited any of the behavior that originally caused him to be placed on the food loaf.

If an offender continues to engage in any of the behaviors described above after being returned to regular meals, or at any time during the period that he is on the food loaf, he may be placed on the food loaf for an additional period not to exceed seven (7) days. The additional period is to be served after completion of the first seven (7) days and after the 24-hour break. An offender cannot receive a food loaf in lieu of regular meals for more than seven (7) consecutive days. If an offender is required to receive a food loaf for more than seven (7) consecutive days due to repeated offenses, the offender shall be placed on regular meals (3 full meals/no dessert) for a 24-hour break. If an offender engages in any of the behavior described above while on the 24-hour break, any remaining meals during the break may be sack meals. This 24-hour break shall not be counted as a day on the food loaf. The 24-hour break shall be documented on the I-203 (Placement on Restriction form). Food loaf restrictions are not to be stacked (i.e., at any given time an offender should have no more than one [1] additional seven [7] day period to serve).

- c. An offender with special dietary needs shall be provided a nutritionally adequate food loaf that will meet his dietary requirements.
- d. If an offender refuses to eat during the seven (7) days he is on food loaf restriction, the Death Row Segregation Supervisor shall notify Health Services that the offender is on a hunger strike so that the offender may be appropriately monitored during the period of fasting.
- e. The Death Row Segregation Supervisor will be responsible for notifying the Food Service Manager on a daily basis of the number of offenders on food loaf restriction.

6. Single-Man Recreation Restriction:

- a. Supervisors must notify the DRCC that an offender in Level I, II, or III has been placed on single-man recreation restriction by use of the I-203 (Placement on Restriction) form.
- b. The recommending official shall put the reasons for placement on the I-203 and request a review by the DRCC within 24-hours.
- c. The offender's single-man recreation status shall be reviewed every 90 days for possible removal. An offender may be reviewed earlier than 90 days for possible removal if deemed appropriate.