

**CERTIFICATION OF OFFICIAL TEXT
AND
LIST OF VALID PAGES**

Title 10A—Corrections

Supplement December 4, 2017

I, Laura Sanders, Acting Director and Chief Administrative Law Judge of the Office of Administrative Law, pursuant to the authority of N.J.S.A. 52:14B-7, do hereby supplement Title 10A, Corrections, of the New Jersey Administrative Code. The pages issued with this Supplement contain the text of all rule changes adopted and filed with the Office of Administrative Law and published in the New Jersey Register as of the date of this supplement.

The list of “Valid Title 10A Pages” following provides a means of determining whether this title contains the proper pages. Every page in Title 10A, along with the page’s current supplement date, is listed. A page is valid if the page number and supplement date on the list match the page number and “Supp.” date at the bottom of the appropriate page.

VALID TITLE 10A PAGES
(Current through December 4, 2017)

Page Number	Supp. Date	Page Number	Supp. Date	Page Number	Supp. Date
i	1-3-17	3-2	12-7-15	4-19	1-3-17
ii	1-3-17	3-2.1	11-7-11	4-20	1-3-17
iii	6-3-13	BLANK	11-7-11	4-21	1-3-17
iv	6-3-13	3-3	1-3-17	4-22	1-3-17
v	12-7-15	3-4	1-3-17	4-23	1-3-17
vi	12-7-15	3-5	3-16-15	4-24	1-3-17
vii	12-4-17	3-6	3-16-15	4-25	1-3-17
viii	12-4-17	3-7	8-21-17	4-26	1-3-17
ix	12-4-17	3-8	8-21-17	4-27	1-3-17
x	12-4-17	3-9	3-16-15	4-28	1-3-17
xi	12-4-17	3-10	3-16-15	4-29	1-3-17
BLANK	12-4-17	3-11	3-16-15	4-30	1-3-17
Chapter 1		3-12	3-16-15	4-31	1-3-17
1-1	1-3-17	3-13	3-16-15	4-32	1-3-17
1-2	1-3-17	3-14	3-16-15	Chapter 5	
1-3	1-3-17	3-15	3-20-17	5-1	1-3-17
1-4	1-3-17	3-16	3-20-17	5-2	1-3-17
1-5	3-20-17	3-16.1	3-20-17	5-3	1-3-17
1-6	3-20-17	BLANK	3-20-17	5-4	1-3-17
1-7	3-20-17	3-17	3-16-15	5-5	1-3-17
1-8	3-20-17	3-18	3-16-15	5-6	1-3-17
1-9	1-3-17	3-19	3-16-15	5-7	10-5-15
1-10	1-3-17	3-20	3-16-15	5-8	10-5-15
1-11	1-3-17	3-21	9-17-07	5-9	10-5-15
1-12	1-3-17	3-22	9-17-07	5-10	10-5-15
1-12.1	3-20-17	3-23	12-7-15	5-11	10-5-15
1-12.2	3-20-17	3-24	12-7-15	5-12	10-5-15
1-12.3	1-3-17	3-24.1	12-7-15	5-13	1-3-17
BLANK	1-3-17	BLANK	12-7-15	5-14	1-3-17
1-13	12-7-15	3-25	12-6-10	5-14.1	1-3-17
1-14	12-7-15	3-26	12-6-10	BLANK	1-3-17
1-15	12-7-15	3-27	12-6-10	5-15	10-5-15
1-16	12-7-15	3-28	12-6-10	5-16	10-5-15
1-17	12-7-15	3-28.1	1-7-08	5-17	10-5-15
1-18	12-7-15	BLANK	1-7-08	5-18	10-5-15
1-19	12-7-15	3-29	9-17-07	5-19	10-5-15
1-20	12-7-15	3-30	9-17-07	5-20	10-5-15
1-21	12-7-15	3-31	11-7-11	5-21	10-5-15
1-22	12-7-15	3-32	11-7-11	5-22	10-5-15
1-23	12-7-15	Chapter 4		5-23	1-3-17
1-24	12-7-15	4-1	1-3-17	BLANK	1-3-17
Chapter 2		4-2	1-3-17	Chapter 6	
2-1	6-20-11	4-3	1-3-17	6-1	10-3-11
2-2	6-20-11	4-4	1-3-17	6-2	10-3-11
2-3	5-16-11	4-5	1-3-17	6-3	1-20-15
2-4	5-16-11	4-6	1-3-17	6-4	1-20-15
2-4.1	5-16-11	4-7	1-3-17	6-5	10-3-11
BLANK	5-16-11	4-8	1-3-17	6-6	10-3-11
2-5	9-15-08	4-9	1-3-17	6-7	10-3-11
2-6	9-15-08	4-10	1-3-17	6-8	10-3-11
2-6.1	9-15-08	4-11	1-3-17	6-9	10-3-11
BLANK	9-15-08	4-12	1-3-17	BLANK	10-3-11
2-7	3-20-06	4-13	1-3-17	Chapter 7	
2-8	3-20-06	4-14	1-3-17	7-1	5-15-95
2-9	3-20-06	4-15	1-3-17	BLANK	5-15-95
BLANK	3-20-06	4-16	1-3-17	Chapter 8	
Chapter 3		4-17	1-3-17	8-1	7-21-14
3-1	12-7-15	4-18	1-3-17	8-2	7-21-14

Page Number	Supp. Date	Page Number	Supp. Date	Page Number	Supp. Date
8-3	6-6-11	10-13	1-3-11	16-29	8-21-17
8-4	6-6-11	10-14	1-3-11	16-30	8-21-17
Chapter 9		10-15	7-2-07	16-31	8-21-17
9-1	1-3-17	10-16	7-2-07	16-32	8-21-17
9-2	1-3-17	10-17	9-6-05	Chapter 17	
9-3	5-18-15	BLANK	9-6-05	17-1	7-18-16
9-4	5-18-15	Chapter 11		17-2	7-18-16
9-5	5-18-15	11-1	5-15-95	17-3	7-18-16
9-6	5-18-15	BLANK	5-15-95	17-4	7-18-16
9-7	5-18-15	Chapter 12		17-5	7-18-16
9-8	5-18-15	12-1	4-17-17	17-6	7-18-16
9-9	5-18-15	12-2	4-17-17	17-7	7-18-16
9-10	5-18-15	12-3	4-17-17	17-8	7-18-16
9-11	5-18-15	12-4	4-17-17	17-9	7-18-16
9-12	5-18-15	12-5	4-17-17	17-10	7-18-16
9-13	1-3-17	BLANK	4-17-17	17-11	7-18-16
9-14	1-3-17	Chapter 13		17-12	7-18-16
9-15	1-3-17	13-1	10-5-15	17-13	7-18-16
9-16	1-3-17	13-2	10-5-15	17-14	7-18-16
9-17	1-3-17	13-3	2-1-10	17-15	7-18-16
9-18	1-3-17	13-4	2-1-10	17-16	7-18-16
9-18.1	1-3-17	13-5	2-1-10	17-17	7-18-16
BLANK	1-3-17	BLANK	2-1-10	17-18	7-18-16
9-19	5-18-15	Chapter 14		17-19	7-18-16
9-20	5-18-15	14-1	1-3-17	17-20	7-18-16
9-21	5-18-15	14-2	1-3-17	17-21	7-18-16
9-22	5-18-15	14-3	1-3-17	17-22	7-18-16
9-23	5-18-15	14-4	1-3-17	17-23	7-18-16
9-24	5-18-15	14-5	10-6-14	17-24	7-18-16
9-25	5-18-15	14-6	10-6-14	17-25	7-18-16
9-26	5-18-15	14-7	10-6-14	BLANK	7-18-16
9-27	5-18-15	14-8	10-6-14	Chapter 18	
9-28	5-18-15	Chapter 15		18-1	1-3-17
9-29	5-18-15	15-1	7-3-17	18-2	1-3-17
9-30	5-18-15	15-2	7-3-17	18-3	6-2-08
9-31	1-3-17	15-3	7-3-17	18-4	6-2-08
9-32	1-3-17	BLANK	7-3-17	18-5	12-7-15
9-33	1-3-17	Chapter 16		18-6	12-7-15
9-34	1-3-17	16-1	8-21-17	18-7	12-7-15
9-35	5-18-15	16-2	8-21-17	18-8	12-7-15
9-36	5-18-15	16-3	8-21-17	18-8.1	12-7-15
9-37	5-18-15	16-4	8-21-17	BLANK	12-7-15
9-38	5-18-15	16-5	8-21-17	18-9	1-3-17
9-39	5-18-15	16-6	8-21-17	18-10	1-3-17
9-40	5-18-15	16-7	8-21-17	18-11	6-2-08
9-41	5-18-15	16-8	8-21-17	18-12	6-2-08
9-42	5-18-15	16-9	8-21-17	18-13	1-3-17
9-43	5-18-15	16-10	8-21-17	18-14	1-3-17
BLANK	5-18-15	16-11	8-21-17	18-15	6-2-08
Chapter 10		16-12	8-21-17	18-16	6-2-08
10-1	12-7-15	16-13	8-21-17	18-17	1-3-17
10-2	12-7-15	16-14	8-21-17	18-18	1-3-17
10-3	3-2-09	16-15	8-21-17	18-19	1-3-17
10-4	3-2-09	16-16	8-21-17	18-20	1-3-17
10-4.1	6-16-08	16-17	8-21-17	18-21	1-3-17
BLANK	6-16-08	16-18	8-21-17	18-22	1-3-17
10-5	12-7-15	16-19	8-21-17	18-23	7-6-09
10-6	12-7-15	16-20	8-21-17	18-24	7-6-09
10-7	12-7-15	16-21	8-21-17	18-25	12-7-15
10-8	12-7-15	16-22	8-21-17	18-26	12-7-15
10-9	12-7-15	16-23	8-21-17	18-26.1	12-7-15
10-10	12-7-15	16-24	8-21-17	BLANK	12-7-15
10-10.1	12-7-15	16-25	8-21-17	18-27	6-2-08
BLANK	12-7-15	16-26	8-21-17	18-28	6-2-08
10-11	9-6-05	16-27	8-21-17	18-28.1	2-21-12
10-12	9-6-05	16-28	8-21-17	18-28.2	2-21-12

Page Number	Supp. Date	Page Number	Supp. Date	Page Number	Supp. Date
18-29	12-16-02	Chapter 31		31-56	2-22-11
18-30	12-16-02	31-1	12-4-17	31-57	2-22-11
Chapter 19		31-2	12-4-17	31-58	2-22-11
19-1	5-18-15	31-3	12-4-17	31-59	2-22-11
19-2	5-18-15	31-4	12-4-17	31-60	2-22-11
19-3	2-19-13	31-5	12-4-17	31-61	2-22-11
19-4	2-19-13	31-6	12-4-17	31-62	2-22-11
19-5	7-7-08	31-7	12-4-17	31-63	2-22-11
BLANK	7-7-08	31-8	12-4-17	31-64	2-22-11
Chapter 20		31-8.1	12-4-17	31-65	2-22-11
20-1	1-4-16	31-8.2	12-4-17	BLANK	2-22-11
20-2	1-4-16	31-8.3	2-22-11	Chapter 32	
20-3	1-4-16	31-8.4	2-22-11	32-1	3-18-96
20-4	1-4-16	31-8.5	2-22-11	BLANK	3-18-96
20-5	1-4-16	BLANK	2-22-11	Chapter 33	
20-6	1-4-16	31-9	8-7-00	33-1	5-15-95
20-7	1-4-16	31-10	8-7-00	BLANK	5-15-95
20-8	1-4-16	31-11	12-4-17	Chapter 34	
20-9	1-4-16	31-12	12-4-17	34-1	1-20-15
20-10	1-4-16	31-13	12-4-17	34-2	1-20-15
20-10.1	1-4-16	31-14	12-4-17	34-3	12-19-16
BLANK	1-4-16	31-15	12-4-17	34-4	12-19-16
20-11	9-2-08	31-16	12-4-17	34.4.1	12-19-16
20-12	9-2-08	31-17	12-4-17	BLANK	12-19-16
20-13	9-2-08	31-18	12-4-17	34-5	1-20-15
20-14	9-2-08	31-19	12-4-17	34-6	1-20-15
20-15	1-4-16	31-20	12-4-17	34-7	1-20-15
20-16	1-4-16	31-21	12-4-17	34-8	1-20-15
Chapter 21		31-22	12-4-17	34-9	5-2-16
21-1	10-17-11	31-23	12-4-17	34-10	5-2-16
21-2	10-17-11	31-24	12-4-17	34-11	1-20-15
21-3	10-17-11	31-25	12-4-17	34-12	1-20-15
21-4	10-17-11	31-26	12-4-17	34-13	1-20-15
21-5	10-17-11	31-27	12-4-17	34-14	1-20-15
21-6	10-17-11	31-28	12-4-17	34-15	1-20-15
21-7	10-17-11	31-29	12-4-17	34-16	1-20-15
BLANK	10-17-11	31-30	12-4-17	Chapter 35	
Chapter 22		31-31	12-4-17	35-1	1-5-15
22-1	12-19-16	31-32	12-4-17	35-2	1-5-15
22-2	12-19-16	31-33	12-4-17	35-3	1-5-15
22-3	12-19-16	31-34	12-4-17	35-4	1-5-15
22-4	12-19-16	31-35	12-4-17	35-5	1-5-15
22-5	12-19-16	31-36	12-4-17	35-6	1-5-15
22-6	12-19-16	31-37	12-4-17	35-7	1-5-15
Chapter 23		31-38	12-4-17	BLANK	1-5-15
23-1	3-19-07	31-39	12-4-17	Chapters 36 through 69	
BLANK	3-19-07	31-40	12-4-17	36-1	5-15-95
Chapter 24		31-41	12-4-17	BLANK	5-15-95
24-1	2-17-15	31-42	12-4-17	Chapter 70	
24-2	2-17-15	31-43	12-4-17	70-1	2-5-07
24-3	2-17-15	31-44	12-4-17	BLANK	2-5-07
24-4	2-17-15	31-45	12-4-17	Chapter 71	
24-5	2-17-15	31-46	12-4-17	71-1	10-16-17
24-6	2-17-15	31-47	12-4-17	71-2	10-16-17
24-7	2-17-15	31-48	12-4-17	71-3	12-6-10
24-8	2-17-15	31-49	12-4-17	71-4	12-6-10
Chapter 25		31-50	12-4-17	71-5	12-6-10
25-1	4-1-02	31-51	12-4-17	71-6	12-6-10
BLANK	4-1-02	31-52	12-4-17	71-7	2-6-12
Chapter 26		31-53	12-4-17	71-8	2-6-12
26-1	6-3-02	31-54	12-4-17	71-9	10-16-17
BLANK	6-3-02	31-54.1	12-4-17	71-10	10-16-17
Chapters 27 through 30		31-54.2	12-4-17	71-10.0.1	10-16-17
27-1	5-15-95	31-54.3	12-4-17	BLANK	10-16-17
BLANK	5-15-95	31-54.4	12-4-17	71-10.1	12-5-16
		31-55	2-22-11	71-10.2	12-5-16

Page Number	Supp. Date	Page Number	Supp. Date	Page Number	Supp. Date
71-11	12-6-10	71-53	12-5-16	72-8.2	12-5-16
71-12	12-6-10	71-54	12-5-16	72-9	12-5-11
71-12.1	12-6-10	71-55	12-5-16	72-10	12-5-11
71-12.2	12-6-10	71-56	12-5-16	72-11	12-5-11
71-12.3	9-2-14	71-57	12-5-16	72-12	12-5-11
71-12.4	9-2-14	71-58	12-5-16	72-13	12-5-11
71-12.5	12-6-10	71-59	12-5-16	72-14	12-5-11
BLANK	12-6-10	71-60	12-5-16	72-15	1-6-14
71-13	12-18-95	71-61	12-5-16	72-16	1-6-14
71-14	12-18-95	71-62	12-5-16	72-17	12-5-11
71-15	1-6-14	71-63	12-5-16	72-18	12-5-11
71-16	1-6-14	71-64	12-5-16	72-19	2-6-12
71-16.1	1-6-14	71-65	10-16-17	72-20	2-6-12
BLANK	1-6-14	71-66	10-16-17	72-21	12-5-16
71-17	2-6-12	71-67	10-16-17	72-22	12-5-16
71-18	2-6-12	71-68	10-16-17	72-23	12-5-16
71-19	2-6-12	71-69	10-16-17	72-24	12-5-16
71-20	2-6-12	71-70	10-16-17	72-24.1	12-5-16
71-20.1	2-6-12	71-70.1	10-16-17	BLANK	12-5-16
71-20.2	2-6-12	BLANK	10-16-17	72-25	12-17-12
71-20.3	2-6-12	71-71	12-5-16	72-26	12-17-12
71-20.4	2-6-12	71-72	12-5-16	72-27	1-6-14
71-20.5	2-6-12	71-73	12-5-16	72-28	1-6-14
BLANK	2-6-12	71-74	12-5-16	72-29	1-6-14
71-21	12-6-10	71-75	12-5-16	72-30	1-6-14
71-22	12-6-10	71-76	12-5-16	72-31	1-6-14
71-23	6-16-08	71-77	12-5-16	BLANK	1-6-14
71-24	6-16-08	71-78	12-5-16	Index	
71-25	1-6-14	71-79	12-5-16	I-1	12-4-17
71-26	1-6-14	71-80	12-5-16	I-2	12-4-17
71-27	1-6-14	71-81	10-16-17	I-3	12-4-17
BLANK	1-6-14	71-82	10-16-17	I-4	12-4-17
71-29	2-6-12	71-83	12-5-16	I-5	12-4-17
71-30	2-6-12	71-84	12-5-16	I-6	12-4-17
71-31	2-6-12	71-85	12-5-16	I-7	12-4-17
71-32	2-6-12	71-86	12-5-16	I-8	12-4-17
71-33	2-6-12	71-87	12-5-16	I-9	12-4-17
71-34	2-6-12	71-88	12-5-16	I-10	12-4-17
71-35	2-6-12	71-89	10-16-17	I-11	12-4-17
71-36	2-6-12	71-90	10-16-17	BLANK	12-4-17
71-37	2-6-12	71-91	12-5-16	Definitions	
71-38	2-6-12	71-92	12-5-16	D-1	12-4-17
71-39	2-6-12	71-93	12-5-16	D-2	12-4-17
71-40	2-6-12	71-94	12-5-16	D-3	12-4-17
71-41	2-6-12	71-95	12-5-16	D-4	12-4-17
71-42	2-6-12	BLANK	12-5-16	D-5	12-4-17
71-43	2-6-12	Chapter 72		D-6	12-4-17
71-44	2-6-12	72-1	12-5-16	D-7	12-4-17
71-45	12-5-16	72-2	12-5-16	D-8	12-4-17
71-46	12-5-16	72-3	12-5-16	Tables	
71-47	12-5-16	72-4	12-5-16	T1-1	8-21-17
71-48	12-5-16	72-5	12-5-16	BLANK	8-21-17
71-49	12-5-16	72-6	12-5-16	T2-1	8-21-17
71-50	12-5-16	72-7	12-5-16	BLANK	8-21-17
71-51	10-16-17	72-8	12-5-16		
71-52	10-16-17	72-8.1	12-5-16		

CHAPTER 31

ADULT COUNTY CORRECTIONAL FACILITIES

Authority

N.J.S.A. 2C:1-1 et seq., 10:5-3, 30:1B-6, 30:1B-10, and 30:4-15.1.

Source and Effective Date

R.2017 d.228, effective November 8, 2017.
See: 49 N.J.R. 2450(a), 49 N.J.R. 3751(a).

Chapter Expiration Date

Chapter 31, Adult County Correctional Facilities, expires on November 8, 2024.

Chapter Historical Note

Rules on County Correctional Facilities were originally codified as N.J.A.C. 10:34, effective October 15, 1975 as R.1975 d.300. See: 7 N.J.R. 506(c). The chapter was repealed by R.1986 d.182, effective May 19, 1986. See: 17 N.J.R. 2525(a), 18 N.J.R. 1103(a).

Chapter 31, Adult County Correctional Facilities, was adopted as R.1979 d.438, effective November 1, 1979. See: 11 N.J.R. 284(a), 11 N.J.R. 627(e).

Subchapter 4, Remission of Time from Sentence, was adopted as emergency new rules by R.1981 d.270, effective June 23 1981. See: 13 N.J.R. 467(a). The provisions of R.1981 d.270 were readopted as R.1981 d.358, effective August 21, 1981. See: 13 N.J.R. 434(b), 13 N.J.R. 596(a).

Subchapter 5, Enforcement Procedures, was adopted as R.1982 d.149, effective May 17, 1982. See: 14 N.J.R. 227(a), 14 N.J.R. 474(a).

Pursuant to Executive Order No. 66(1978), Chapter 31, Adult County Correctional Facilities, expired on November 1, 1984.

Chapter 31, Adult County Correctional Facilities, was adopted as new rules by R.1985 d.17, effective February 4, 1985. See: 16 N.J.R. 3284(a), 17 N.J.R. 312(a).

Subchapter 6, Work Release Program, was adopted as R.1986 d.261, effective July 7, 1986. See: 18 N.J.R. 604(a), 18 N.J.R. 1386(a).

Chapter 31, Adult County Correctional Facilities, was repealed and Chapter 31, Adult County Correctional Facilities, was adopted as new rules by R.1990 d.140, effective March 5, 1990. See: 21 N.J.R. 2853(a), 22 N.J.R. 801(a). Pursuant to Executive Order 66(1978), Chapter 31 expired on March 5, 1995.

Chapter 31, Adult County Correctional Facilities, was adopted as new rules by R.1995 d.421, effective August 7, 1995. See: 27 N.J.R. 1728(a), 27 N.J.R. 2928(a).

Subchapter 29, Fiscal Management, was adopted as R.1999 d.132, effective April 19, 1999. See: 31 N.J.R. 250(a), 31 N.J.R. 1067(a).

Pursuant to Executive Order No. 66(1978), Chapter 31, Adult County Correctional Facilities, was readopted as R.2000 d.332, effective July 19, 2000. See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Chapter 31, Adult County Correctional Facilities, was readopted as R.2006 d.59, effective January 9, 2006. As a part of R.2006 d.59, Subchapter 1, Introduction, was renamed General Provisions, Subchapter 6, Management Information System and Inmate Records, was renamed Management Information System and Government Record; Subchapter 25, Work Release Program, was renamed Work and Vocational Training Release Program; and Subchapter 30, Interjurisdictional Agreements and Statutes, was adopted as new rules; by R.2006 d.59, effective February 6, 2006. See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

Subchapter 6, Management Information System and Government Records, was renamed Management Information System and Records by R.2007 d.64, effective February 20, 2007. See: 38 N.J.R. 4622(b), 39 N.J.R. 652(b).

Chapter 31, Adult County Correctional Facilities, was readopted as R.2011 d.059, effective January 21, 2011. See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 31, Adult County Correctional Facilities, was scheduled to expire on January 21, 2018. See: 43 N.J.R. 1203(a).

Chapter 31, Adult County Correctional Facilities, was readopted as R.2017 d.228, effective November 8, 2017. As a part of R.2017 d.228, Subchapter 13, Medical, Dental and Health Services, was renamed Medical, Dental, and Health Services, and Subchapter 21, Admission, Search, Orientation, Property Control and Release, was renamed Admission, Search, Orientation, Property Control, and Release, effective December 4, 2017. See: Source and Effective Date. See, also, section annotations.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

- 10A:31-1.1 Purpose
- 10A:31-1.2 Scope
- 10A:31-1.3 Definitions
- 10A:31-1.4 Forms
- 10A:31-1.5 Rulemaking and exemption authority
- 10A:31-1.6 Rule exemption effective; extension and expiration dates
- 10A:31-1.7 Procedure for requesting a rule exemption
- 10A:31-1.8 (Reserved)
- 10A:31-1.9 Written policies and internal management procedures

SUBCHAPTER 2. ENFORCEMENT PROCEDURES

- 10A:31-2.1 Authority of the Commissioner, New Jersey Department of Corrections
- 10A:31-2.2 Physical inspection and/or program evaluation
- 10A:31-2.3 Re-inspection
- 10A:31-2.4 Extension of time to correct violations
- 10A:31-2.5 Enforcement action

SUBCHAPTER 3. PLANNING AND DESIGN

- 10A:31-3.1 Notification
- 10A:31-3.2 Submission of plans and specifications
- 10A:31-3.3 Construction principles
- 10A:31-3.4 General conditions
- 10A:31-3.5 Reception and booking area; holding room
- 10A:31-3.6 Minimum requirements for housing units and day-room areas
- 10A:31-3.7 Showers, drinking fountains, shutoff valves and drains
- 10A:31-3.8 Exercise areas
- 10A:31-3.9 Correctional program space
- 10A:31-3.10 Health care facilities and equipment
- 10A:31-3.11 Space for hair cutting
- 10A:31-3.12 Inmate commissary
- 10A:31-3.13 Dining areas
- 10A:31-3.14 Visiting and interview areas
- 10A:31-3.15 Janitor closet
- 10A:31-3.16 Administrative and staff areas
- 10A:31-3.17 Security perimeter
- 10A:31-3.18 Arsenal
- 10A:31-3.19 Building and fire codes
- 10A:31-3.20 Monitoring system
- 10A:31-3.21 Emergency power
- 10A:31-3.22 Plumbing and mechanical space

SUBCHAPTER 4. PERSONNEL

- 10A:31-4.1 Personnel manual
- 10A:31-4.2 Policy and procedure manual
- 10A:31-4.3 Affirmative Action Program
- 10A:31-4.4 Employee records
- 10A:31-4.5 Employee performance evaluation

SUBCHAPTER 5. TRAINING AND STAFF DEVELOPMENT

- 10A:31-5.1 Training and Staff Development Program
- 10A:31-5.2 Training officer
- 10A:31-5.3 Orientation and training for employees

SUBCHAPTER 6. MANAGEMENT INFORMATION SYSTEM AND RECORDS

- 10A:31-6.1 Inmate population accounting system
- 10A:31-6.2 Intake form
- 10A:31-6.3 Inmate population movement
- 10A:31-6.4 Inmate records
- 10A:31-6.5 Information pertaining to a victim(s)
- 10A:31-6.6 Access to records
- 10A:31-6.7 Identity theft prevention and reporting
- 10A:31-6.8 Availability of information to non-institutional persons or outside agencies
- 10A:31-6.9 Availability of information to adult county correctional facility personnel
- 10A:31-6.10 Records designated confidential
- 10A:31-6.11 through 10A:31-6.12 (Reserved)
- 10A:31-6.13 Reimbursement for costs of copying
- 10A:31-6.14 Security of Management Information System and inmate records

SUBCHAPTER 7. EMERGENCIES

- 10A:31-7.1 Meeting emergencies
- 10A:31-7.2 Passive resistance
- 10A:31-7.3 Work stoppage
- 10A:31-7.4 Escapes
- 10A:31-7.5 Riots
- 10A:31-7.6 Natural disasters

SUBCHAPTER 8. SECURITY AND CONTROL

- 10A:31-8.1 Search of inmates and facilities
- 10A:31-8.2 Search of inmates
- 10A:31-8.2A Pat search
- 10A:31-8.3 Use of body imaging scanning equipment
- 10A:31-8.4 Strip search of a person(s) who has been detained or arrested for commission of an offense other than a crime
- 10A:31-8.5 Strip searches of a person(s) who is lawfully confined for commission of a crime
- 10A:31-8.6 Body cavity searches of a person(s) who has been detained or arrested for commission of an offense other than a crime
- 10A:31-8.7 Body cavity searches of an inmate(s) lawfully confined for the commission of a crime
- 10A:31-8.8 Search of facilities
- 10A:31-8.9 Center Control
- 10A:31-8.10 Counts
- 10A:31-8.11 Inmate movements
- 10A:31-8.12 Custody staff posts
- 10A:31-8.13 Electronic surveillance
- 10A:31-8.14 Transportation of inmates
- 10A:31-8.15 Staffing plan
- 10A:31-8.16 Reports and meetings
- 10A:31-8.17 Use of force
- 10A:31-8.18 Use of non-deadly force; when justified
- 10A:31-8.19 Deadly force; when justified and when restricted
- 10A:31-8.20 Use of force against persons other than inmates during duties outside the adult county correctional facility security perimeter
- 10A:31-8.21 Use of force while off-duty
- 10A:31-8.22 Reports
- 10A:31-8.23 Training
- 10A:31-8.24 Custody staff authorized to carry firearms while on-duty
- 10A:31-8.25 On-duty firearms training, qualification and requalification
- 10A:31-8.26 On-duty firearm
- 10A:31-8.27 Firearms training instructors
- 10A:31-8.28 (Reserved)

SUBCHAPTER 9. USE AND CONTROL OF SECURITY EQUIPMENT

- 10A:31-9.1 Determining equipment needs
- 10A:31-9.2 Control of equipment
- 10A:31-9.3 Use of restraining equipment
- 10A:31-9.4 Key control
- 10A:31-9.5 Use and storage of chemical and natural agents
- 10A:31-9.6 Storage of weapons

SUBCHAPTER 10. FOOD SERVICE

- 10A:31-10.1 Nationally recommended dietary allowance
- 10A:31-10.2 Food service management
- 10A:31-10.3 Menus
- 10A:31-10.4 Special diets or alternate foods
- 10A:31-10.5 Serving of meals
- 10A:31-10.6 Prohibited use of food for discipline
- 10A:31-10.7 Medical examination of food service personnel
- 10A:31-10.8 Personal hygiene of food service personnel
- 10A:31-10.9 Inspection of food service areas and equipment
- 10A:31-10.10 Storage areas
- 10A:31-10.11 Security in the food service area
- 10A:31-10.12 Budgeting, purchasing and accounting procedures
- 10A:31-10.13 (Reserved)

SUBCHAPTER 11. SANITATION

- 10A:31-11.1 Federal, State and local codes
- 10A:31-11.2 Housekeeping plan
- 10A:31-11.3 Sanitation inspections
- 10A:31-11.4 Floors
- 10A:31-11.5 Control of vermin and pests
- 10A:31-11.6 Disposal of liquid and solid wastes

SUBCHAPTER 12. INMATE CLOTHING AND HYGIENIC LIVING CONDITIONS

- 10A:31-12.1 Clothing
- 10A:31-12.2 Towels, linen, and bedding
- 10A:31-12.3 Laundry services
- 10A:31-12.4 Issue of clothing, linen and bedding
- 10A:31-12.5 Cleaning of mattresses
- 10A:31-12.6 Storage of inmate personal clothing
- 10A:31-12.7 Personal hygiene products
- 10A:31-12.8 Shower and hair care services
- 10A:31-12.9 (Reserved)

SUBCHAPTER 13. MEDICAL, DENTAL, AND HEALTH SERVICES

- 10A:31-13.1 Essential medical, dental and health services
- 10A:31-13.2 Responsibility for adult county correctional facility's medical services
- 10A:31-13.3 Security regulations
- 10A:31-13.4 Standard operating procedures
- 10A:31-13.5 Licensure
- 10A:31-13.6 Job descriptions
- 10A:31-13.7 Treatment
- 10A:31-13.8 First aid kits
- 10A:31-13.9 Medical screening
- 10A:31-13.10 Care of pregnant inmates
- 10A:31-13.11 Access to medical and dental services
- 10A:31-13.12 Inmate medical complaints
- 10A:31-13.13 Sick call
- 10A:31-13.14 Physician availability
- 10A:31-13.15 Emergency medical and dental care
- 10A:31-13.16 Chronic and convalescent care
- 10A:31-13.17 Medical and dental prosthetics
- 10A:31-13.18 Dental care
- 10A:31-13.19 Classification and Priority Treatment Program
- 10A:31-13.20 Preventive dentistry
- 10A:31-13.21 Refusal of treatment
- 10A:31-13.22 Mentally ill and developmentally disabled inmates
- 10A:31-13.23 Close medical supervision program
- 10A:31-13.24 Suicide prevention and intervention plan
- 10A:31-13.25 Special diets

ADULT COUNTY CORRECTIONAL FACILITIES

- 10A:31-13.26 Detoxification
- 10A:31-13.27 Pharmaceutical management
- 10A:31-13.28 Medical records
- 10A:31-13.29 Informed consent for treatment
- 10A:31-13.30 Quarterly and annual report
- 10A:31-13.31 Responsibility of adult county correctional facility to notify the Department of Corrections of a death in custody

SUBCHAPTER 14. MISCELLANEOUS INMATE RIGHTS

- 10A:31-14.1 Presumption of innocence
- 10A:31-14.2 Protection from abuse
- 10A:31-14.3 Prohibition against discrimination
- 10A:31-14.4 Inmate grievance procedure
- 10A:31-14.5 Opportunity to practice religion
- 10A:31-14.6 Access to representatives of the media

SUBCHAPTER 15. ACCESS TO THE COURTS

- 10A:31-15.1 Inmate access to courts
- 10A:31-15.2 Inmate Law Library
- 10A:31-15.3 Access to supplies and services
- 10A:31-15.4 Attorneys and court related personal visits
- 10A:31-15.5 Legal telephone calls

SUBCHAPTER 16. DISCIPLINARY PROCEDURES

- 10A:31-16.1 Disciplinary rules and sanctions
- 10A:31-16.2 Disciplinary rule book
- 10A:31-16.3 Disciplinary report
- 10A:31-16.4 Inmate Law Library violation and sanctions
- 10A:31-16.5 Minor violations and sanctions
- 10A:31-16.6 Major violations and sanctions
- 10A:31-16.7 Notification of inmate
- 10A:31-16.8 Use immunity
- 10A:31-16.9 Investigation
- 10A:31-16.10 Prehearing Detention
- 10A:31-16.11 Disciplinary Board/hearing officer
- 10A:31-16.12 Disciplinary hearing
- 10A:31-16.13 Referral to the prosecutor
- 10A:31-16.14 Decision of the Disciplinary Board
- 10A:31-16.15 Appeal of disciplinary decisions
- 10A:31-16.16 Expungement

SUBCHAPTER 17. DISCIPLINARY DETENTION

- 10A:31-17.1 Placement in Disciplinary Detention
- 10A:31-17.2 Time spent in Disciplinary Detention
- 10A:31-17.3 Disciplinary problems while in Disciplinary Detention
- 10A:31-17.4 Security checks
- 10A:31-17.5 Records in Disciplinary Detention
- 10A:31-17.6 Security procedures for Disciplinary Detention
- 10A:31-17.7 Correspondence, visits, and telephone calls
- 10A:31-17.8 Recreation

SUBCHAPTER 18. PROTECTIVE CUSTODY

- 10A:31-18.1 Admission to Protective Custody
- 10A:31-18.2 Hearing procedure for involuntary placement to Protective Custody
- 10A:31-18.3 Review of inmates in Protective Custody
- 10A:31-18.4 Release of inmates from Protective Custody
- 10A:31-18.5 Security procedures for Protective Custody
- 10A:31-18.6 Correspondence, visits and telephone calls

SUBCHAPTER 19. MAIL

- 10A:31-19.1 Limitation on outgoing and incoming mail
- 10A:31-19.2 Cost of mailing correspondence by indigent inmates
- 10A:31-19.3 Processing mail
- 10A:31-19.4 Disapproved content
- 10A:31-19.5 Inspection and reading of incoming mail and receipt of funds
- 10A:31-19.6 Inspection of outgoing mail

- 10A:31-19.7 Legal correspondence
- 10A:31-19.8 Publications
- 10A:31-19.9 Packages
- 10A:31-19.10 (Reserved)

SUBCHAPTER 20. VISITS

- 10A:31-20.1 Visit regulations
- 10A:31-20.2 Visit regulations translated into foreign language
- 10A:31-20.3 Contact visits
- 10A:31-20.4 Non-contact visits
- 10A:31-20.5 Visit scheduling
- 10A:31-20.6 Registering and search of visitors
- 10A:31-20.7 Visits by attorneys and religious advisors
- 10A:31-20.8 Special visits
- 10A:31-20.9 (Reserved)

SUBCHAPTER 21. ADMISSION, SEARCH, ORIENTATION, PROPERTY CONTROL, AND RELEASE

- 10A:31-21.1 Written policies and procedures regarding newly admitted inmates
- 10A:31-21.2 Search of newly admitted inmates
- 10A:31-21.3 Orientation
- 10A:31-21.4 Adult county correctional facility rules and regulations
- 10A:31-21.5 Electronic communication device possession, telephone use and calls
- 10A:31-21.6 Release or diversion to intervention programs
- 10A:31-21.7 Property control
- 10A:31-21.8 Release of inmates
- 10A:31-21.9 Disposition of property when an inmate is released from custody

SUBCHAPTER 22. CLASSIFICATION

- 10A:31-22.1 Written classification policies and procedures
- 10A:31-22.2 Classification and housing of inmates
- 10A:31-22.3 Male and female inmates' access to programs and activities
- 10A:31-22.4 Initial classification
- 10A:31-22.5 Classification hearing
- 10A:31-22.6 Appeal of Classification Committee decision
- 10A:31-22.7 (Reserved)

SUBCHAPTER 23. REMISSION OF TIME FROM SENTENCE

- 10A:31-23.1 Eligibility for cash or remission of time from sentence
- 10A:31-23.2 Records and audits
- 10A:31-23.3 Reports
- 10A:31-23.4 Consultations

SUBCHAPTER 24. INMATE WORK PROGRAM

- 10A:31-24.1 Inmate work plan
- 10A:31-24.2 Pretrial and unsentenced detainees
- 10A:31-24.3 Inmate volunteers
- 10A:31-24.4 Compensation

SUBCHAPTER 25. WORK AND VOCATIONAL TRAINING RELEASE PROGRAM

- 10A:31-25.1 Authority
- 10A:31-25.2 Role of New Jersey Department of Corrections
- 10A:31-25.3 Benefit to inmates
- 10A:31-25.4 Responsibility for designating County Work Release Administrator
- 10A:31-25.5 Placement in a Work Release Program
- 10A:31-25.6 Inmates ineligible for Work Release Program participation
- 10A:31-25.7 Application for admission to the Work Release Program
- 10A:31-25.8 Job site evaluation
- 10A:31-25.9 Notice to inmate

- 10A:31-25.10 Work Release Plan
- 10A:31-25.11 Disbursement of wages
- 10A:31-25.12 Statement of disbursements
- 10A:31-25.13 Vocational Training Release Plan
- 10A:31-25.14 Family Need Release Plan
- 10A:31-25.15 Notification to local municipal police departments and/or law enforcement agencies
- 10A:31-25.16 Custody status
- 10A:31-25.17 Orientation
- 10A:31-25.18 Review of status and termination
- 10A:31-25.19 Escape
- 10A:31-25.20 Quarterly report
- 10A:31-25.21 Arrangements with other counties
- 10A:31-25.22 Time credits

SUBCHAPTER 26. INMATE SERVICES AND PROGRAMS

- 10A:31-26.1 Social Services Program
- 10A:31-26.2 Education Program
- 10A:31-26.3 Religious services
- 10A:31-26.4 Recreation and Leisure Time Activities Program
- 10A:31-26.5 Library Program

SUBCHAPTER 27. VOLUNTEER SERVICE PROGRAM

- 10A:31-27.1 Coordinator of Volunteer Service Program
- 10A:31-27.2 Recruiting volunteers
- 10A:31-27.3 Credentials
- 10A:31-27.4 Screening process
- 10A:31-27.5 Orientation
- 10A:31-27.6 Volunteer photo identification and data files
- 10A:31-27.7 Volunteer agreement
- 10A:31-27.8 Curtailing, suspending or discontinuing the services of a volunteer

SUBCHAPTER 28. JUVENILES

- 10A:31-28.1 Prohibition against placement in adult county correctional facilities

SUBCHAPTER 29. FISCAL MANAGEMENT

- 10A:31-29.1 Commissary
- 10A:31-29.2 Responsibility for inmate accounts
- 10A:31-29.3 Sources of income for inmate welfare funds
- 10A:31-29.4 Accountability and expenditure of inmate welfare funds

SUBCHAPTER 30. INTERJURISDICTIONAL AGREEMENTS AND STATUTES

- 10A:31-30.1 Interstate Corrections Compact
- 10A:31-30.2 Interstate Agreement on Detainers
- 10A:31-30.3 Extradition
- 10A:31-30.4 International transfer
- 10A:31-30.5 Notification of foreign consuls when foreign nationals are imprisoned

SUBCHAPTER 1. GENERAL PROVISIONS

10A:31-1.1 Purpose

(a) The purpose of this chapter is to:

1. Establish the minimum criteria for the planning, design and construction of new adult county correctional facilities or renovation of existing facilities;
2. Establish the minimum criteria for the administration of adult county correctional facilities;

3. Establish guidelines for the provision of programs and services to inmates in adult county correctional facilities;

4. Establish guidelines which permit correctional officials at county and State levels to analyze and evaluate the performance and adequacy of services provided to inmates by adult county correctional facilities, and delineate the deficiencies which require improvement;

5. Establish guidelines whereby inmates employed in productive occupations while confined in adult county correctional facilities shall receive compensation for such employment;

6. Establish guidelines for the participation of inmates in the Work Release Program;

7. Establish the abatement process in all cases where conditions or procedures are discovered in adult county correctional facilities which are in violation of the rules of this chapter and where a county has willfully and continuously failed to initiate corrective action in response to notice; and

8. Establish authority and related guidelines for inter-jurisdictional agreements.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (a)5, deleted "in the form of cash or remission of time from sentence or both" at the end.

Amended by R.2006 d.59, effective February 6, 2006.

See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

Added (a)8.

Case Notes

In a newspaper's action to obtain certain parole information under the Right to Know Law, N.J.S.A. 47:1A-1 et seq., the Parole Board could not rely on the Department of Corrections' regulation on the confidentiality of inmate records, former N.J.A.C. 10A:31-3.5, as an exemption to disclosure because under N.J.A.C. 10A:31-1.1, Chapter 31 regulations were only applicable to county facilities. *Home News Pub. Co. v. State*, 224 N.J. Super. 7, 539 A.2d 736, 1988 N.J. Super. LEXIS 70 (1988).

10A:31-1.2 Scope

This chapter shall be applicable to the New Jersey Department of Corrections, the Office of County Services, all adult county correctional facilities and facilities or units housing county inmates.

Amended by R.2011 d.059, effective February 22, 2011.

See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

Substituted "Office" for "Bureau" and a comma for "and" following "Services", and inserted "and facilities or units housing county inmates".

10A:31-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

"Administrative segregation" means removal of an inmate from the general population of a correctional facility to a Close Custody Unit because of one or more disciplinary infractions.

“Adult county correctional facility” means any place, under the jurisdiction of a county, where adult persons convicted or accused of crimes are confined.

“Adult county correctional facility Administrator” or “Administrator” when used in this chapter means a Sheriff, Warden or any other person who serves as the chief executive officer of an adult county correctional facility.

“Body cavity search” means the visual inspection or manual search of a person’s anal or vaginal cavity.

“Body imaging scanning equipment” means equipment that utilizes a low-dose conventional x-ray transmission to produce an anatomical image of the inmate capable of identifying external and internal contraband.

“Business day(s)” means any single day or consecutive days during which most businesses operate, Monday through Friday, excluding weekends or legal holidays.

“Calendar day(s)” means any single day or consecutive days, January 1 through December 31.

“Central control” or “center control” means the unit that coordinates the security and communication functions within a correctional facility.

“Classification Committee” means a group of staff members who have been designated to make decisions related to the needs of inmates from the time of admission until the time of release.

“Close Custody Unit” means an area within a correctional facility designated for assigning inmates who are removed from the general population for disciplinary or administrative reasons.

“Contact visit” means a visit between an inmate and a visitor where there is no barrier, such as, but not limited to, a window or wall between the inmate and visitor.

“Contraband” means:

1. Any item, article or material found in the possession of, or under the control of, an inmate that is not authorized for retention or receipt;
2. Any item, article, or material found within the adult county correctional facility or on facility grounds that has not been issued by the facility or authorized as permissible for retention or receipt;
3. Any item, article or material found in the possession of, or under the control of, staff or visitors within the adult county correctional facility or on facility grounds that is not authorized for receipt, retention or importation;
4. Any item, article or material that is authorized for receipt, retention or importation by inmates, staff or visitors but that is found in an excessive amount or that has been altered from its original form. An amount shall be considered excessive if it exceeds stated adult county cor-

rectional facility limits or exceeds reasonable safety, security, sanitary, or space considerations; and/or

5. Any article that may be harmful or presents a threat to the security and orderly operation of an adult county correctional facility. Items of contraband shall include, but shall not be limited to:

- i. Guns and firearms of any type;
- ii. Ammunition;
- iii. Explosives;
- iv. Knives, tools and other implements not provided in accordance with adult county correctional facility regulations;
- v. Hazardous or poisonous chemicals and gases;
- vi. Unauthorized drugs and medications;
- vii. Medicines dispensed or approved by staff at the adult county correctional facility but not consumed or utilized in the manner prescribed;
- viii. Intoxicants, including, but not limited to, liquor or alcoholic beverages;
- ix. Where prohibited, currency and stamps; and
- x. Where prohibited, electronic communication devices.

“County work release” means a program that permits selected inmates, committed by the municipal or county court to an adult county correctional facility, to be in the community during specified periods to engage in remunerative employment, to attend vocational training and to attend to family needs (see N.J.S.A. 30:8-44).

“Crime” means an indictable offense or equivalent in another state.

“Custodian of a government record” or “record custodian” means any individual officially designated by formal action of the county governing body or agency director in accordance with the Open Public Records Act.

“Custody staff” except as otherwise provided, means Custody Supervisors, Senior Correction Officers and Correction Officer recruits who have been sworn as peace officers.

“Deadly force” means force that a custody staff member uses with the purpose of causing, or that the custody staff member knows will create a substantial risk of causing, death or serious bodily harm.

“Detainer” means a warrant or formal authorization to hold an inmate for prosecution or detention by a Federal, state or local law enforcement agency or the U.S. Immigration and Customs Enforcement (ICE). Detainers may include, but are not limited to:

1. Adjudicated criminal charges for which sentence has been imposed;
2. Criminal charges resulting from indictment, for which there is no final disposition (open charges);
3. Warrants for violation of parole or probation; and
4. Immigration detainees.

“Disciplinary Board” means a custody supervisor and two non-custody staff members who have been designated by the adult county correctional facility Administrator to hear and adjudicate inmate violations of facility rules.

“Disciplinary Detention” means the removal of an inmate from the general population to a short term close custody unit because of a violation of facility rules.

“Electronic communication device” means a device or related equipment or peripheral that is capable of electronically receiving, transmitting or storing a message, image or data. Examples of such electronic devices include, but are not limited to, all types and sizes of a computer, telephone, two-way radio, camera or video/audio player/recorder, fax machine, pager or beeper, personal data assistant, hand-held e-mail system, or any other device containing a means of internet access or receiving, transmitting or storing information electronically by means of audio, visual or recorded data.

“Facility” means an adult county correctional facility.

“Firearm” means any hand gun, rifle, shotgun, machine gun, automatic or semi-automatic rifle, or any gun, device or instrument in the nature of a weapon from which may be fired or ejected any solid projectable ball, slug, pellet, missile, bullet, or any gas, vapor or other noxious thing, by means of a cartridge or shell or by the action of an explosive or the ignition of flammable or explosive substances. Firearm shall also include, without limitation, any firearm, which is in the nature of an air gun, spring gun or pistol or other weapon of a similar nature in which the propelling force is a spring, elastic band, carbon dioxide, compressed or other gas or vapor, air or compressed air, or is ignited by compressed air, and ejecting a bullet or missile smaller than three-eighths of an inch in diameter, with sufficient force to injure a person (see N.J.S.A. 2C:39-1).

“Foreign national” means any person who is not a citizen or permanent alien resident (green card holder) of the United States and who is a foreign visitor or illegal alien.

“General population” means the common body of inmates not assigned to a Close Custody Unit.

“Government record” or “record” means any paper, written or printed book, document, drawing, map, plan, photograph, microfilm, data processed or image processed document, information stored or maintained electronically or by sound-recording or in a similar device, or any copy thereof, that has been made, maintained or kept on file in the course of official

business by any officer, commission, agency or authority of the State or of any political subdivision thereof, including subordinate boards thereof, or that has been received in the course of official business by any such officer, commission, agency, or authority of the State or of any political subdivision thereof, including subordinate boards thereof. The terms shall not include inter-agency or intra-agency advisory, consultative, or deliberative material. A government record shall not include information which is deemed to be confidential in accordance with N.J.S.A. 47:1A-1 et seq.

“Handbook on Discipline” means a publication that is provided to inmates which contains the inmate’s rights and responsibilities, the acts and activities which are prohibited, and the disciplinary procedures and sanctions imposed.

“Hearing officer” means an individual designated by and required to report to an official outside of the adult county correctional facility administration to hear and adjudicate inmate violations of prohibited acts.

“Imminent danger” means threatened harmful actions or outcomes that may occur during an encounter absent action by the custody staff member. The period of time involved is dependent on the circumstances and facts evident in each situation and is not the same in all situations. The threatened harm does not have to be instantaneous, for example, imminent danger may be present even if an individual is not at that instant pointing a weapon at the custody staff member, but is carrying a weapon and running for cover.

“Indigent inmate” means an inmate who has no funds in his or her account and is not able to earn inmate wages due to prolonged illness or any other uncontrollable circumstances, and who has been verified as having no outside source from which to obtain funds.

“Internal Affairs unit” means the unit responsible for conducting investigations at the discretion of the adult county correctional facility Administrator.

“Involuntary protective custody” means confinement in Protective Custody which was not requested by the inmate.

“Lawfully confined” means custodially confined in a detention facility, adult county correctional facility or other facility of the Department of Corrections.

“Legal correspondence” means the exchange of documents between an inmate and:

1. An attorney of this State or any other state when properly identified as such on the outside of the envelope;
2. Offices of the Federal or State Public Defender;
3. The Office of the Attorney General;
4. Federal, State, county and municipal courts;
5. Federal, State, county and municipal court judges;

6. Offices of legal services;
7. Legal assistance clinics managed by accredited law schools of this or any other state;
8. The Administrative Office of the Courts;
9. Offices of the Federal, State or county prosecutor;
10. Other Federal, State, county or municipal governmental agencies;
11. The Office of Administrative Law; and
12. A foreign consul.

"Legitimate public official" means the following:

1. An elected or appointed national, state or municipal government official; or
2. A director of a national, state or municipal government agency.

"Licensed medical professional" means an appropriately licensed health care provider who is a physician, registered nurse, nurse practitioner or physician assistant.

"Mechanical restraints" means restraining devices such as, but not limited to, handcuffs, flex cuffs, leg irons, and belly chains.

"Multiple occupancy sleeping unit" means an area, room, or cell housing no less than two and no more than 64 inmates.

"Non-contact visit" means a visit between an inmate and a visitor where there is a barrier, such as, but not limited to, a window or wall between the inmate and the visitor.

"Non-deadly force" means force that is not likely to cause death or serious bodily harm.

"Objective classification" means the standardized evaluation and custody assignment score of an inmate based on the following criteria:

1. Severity of current offense;
2. Prior assaultive offense history;
3. Escape history;
4. History of correctional facility violence;
5. Balance of term to be served to expiration of sentence (initial only);
6. Alcohol/drug abuse (initial only);
7. Current detainer/open charges;
8. Prior felony convictions (initial only);
9. Education (initial only);
10. Employment (initial only);
11. Age;

12. Number of disciplinary reports (reclassification only);

13. Most severe disciplinary infraction received (reclassification only);

14. Program participation (reclassification only);

15. Balance on parole eligibility date (reclassification only); and

16. System overrides.

"Offense other than a crime" means a non-indictable offense or equivalent in another state.

"On-the-Spot Correction" means the immediate imposition of a sanction upon an inmate for a minor rule violation.

"Open Public Records Act" or "OPRA" means N.J.S.A. 47:1A-1 et seq. as amended and supplemented.

"Pat search" means a thorough search of a fully-clothed inmate, including the clothing and personal property in the inmate's possession.

"Personal information" means an individual's first name or first initial and last name that is linked with any one or more of the following data elements:

1. Social Security number;
2. Driver's license number or State identification card number; or
3. Account number or credit or debit card number, in combination with any required security code, access code or password that would permit access to an individual's financial account.

Dissociated data that, if linked, would constitute personal information is personal information if the means to link the dissociated data were accessed in connection with access to the dissociated data. Personal information shall not include publicly available information that is lawfully made available to the general public from Federal, state or local government records, or widely distributed media (see N.J.S.A. 56:8-161).

"Prehearing detention" means the removal of an inmate from the general population pending an investigation and a hearing into an alleged violation of a rule.

"Probable cause" means reasonable ground(s) of suspicion, supported by circumstances sufficiently strong to warrant a cautious person to believe that criminal activity is taking place.

"Productive occupation" means any assignment exclusive of a work release assignment, which involves work carried on by the governing body or by any board, commission or institution that receives funding from the county.

"Protective custody" means confinement to a secure unit designated to restrict or limit an inmate's activities and

contacts with others, in order to provide protection to the inmate from injury or harm actually threatened, or reasonably believed to exist based on events, investigative reports, reports from an informant(s) or other reliable sources of information.

"Publication" means a book, booklet, pamphlet, or similar document, or an issue of a magazine, periodical, newsletter, newspaper, plus such other materials addressed to a specific inmate such as advertising brochures, flyers, and catalogs.

"Reasonable belief" means an objective assessment based upon an evaluation of how a reasonable custody staff member with comparable training and experience would react to, or draw inferences from, the facts and circumstances confronted and known by the custody staff member at the scene.

"Reasonable suspicion" means a belief that an action is necessary based upon specific and articulable facts that, taken together with rational inferences from those facts, reasonably support a conclusion.

"Roving patrol" means observation of the outer perimeter of a facility by making rounds at intervals on foot or in a vehicle.

"Shift commander" means the custody staff member holding a supervisory rank who has been designated by the Administrator or designee as being responsible for the maintenance of security during a tour of duty in an adult county correctional facility.

"Strip search" means the removal or rearrangement of clothing to permit visual inspection of the person's undergarments, buttocks, anus, genitals, or breasts.

"Substantial risk" means any discharge of a firearm that entails some risk of an unintended outcome. A substantial risk exists when a custody staff member disregards a foreseeable likelihood that innocent persons will be endangered. An example of substantial risk is firing a weapon into a confined space (such as a room or vehicle) occupied by innocent persons that exposes those persons to a substantial risk of harm.

"Temporary Close Custody" means the non-punitive removal of an inmate from the inmate general population, or other assigned housing, with restriction to the inmate's cell or to a Close Custody Unit for a period not to exceed 72 hours, for special observation (other than healthcare needs) or investigation, unless information or evidence warrants an extension beyond 72 hours and the extension is approved by the appropriate supervisor.

"Unencumbered space" means usable space that is not hindered by furnishings or fixtures.

"Voluntary protective custody" means confinement in Protective Custody which was requested by the inmate.

"Weapon" means anything readily capable of lethal use or of inflicting serious bodily injury. The term includes, but is not limited to:

1. All firearms, even though not loaded or lacking a clip or other component to render them immediately operable;
2. All components that can be readily assembled into a weapon;
3. All gravity knives, switchblade knives, daggers, dirks, stilettos, or other dangerous knives, billies, blackjacks, bludgeons, metal knuckles, sandclubs, slingshots, cesti or similar leather bands studded with metal filings or razor blades imbedded in wood;
4. All stun guns; and
5. Any weapon or other device, which projects, releases, or emits a compressed gas or tear gas or any other substance or electrical signal intended to produce temporary physical discomfort or permanent injury through being vaporized or otherwise dispensed in the air (see N.J.S.A. 2C:39-1).

Amended by R.1994 d.182, effective April 4, 1994.

See: 26 N.J.R. 727(a), 26 N.J.R. 1506(a).

Amended by R.1994 d.484, effective September 19, 1994.

See: 26 N.J.R. 2841(a), 26 N.J.R. 3863(a).

Amended by R.1995 d.421, effective August 7, 1995.

See: 27 N.J.R. 1728(a), 27 N.J.R. 2928(a).

Amended by R.2000 d.206, effective May 15, 2000.

See: 31 N.J.R. 3908(a), 32 N.J.R. 1772(a).

Inserted "Objective classification".

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Rewrote the section.

Amended by R.2006 d.59, effective February 6, 2006.

See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

Rewrote definition "Adult county correctional facility Administrator"; added definitions "Central control," "Contact visit," "Custodian of a government record," "Deadly force," "Foreign national," "Government record," "Imminent danger," "Legal correspondence," "Mechanical restraints," "Non-contract visit," "Non-deadly force," "Open Public Records Act," "Reasonable belief," "Reasonable suspicion," "Roving patrol," "Shift commander" and "Substantial risk."

Amended by R.2007 d.64, effective February 20, 2007.

See: 38 N.J.R. 4622(b), 39 N.J.R. 652(b).

Added definition "Personal information".

Amended by R.2007 d.199, effective July 2, 2007.

See: 39 N.J.R. 747(a), 39 N.J.R. 2537(a).

In the introductory paragraph, substituted a colon for the period at the end; in definition "Detainer", substituted "state" for "State" and "U.S. Immigration and Customs Enforcement (ICE)" for "U.S. Immigration Department".

Amended by R.2008 d.118, effective May 5, 2008.

See: 40 N.J.R. 84(a), 40 N.J.R. 2278(a).

Added definition "Electronic communication device".

Amended by R.2008 d.141, effective June 2, 2008.

See: 39 N.J.R. 5043(a), 40 N.J.R. 3309(a).

Added definitions "Legitimate public official" and "Publication".

Amended by R.2008 d.190, effective July 21, 2008.

See: 40 N.J.R. 1736(b), 40 N.J.R. 4323(a).

In definition "Contraband", substituted "that" for "which" throughout paragraphs 4 and 5, deleted "and" from the end of paragraph 5viii, substituted "; and" for a period at the end of paragraph 5ix and added paragraph 5x; added definition "Firearm"; in definition "Legal correspondence", substituted "; and" for a period at the end of paragraph 11 and added paragraph 12; rewrote definition "Strip search"; and added definition "Weapon".

Amended by R.2010 d.134, effective July 6, 2010.

See: 42 N.J.R. 34(a), 42 N.J.R. 1379(a).

Added definitions "Crime", "Licensed medical professional", "Offense other than a crime" and "Probable cause".

Amended by R.2011 d.059, effective February 22, 2011.

See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

In definition "Adult county correctional facility Administrator", substituted "officer" for "office"; in paragraphs 1 through 3 of definition "Contraband", substituted "that" for "which"; in paragraph 3 of definition "Contraband", inserted a comma following the second occurrence of "of" and inserted "adult county correctional"; in paragraph 5vii of definition "Contraband", inserted "staff at"; in definition "County work release", substituted "that" for "which", deleted ", in the case of female offenders," following "training and" and inserted "(see N.J.S.A. 30:8-44)"; in definition "Detainer", substituted "or" for "of" following "warrant"; in definition "Protective custody", deleted "informants" preceding and inserted "from an informant(s)" following the second occurrence of "reports"; in definition "Strip search", substituted "to permit" for "and"; and added definitions "Business day(s)" and "Calendar day(s)".

Amended by R.2017 d.047, effective March 20, 2017.

See: 48 N.J.R. 2026(a), 49 N.J.R. 544(a).

Added definition "Body imaging scanning equipment".

Amended by R.2017 d.228, effective December 4, 2017.

See: 49 N.J.R. 2450(a), 49 N.J.R. 3751(a).

Added definitions "Administrative segregation", "Close Custody Unit", "General population", "Pat search", and "Temporary Close Custody".

10A:31-1.4 Forms

(a) A government records request form may be obtained from the record custodian (see definition of "custodian of a government record" at N.J.A.C. 10A:31-1.3).

(b) Adult County Correctional Facility, Request For Rule Exemption (Form 31—100) is available from the Department of Corrections, Office of County Services (see, N.J.A.C. 10A:31-1.7).

New Rule, R.2006 d.59, effective February 6, 2006.

See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

10A:31-1.5 Rulemaking and exemption authority

(a) Pursuant to N.J.S.A. 30:1B-10, the Commissioner of the Department of Corrections is authorized to establish minimum standards for adult county correctional facilities.

(b) The Commissioner is authorized to determine matters related to rules establishing the minimum standards regarding the administration of adult county correctional facilities and to modify rules so that such rules can function effectively.

(c) The Commissioner may exempt an adult county correctional facility from adherence to a rule or certain provisions or requirements of a rule in instances when strict compliance would result in:

1. An undue hardship;
2. An inability to meet a therapeutic, rehabilitative or medical need; or
3. A security risk to the overall management, safe or orderly operation of an adult county correctional facility.

New Rule, R.2006 d.59, effective February 6, 2006.

See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

10A:31-1.6 Rule exemption effective; extension and expiration dates

(a) The effective date of a rule exemption shall be the date of the Commissioner's signature on Form 31—100 Request for Rule Exemption.

(b) Except as set forth in (c) and (d) below, all rule exemptions shall expire one year from the date of approval by the Commissioner.

(c) A rule exemption may be terminated prior to the expiration date when:

1. The special circumstances exempting the rule no longer exist; or
2. The Commissioner no longer approves the rule exemption.

(d) A rule exemption may be extended beyond the expiration date when:

1. The adult county correctional facility Administrator or designee reapplies for the rule exemption by submitting Form 31—100 indicating a request for an extension and attaching a copy of the original approved and signed Form 31—100; and
2. The Commissioner signs the copy of Form 31—100 requesting the extension.

(e) Upon expiration or termination of a rule exemption, an adult county correctional facility shall return to compliance with the New Jersey Administrative Code.

New Rule, R.2006 d.59, effective February 6, 2006.

See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

Amended by R.2017 d.228, effective December 4, 2017.

See: 49 N.J.R. 2450(a), 49 N.J.R. 3751(a).

Section was "Rule exemption effective, extension and expiration dates". In (b), substituted "one year" for "two years".

10A:31-1.7 Procedure for requesting a rule exemption

(a) A request for a rule exemption may be submitted by inmates, staff or committees to the adult county correctional facility Administrator for review in accordance with internal management procedures.

(b) The adult county correctional facility Administrator, or designee, shall review and determine, based on criteria set forth in N.J.A.C. 10A:31-1.5, whether to submit a Form 31—100 to the Commissioner for consideration.

(c) Designees of the Commissioner shall review the request for rule exemption and recommend whether to approve or disapprove a rule exemption, based on the criteria set forth in N.J.A.C. 10A:31-1.5. The Commissioner shall approve or disapprove the rule exemption by selecting the appropriate box, signing and dating the request, and returning the request to the adult county correctional facility Administrator.

New Rule, R.2006 d.59, effective February 6, 2006.

See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).
 Amended by R.2017 d.228, effective December 4, 2017.
 See: 49 N.J.R. 2450(a), 49 N.J.R. 3751(a).
 In (b), inserted “, or designee.”

10A:31-1.8 (Reserved)

New Rule, R.2006 d.59, effective February 6, 2006.
 See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).
 Amended by R.2011 d.059, effective February 22, 2011.
 See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).
 Rewrote Form 31—100.
 Repealed by R.2017 d.228, effective December 4, 2017.
 See: 49 N.J.R. 2450(a), 49 N.J.R. 3751(a).
 Section was “Adult County Correctional Facility Request for Rule Exemption Form 31—100”.

10A:31-1.9 Written policies and internal management procedures

(a) Designated staff at each municipal detention facility shall be responsible for developing written policies and internal management procedures consistent with this chapter.

(b) All written policies and internal management procedures shall be available during inspection by designated staff of the New Jersey Department of Corrections.

New Rule, R.2017 d.228, effective December 4, 2017.
 See: 49 N.J.R. 2450(a), 49 N.J.R. 3751(a).

SUBCHAPTER 2. ENFORCEMENT PROCEDURES

10A:31-2.1 Authority of the Commissioner, New Jersey Department of Corrections

(a) N.J.S.A. 30:1B-10 gives the Commissioner of the Department of Corrections the authority to establish minimum standards for adult county correctional facilities.

(b) The Commissioner may, in accordance with the Administrative Procedure Act, P.L.1968, c. 410 (N.J.S.A. 52:14B-1 et seq.) promulgate such rules and regulations as are deemed necessary to establish minimum standards for the care, treatment, government and discipline of inmates in adult county correctional facilities.

(c) The Department of Corrections is aware that a number of older adult county correctional facilities operate under certain physical/structural deficiencies. Such facilities may be authorized to make reasonable accommodations to comply with this chapter. However, in the areas of renovation and/or new construction of adult county correctional facilities, the Department of Corrections shall require compliance with this chapter.

(d) The Commissioner may exempt an adult county correctional facility, or operational unit from adherence to a rule or certain requirements of a rule in accordance with provisions established in N.J.A.C. 10A:31-1.5 and in instances where the adult county correctional facility is not in compliance with one or several of the requirements of the minimum standards, but:

1. The adult county correctional facility is in compliance with the general intent and purpose of the minimum standards; and

2. The Commissioner has determined that to require the facility to comply strictly with all requirements of the minimum standards would result in an undue hardship to the overall management of the adult county correctional facility.

Amended by R.2000 d.332, effective August 7, 2000.
See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Rewrote (c); and added (d).

Amended by R.2011 d.059, effective February 22, 2011.

See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

In the introductory paragraph of (d), updated the N.J.A.C. reference.

10A:31-2.2 Physical inspection and/or program evaluation

(a) The physical inspection and/or programmatic evaluation of adult county correctional facilities shall be conducted by staff from the Office of County Services, New Jersey Department of Corrections. A staff member from the adult county correctional facility may observe the inspection if requested by the adult county correctional facility Administrator.

(b) An initial report of the findings of the physical inspections and/or the programmatic evaluations, listing all violations shall be submitted to the Sheriff or adult county correctional facility Administrator and the County Assignment Judge with copies to the Freeholder Director or County Executive.

(c) The initial report shall contain notice that corrective action must be effected or initiated within 60 days, and a date for re-inspection shall be scheduled.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (a), added a second sentence; rewrote (b); and in (c), added "initial" preceding "report".

Amended by R.2011 d.059, effective February 22, 2011.

See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

In (a), inserted "staff from", and substituted "Office" for "Bureau".

10A:31-2.3 Re-inspection

(a) A re-inspection shall be conducted noting the abatement status of all violations.

(b) If additional violations are discovered during the re-inspection, a separate addendum shall be attached to the initial list of violations.

(c) A letter indicating the findings of each re-inspection shall be submitted to the parties listed in N.J.A.C. 10A:31-2.2.

(d) A date shall be scheduled for final re-inspection prior to any enforcement action.

(e) The final report of the finding of the physical inspections and/or programmatic evaluations shall be submitted to the Sheriff or adult county correctional facility Administrator with copies to the Freeholder Director or County Executive.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (a) substituted "initial" for "original" preceding "list"; in (c), changed N.J.A.C reference; and added (d).

10A:31-2.4 Extension of time to correct violations

(a) At any time prior to enforcement of restrictions, the county may request an extension of time to correct the violations. Said request must be in writing and must specify:

1. The particular violations which the county expects to have difficulty in correcting;
2. The reason(s) for the difficulty;
3. The nature of corrective action being undertaken; and
4. The date by which correction of violations will be completed.

(b) The Commissioner, New Jersey Department of Corrections, may, in his or her discretion, grant, modify or deny the request for an extension after consultation with staff from the Office of County Services.

Amended by R.2011 d.059, effective February 22, 2011.

See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

In (b), inserted "staff from", and substituted "Office" for "Bureau".

10A:31-2.5 Enforcement action

(a) In the event acceptable corrective action has not been effected or initiated upon final reinspection, notice shall be forwarded, by certified mail, to the county stating that:

1. Effective immediately, the county shall cease to admit persons sentenced to State correctional facilities;
2. Effective 30 days after receipt of notice, the county shall cease to admit persons sentenced to terms in said adult county correctional facility; and
3. Effective 90 days after receipt of notice, the county shall cease to accept all persons sent to said adult county correctional facility.

(b) The notice of restrictions in (a) above shall contain a statement of reasons for imposition of restrictions, based on:

1. The number, seriousness and duration of the violations cited; and

2. The willful, continuous disregard of the county in abating the violations.

(c) Restrictions imposed on a county pursuant to this subchapter shall continue until such time as the Commissioner shall determine that the violations specified have been corrected, or that designated staff at the adult county correctional facility has initiated actions that will ensure the correction of said violations.

(d) During the pendency of restrictions imposed pursuant to this subchapter, location of inmates and payments therefor shall be governed by N.J.S.A. 30:8-57, 58 and 59.

(e) The Commissioner shall initiate such legal action as may be deemed necessary to ensure the enforcement of this subchapter.

Amended by R.2011 d.059, effective February 22, 2011.
See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

In (c), inserted "designated staff at", and substituted "that" for "which" following "actions".

Case Notes

Chancery judge was empowered to direct county to build additional facilities to remedy unconstitutional overcrowding and other conditions in county jail, but it was unnecessary to determine whether power was exercised pursuant to court's authority to implement remedy following declaration of unconstitutional conditions at jail or whether trial court was merely directing implementation of plan prepared by commissioner of Department of Corrections pursuant to commissioner's statutory jurisdiction, where county acknowledged its obligation to construct adequate county correctional facilities. *Morales v. County of Hudson*, 236 N.J.Super. 406, 566 A.2d 191 (A.D.1989).

SUBCHAPTER 3. PLANNING AND DESIGN

10A:31-3.1 Notification

(a) A letter of intent to construct, remodel or renovate any adult county correctional facility shall be submitted to the Chief, Office of County Services, Department of Corrections, by the governing body responsible for the facility prior to the initiation of any planning actions. The notification shall specify the proposed action to be taken and the estimated period of construction.

(b) Upon receipt of the letter of intent, the Chief, Office of County Services, shall furnish technical assistance throughout the planning process to assure that such planning complies with this subchapter.

Amended by R.2011 d.059, effective February 22, 2011.
See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

In (a) and (b), substituted "Office" for "Bureau".

10A:31-3.2 Submission of plans and specifications

(a) All plans and specifications shall be submitted to the Chief, Office of County Services, New Jersey Department of

Corrections to ensure compliance with the requirements set forth in this subchapter.

(b) Contracts shall not be awarded until approval of final documents is received by the appropriate county administrator, in writing from the Chief, Office of County Services, and other applicable regulatory agencies.

Recodified from 10A:31-3.3 and amended by R.1995 d.421, effective August 7, 1995.

See: 27 N.J.R. 1728(a), 27 N.J.R. 2928(a).

Amended by R.2011 d.059, effective February 22, 2011.

See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

In (a) and (b), substituted "Office" for "Bureau"; and in (b), inserted a comma following "administrator".

10A:31-3.3 Construction principles

All adult county correctional facility construction or renovations shall comply with the regulations required by State and local building and fire codes.

Recodified from 10A:31-3.4 and amended by R.1995 d.421, effective August 7, 1995.

See: 27 N.J.R. 1728(a), 27 N.J.R. 2928(a).

10A:31-3.4 General conditions

(a) The requirements within this subchapter shall apply to all areas of the adult county correctional facility with equal importance and shall be considered in the planning process.

(b) The facility should be geographically accessible (such as, but not limited to, public transportation and parking) to the public and to the facility staff, as well as to the officers of the court, attorneys and law enforcement officers.

(c) Staff work stations and control rooms shall be situated to provide the greatest degree of observation of traffic flow and supervised internal activities. The staff work stations and control rooms shall provide access to toilet facilities.

(d) The facility shall be so designed that sections or parts can be closed off for varied use to meet changing needs.

(e) Exit and entry control stations shall be separated from the public and inmates by security barriers and shall be protected from direct observation from outside of the facility.

(f) The design of the correctional facility shall provide for the secure confinement of inmates and for adequate separation of inmates of one classification from inmates of another (see N.J.A.C. 10A:31-22.2).

(g) The design of the facility shall provide for the segregation of certain types of inmates from the living areas of the general population, such as disciplinary detention, protective custody, etc.

(h) The number of special purpose cells shall be based on the size and needs of the facility and shall be used only for the temporary detention of inmates.

(i) General population sleeping units in new correctional facilities may be multiple or single occupancy units.

(j) Consistent with the security requirements of the facility, living units shall be located and designed to safeguard the privacy of inmates.

(k) Adult county correctional facilities shall contain sufficient space for programs which can include the public in areas other than the living areas of the facility, without compromising the security and control of the facility's operation.

(l) Storage areas for the personal property of inmates shall be sufficient to accommodate all necessary materials and provide for the separation and security of the personal property of inmates.

(m) The design shall allow for service deliveries without interference with the security of the facility.

(n) Provisions shall be made for the secure storage areas of the following:

1. Keys;
2. Weapons;
3. Drugs and medications;
4. Tools;
5. Evidence;
6. Personal clothing of inmates;
7. Personal property of inmates;
8. Institutional clothing for inmates;
9. Records;
10. Supplies; and
11. Other materials.

(o) Secure depositories for off-duty and on-duty weapons shall be provided at each facility outside the areas accessible

to the inmates. Weapon lockers provided for off-duty weapons shall be equipped with individual compartments, each with an individual lock and key.

(p) Padlocks shall not be used in place of, or in addition to, a security lock on any door or window within the facility.

(q) The illumination level shall provide at least 20 foot candles of illumination at desk level and in personal grooming areas of the inmate's sleeping unit. Illumination throughout the remainder of the adult county correctional facility shall be appropriate for the task being performed and light fixtures shall be security tamper-proof recessed-type protected by laminated tempered glass or break-resistant plastic lenses.

(r) The design of windows shall take into consideration the need for the admission of natural light. All inmate sleeping units shall have a security-type window installed. If the window is operable, security screening shall be installed.

(s) Visiting areas shall be designed for contact and non-contact visiting.

(t) Each entrance to a secure area shall be constructed to permit observation and identification of the person seeking admission thereto.

(u) Eating areas shall be sufficiently separated from the toilet and shower facilities to avoid offensive or unsanitary conditions.

Recodified from 10A:31-3.5 and amended by R.1995 d.421, effective August 7, 1995.

See: 27 N.J.R. 1728(a), 27 N.J.R. 2928(a).

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (q) inserted "adult county" preceding "correctional facility".

Case Notes

Information arising from parole hearing not subject to disclosure under right to know law. Home News Pub. Co. v. State, 224 N.J.Super. 7, 539 A.2d 736 (A.D.1988).

10A:31-3.5 Reception and booking area; holding room

(a) Adult county correctional facilities shall have a reception and discharge area. The space designed for the reception and discharge of inmates shall be constructed inside the security area, but outside the inmates' living quarters.

(b) There shall be a separate inmate entrance from a sally-port or safety vestibule into the receiving area with a minimum of corridors or passageways. Stairs should be avoided.

(c) The entrance area shall be arranged and constructed to allow sufficient observation by the custody staff to identify persons approaching the entrance.

(d) A holding room for the confinement of inmates during their initial processing shall be provided.

(e) Single occupancy holding rooms shall have a minimum of 60 square feet of floor area.

(f) Multiple occupancy holding rooms shall have a minimum of 100 square feet of floor area.

(g) The holding room shall provide adequate seating for the capacity of the room and access to toilet and lavatory facilities without staff assistance.

(h) Access to a telephone shall be provided to inmates while confined in a holding room.

(i) A sufficient number of individual interviewing rooms shall be available either in the booking area or in close proximity to the booking area.

Recodified from 10A:31-3.6 and amended by R.1995 d.421, effective August 7, 1995.

See: 27 N.J.R. 1728(a), 27 N.J.R. 2928(a).

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (c), substituted "custody staff" for "correction officer".

Case Notes

A prisoner is always free to challenge an institutional transfer, a failure to receive treatment, or a classification grievance through an administrative appeal and, ultimately, on appeal to the Superior Court, Appellate Division; Resentencing Panel is the wrong route for such an appeal; disparity between 30 year sentence being served for rape as a sex offender under Title 2A and the 20 year maximum sentence for the congruent offense of aggravated sexual assault under the Code of Criminal Justice, Title 2C, did not constitute "good cause" for resentencing. *State v. Smith*, 190 N.J.Super. 21 (App.Div.1982), 461 A.2d 1177, certification denied 96 N.J. 319 (1984), certification denied 475 A.2d 606, 96 N.J. 319.

10A:31-3.6 Minimum requirements for housing units and dayroom areas

(a) All single occupancy cells shall contain a minimum of 35 square feet of unencumbered floor space.

(b) All multiple occupancy sleeping units shall contain a minimum of 25 square feet of unencumbered floor space per inmate.

(c) Each single occupancy cell or multiple occupancy sleeping unit shall be equipped with the following:

1. A steel detention type bunk for each occupant which is securely fastened to the floor or wall or both and is capable of accommodating a standard fire retardant mattress;
2. A detention type toilet and lavatory with drinking font, serviceable from outside the cell or multiple occupancy sleeping unit;
3. A steel shelf or storage area for personal items;
4. An unbreakable mirror securely mounted with tamper-proof screws;
5. A writing surface affixed to the wall or floor with a proximate area to sit; and
6. Detention type ventilation and exhaust grills and registers.

(d) Depending on the size of the facility, one or more isolation, detention or segregation cells shall be constructed to detain violent and destructive inmates. These cell(s) shall contain:

1. A minimum of 70 square feet in floor space area;
2. A metal bunk firmly affixed to the wall, floor or both which is capable of accommodating a standard fire retardant mattress;
3. A security tamper-proof recessed light; and
4. A stainless steel toilet and lavatory sanitary unit serviceable from outside the cell via a plumbing chase.

(e) Cell and multiple-occupancy sleeping unit walls shall be at least six-inch reinforced concrete or eight-inch concrete block containing vertical reinforcement rods with all voids filled solid with concrete.

(f) Cell and multiple occupancy sleeping unit ceilings shall be pre-cast concrete plank or reinforced concrete and shall be a minimum of eight feet in height.

(g) Multiple occupancy sleeping units in new and existing facilities shall have no less than two inmates and no more than 64 inmates per unit. Each unit shall have a minimum of 25 square feet of unencumbered floor space per inmate, a minimum ceiling height of eight feet and adequate space for lockers.

(h) Doors of cells and multiple occupancy sleeping units shall be detention-type hollow metal with a vision port of security glazing and secured with a detention-type locking device. Where deemed appropriate, food passes shall be installed.

(i) The minimum ratio of toilets, wash basins and mirrors in multiple occupancy sleeping units shall be:

1. One toilet for every 12 inmates in male sleeping units (one half of these toilets may be urinals);
2. One toilet for every eight inmates in female sleeping units;
3. One operable wash basin with hot and cold running water for every 12 inmates; and
4. One unbreakable mirror per wash basin.

(j) All adult county correctional facilities shall have dayrooms. The dayroom areas shall contain 35 square feet of floor space per inmate, exclusive of lavatories, showers and toilets, for the maximum number of inmates who can use the dayroom at one time. The dayroom area shall be separate and distinct from the sleeping area, but immediately adjacent and accessible therefrom. Exterior light and view shall be provided.

(k) Dayrooms shall provide sufficient seating, writing, and eating surfaces for every inmate using the dayroom at one time. Dayroom furnishings shall be consistent with the custody level of the inmates assigned.

(l) A qualified inmate with a disability shall be housed in a manner that provides for his or her safety, security and accessibility to facility programs or activities. Rooms, sleeping units, or housing units shall be designed for use by qualified inmates with disabilities.

Recodified from 10A:31-3.7 and amended by R.1995 d.421, effective August 7, 1995.

See: 27 N.J.R. 1728(a), 27 N.J.R. 2928(a).
Amended by R.2000 d.332, effective August 7, 2000.
See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Deleted former (c); recodified former (d) through (m) as (c) through (l); and rewrote the new (g).

Case Notes

Construction of additional county jail facilities was necessary. Morales v. County of Hudson, 236 N.J.Super. 406, 566 A.2d 191 (A.D. 1989).

10A:31-3.7 Showers, drinking fountains, shutoff valves and drains

(a) There shall be at least one operable shower with temperature controlled hot and cold water available for every 16 inmates and the shower shall be accessible to inmates without the necessity of leaving the immediate housing area.

(b) Drinking fountains shall be located in areas of the correctional facility to ensure that drinking water will be available.

(c) Each toilet, wash basin, and shower shall be equipped with an individual water shutoff valve tied into a master valve. The master valve and individual shutoff valves shall be located in secure plumbing chases which are readily accessible.

(d) Floor drains shall be provided in all inmate areas. In those housing units containing sleeping units, the floor drain shall be located outside of the actual sleeping unit in order to reduce the incidence of malicious tampering and flooding. Drain covers shall be securely anchored in place with tamper resistant security screws.

Recodified from 10A:31-3.8 and amended by R.1995 d.421, effective August 7, 1995.

See: 27 N.J.R. 1728(a), 27 N.J.R. 2928(a).

Case Notes

A prisoner is always free to challenge an institutional transfer, a failure to receive treatment, or a classification grievance through an administrative appeal and, ultimately, on appeal to the Superior Court, Appellate Division; Resentencing Panel is the wrong route for such an appeal; disparity between 30 year sentence being served for rape as a sex offender under Title 2A and the 20 year maximum sentence for the congruent offense of aggravated sexual assault under the Code of Criminal Justice, Title 2C, did not constitute "good cause" for resentencing. State v. Smith, 190 N.J.Super. 21, 461 A.2d 1177 (App.Div. 1982) certification denied 96 N.J. 319, 475 A.2d 606 (1984).

An inmate's procedural due process rights at a prison disciplinary hearing have been meticulously implemented by this rule, prisoner not denied due process when Parole Board accepted a prison disciplinary hearing decision as res judicata and used it as the sole basis for parole rescission. New Jersey State Parole Bd. v. Woupes, 184 N.J.Super 533, 446 A.2d 1214 (App.Div.1981).

10A:31-3.8 Exercise areas

(a) Every adult county correctional facility shall contain indoor and outdoor exercise areas.

(b) The indoor and outdoor exercise areas shall be proportionate to the size of the facility and the number of inmates housed.

(c) The indoor exercise area may be coupled with any other multipurpose room as long as the design and furnishings do not interfere with scheduled exercise activities. This area shall provide sufficient space to allow a moderate amount of physical activity and the minimum clearance height should be appropriate for the activities to be performed.

Recodified from 10A:31-3.9 and amended by R.1995 d.421, effective August 7, 1995.

See: 27 N.J.R. 1728(a), 27 N.J.R. 2928(a).
Amended by R.2000 d.332, effective August 7, 2000.
See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Case Notes

Group contact in protective custody only permitted when the prisoners can be matched up as not constituting a threat to one another; the trial court's finding, that convicted former police officer's substantial risk of injury or death due to a combination of illness and possible prisoner attack constituted cruel and unusual punishment, held not supported by the evidence. State v. Muessig, 198 N.J.Super. 197, 486 A.2d 924 (App.Div.1985) certification denied 101 N.J. 234, 501 A.2d 912.

10A:31-3.9 Correctional program space

(a) Sufficient flexible area for correctional programming shall be provided in every adult county correctional facility. Such space and furnishing may be in the form of a multipurpose room or rooms with moveable partitions and storage area for seating equipment and writing tables. Such program area and furnishings shall be designed to meet facility needs, and shall include space for the following:

1. Religious services;
2. Group counseling;
3. Interviews;
4. Classroom and study; and
5. Meetings.

Recodified from 10A:31-3.10 by R.1995 d.421, effective August 7, 1995.

See: 27 N.J.R. 1728(a), 27 N.J.R. 2928(a).

10A:31-3.10 Health care facilities and equipment

(a) Health care space, equipment, supplies and material at an adult county correctional facility shall be as determined by the county appointed health authority.

(b) The medical examination room shall be designed for the privacy of inmates, and provide sufficient lockable storage space for medical supplies and drugs.

Recodified from 10A:31-3.11 and amended by R.1995 d.421, effective August 7, 1995.

See: 27 N.J.R. 1728(a), 27 N.J.R. 2928(a).

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (a), substituted "an adult county" for "a".

10A:31-3.11 Space for hair cutting

Space and suitable equipment shall be provided in all adult county correctional facilities for hair cutting and hair dressing.

Recodified from 10A:31-3.12 and amended by R.1995 d.421, effective August 7, 1995.

See: 27 N.J.R. 1728(a), 27 N.J.R. 2928(a).

Case Notes

Amendment to regulations which gave county jail's physician discretion in testing new inmates for infectious diseases did not violate Eighth Amendment. *Office of Inmate Advocacy v. Fauver*, 222 N.J.Super. 357, 536 A.2d 1306 (A.D.1988), certification denied 111 N.J. 637, 546 A.2d 549.

Amendment to regulations which gave county jail's physician discretion in testing new inmates for infectious diseases was not arbitrary or capricious. *Office of Inmate Advocacy v. Fauver*, 222 N.J.Super. 357, 536 A.2d 1306 (A.D.1988), certification denied 111 N.J. 637, 546 A.2d 549.

10A:31-3.12 Inmate commissary

An area shall be provided for a commissary or provisions shall be made for a commissary service.

Recodified from 10A:31-3.13 and amended by R.1995 d.421, effective August 7, 1995.

See: 27 N.J.R. 1728(a), 27 N.J.R. 2928(a).

Case Notes

County jail ordered to comply with clean clothing and towel requirements of N.J.A.C. 10A:31-3.13(b)5. *Union County Jail Inmates v. Scanlon*, 537 F.Supp. 993 (D.N.J.1982) reversed and remanded 713 F.2d 984 (3rd Cir.1983), rehearing denied 718 F.2d 1247 (3rd Cir.1983), certiorari denied 465 U.S. 1102 (1984), certiorari denied 104 S.Ct. 1600, 465 U.S. 1102, 80 L.Ed.2d 130.

Amendment to regulations which gave county jail's physician discretion in testing new inmates for infectious diseases did not violate Eighth Amendment. *Office of Inmate Advocacy v. Fauver*, 222 N.J.Super. 357, 536 A.2d 1306 (A.D.1988), certification denied 111 N.J. 637, 546 A.2d 549.

Amendment to regulations which gave county jail's physician discretion in testing new inmates for infectious diseases was not arbitrary or capricious. *Office of Inmate Advocacy v. Fauver*, 222 N.J.Super. 357, 536 A.2d 1306 (A.D.1988), certification denied 111 N.J. 637, 546 A.2d 549.

10A:31-3.13 Dining areas

(a) Dining areas shall be designated so that inmates will be able to eat together in small groups.

(b) The dayroom or other multipurpose area may be used for dining.

(c) Dining areas shall not contain exposed toilets in the same room or in the view of inmates dining.

Recodified from 10A:31-3.14 by R.1995 d.421, effective August 7, 1995.

See: 27 N.J.R. 1728(a), 27 N.J.R. 2928(a).

10A:31-3.14 Visiting and interview areas

(a) Sufficient space shall be provided in all adult county correctional facilities for visiting.

(b) Visiting areas shall be designed for both contact and for non-contact visits.

(c) All facilities shall include interview areas which provide for confidential consultation with visitors, clergy, attorneys and parole or probation officers.

(d) The visiting area shall be designed to permit appropriate screening and searching of both visitors and inmates.

(e) Storage space shall be provided for visitors' coats, handbags, and other personal items not permitted into the visit area.

(f) Visiting areas for contact and non-contact visits should permit custody staff visual observation.

Recodified from 10A:31-3.15 and amended by R.1995 d.421, effective August 7, 1995.

See: 27 N.J.R. 1728(a), 27 N.J.R. 2928(a).

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (c), substituted "clergy" for "ministers"; and in (d) and (e), substituted "shall" for "should".

Amended by R.2017 d.228, effective December 4, 2017.
See: 49 N.J.R. 2450(a), 49 N.J.R. 3751(a).
Added (f).

Case Notes

County which undertook to provide medical services to prisoner outside of correctional facility can not escape responsibility for payment for services by suspending prisoner's sentence (also citing former N.J.A.C. 10:34-3.1, 3.25 and 3.27). *Saint Barnabas Medical Center v. Essex Cty.*, 211 N.J.Super. 488, 511 A.2d 1287 (Law Div.1986) reversed 523 A.2d 248, 216 N.J.Super 161, affirmed in part, reversed in part 543 A.2d 34, 111 N.J. 67.

10A:31-3.15 Janitor closet

(a) A secure janitorial closet containing a mop sink and sufficient area for the storage of cleaning implements shall be provided within the security area of every adult county correctional facility.

(b) The janitorial closet shall be accessible to the living and activity areas of inmates.

Recodified from 10A:31-3.16 and amended by R.1995 d.421, effective August 7, 1995.
See: 27 N.J.R. 1728(a), 27 N.J.R. 2928(a).

Case Notes

Reduction in inmate recreational time due to overcrowding noted. *Union Cty. Jail Inmates v. Di Buono*, 718 F.2d 1247 (3rd Cir.1983), certiorari denied 104 S.Ct. 1600, 465 U.S. 1102, 80 L.Ed.2d 130.

10A:31-3.16 Administrative and staff areas

(a) Space shall be made available for administrative, custody, professional, clinical and clerical staff use, which includes, but is not limited to:

1. Conference rooms;
2. An employee lounge to include shower facilities;
3. A storage room for records;
4. A public lobby; and
5. Toilet facilities for staff use only.

Recodified from 10A:31-3.18 and amended by R.1995 d.421, effective August 7, 1995.
See: 27 N.J.R. 1728(a), 27 N.J.R. 2928(a).
Amended by R.2000 d.332, effective August 7, 2000.
See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).
Rewrote (a).

10A:31-3.17 Security perimeter

(a) Provisions shall be made for a security perimeter which includes, but is not limited to:

1. Security fencing;
2. Electrically operated and interlocking vehicle sallyport entrances and gates;
3. A separate prisoner entrance;
4. Separate visitor and delivery entrances;

5. Perimeter surveillance; and

6. Other considerations which enhance security within and surrounding the adult county correctional facility.

Recodified from 10A:31-3.19 and amended by R.1995 d.421, effective August 7, 1995.

See: 27 N.J.R. 1728(a), 27 N.J.R. 2928(a).
Amended by R.2000 d.332, effective August 7, 2000.
See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

10A:31-3.18 Arsenal

The adult county correctional facility shall have a secure, adequately ventilated arsenal which is outside the housing units and activity areas, inaccessible to all unauthorized persons, but readily accessible to authorized staff members.

Recodified from 10A:31-3.20 and amended by R.1995 d.421, effective August 7, 1995.
See: 27 N.J.R. 1728(a), 27 N.J.R. 2928(a).

10A:31-3.19 Building and fire codes

(a) The adult county correctional facility shall conform to all applicable Federal, State, and local building and fire codes.

(b) Conformance with the building and fire codes is indicated in the form of a letter or certificate issued by the appropriate code official.

Recodified from 10A:31-3.21 and amended by R.1995 d.421, effective August 7, 1995.

See: 27 N.J.R. 1728(a), 27 N.J.R. 2928(a).
Amended by R.2000 d.332, effective August 7, 2000.
See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).
In (a), inserted "adult county".

10A:31-3.20 Monitoring system

There shall be an operable communication system which shall link the central control station with all housing areas, inmate and staff activity areas and supervisory custody staff.

Recodified from 10A:31-3.22 and amended by R.1995 d.421, effective August 7, 1995.

See: 27 N.J.R. 1728(a), 27 N.J.R. 2928(a).
Amended by R.2000 d.332, effective August 7, 2000.
See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).
Substituted "custody staff" for "officers".

10A:31-3.21 Emergency power

(a) Provisions shall be made to ensure the supply of a source of emergency power which is capable of providing minimal lighting throughout the facility.

(b) The emergency power source shall provide sufficient power to operate:

1. The electrical locking devices;
2. The communications systems;
3. The alarm systems; and

4. Any other areas required by Federal, State, or local building and/or fire codes.

Recodified from 10A:31-3.23 and amended by R.1995 d.421, effective August 7, 1995.

See: 27 N.J.R. 1728(a), 27 N.J.R. 2928(a).

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (a), substituted "to ensure the supply of" for "for"; and in (b), substituted "shall" for "should".

Case Notes

N.J.S.A. 59:5-3, which barred a prisoner from bringing a tort action prior to his release from prison, deprived the prisoner of his property right in a tort action without due process of law and was therefore invalid. Neither the notice requirement set out in N.J.S.A. 59:8-3 nor the formal claim review procedure provided in N.J.A.C. 10A:31-3.21, provided the prisoner with an opportunity to be heard at a meaningful time and in a meaningful manner. *Holman v. Hilton*, 712 F.2d 854, 1983 U.S. App. LEXIS 26025 (1983).

10A:31-3.22 Plumbing and mechanical space

(a) All plumbing space or any other mechanical space shall have an access door with a detention type locking device. No opening shall remain uncovered that is in excess of four inches.

(b) All ventilation ducts located within the security perimeter of the facility must contain security bars no more than four inches on center.

Recodified from 10A:31-3.24 and amended by R.1995 d.421, effective August 7, 1995.

See: 27 N.J.R. 1728(a), 27 N.J.R. 2928(a).

SUBCHAPTER 4. PERSONNEL

10A:31-4.1 Personnel manual

A personnel manual shall be issued to each employee, who shall sign a receipt acknowledging receipt of the manual.

Amended by R.1998 d.222, effective May 4, 1998.

See: 30 N.J.R. 772(a), 30 N.J.R. 1617(a).

Rewrote the section.

10A:31-4.2 Policy and procedure manual

A policy and procedure manual for operating and maintaining the facility shall be available to each employee.

Amended by R.1998 d.222, effective May 4, 1998.

See: 30 N.J.R. 772(a), 30 N.J.R. 1617(a).

Rewrote the section.

10A:31-4.3 Affirmative Action Program

Staff at each adult county correctional facility shall develop and implement an Affirmative Action Program, which is approved by the appropriate agency, and complies with all laws and government regulations.

Amended by R.2011 d.059, effective February 22, 2011.

See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

Substituted "Staff at each adult county correctional" for "Each".

10A:31-4.4 Employee records

(a) A current, accurate and confidential personnel record shall be maintained for each employee.

(b) Employee records shall be protected against unwarranted examination.

(c) Employees shall be permitted to review their personnel files, challenge inaccurate information, and have inaccurate information corrected or removed from their files.

(d) Pursuant to the Identity Theft Prevention Act at N.J.S.A. 56:11-44 et seq. and definitions relative to the security of personal information at N.J.S.A. 56:8-161, in order to prevent identity theft, adult county correctional facility staff shall be responsible for safeguarding "personal information" as this term is defined in N.J.A.C. 10A:31-1.3 and for complying with related rules at N.J.A.C. 10A:31-6.7.

Amended by R.2007 d.64, effective February 20, 2007.

See: 38 N.J.R. 4622(b), 39 N.J.R. 652(b).

Added (d).

10A:31-4.5 Employee performance evaluation

(a) Each employee shall have an annual written performance evaluation based upon defined job criteria and performance standards. The results of the performance evaluation shall be discussed with the employee.

(b) Appeals of the results of a performance evaluation shall be made through appropriate channels.

SUBCHAPTER 5. TRAINING AND STAFF DEVELOPMENT

10A:31-5.1 Training and Staff Development Program

(a) The Training and Staff Development Program shall consider the physical characteristics of the adult county correctional facility, its overall mission and the type of offenders served.

(b) The facility Training and Staff Development Program for all employees and all custody staff subject to the Police Training Act (N.J.S.A. 52:17B-66 et seq.) shall be coordinated and supervised by a qualified training officer.

Amended by R.1993 d.324, effective July 6, 1993.

See: 25 N.J.R. 1817(a), 25 N.J.R. 2884(a).

Amended by R.1995 d.421, effective August 7, 1995.

See: 27 N.J.R. 1728(a), 27 N.J.R. 2928(a).

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (b), substituted "custody staff" for "correction officers".

Case Notes

Sheriff required to accept inmates committed to him for jailing. *State v. Hughes*, 230 N.J.Super. 223, 553 A.2d 349 (A.D.1989).

10A:31-5.2 Training officer

(a) The training officer shall have responsibility for planning and implementing:

1. The Police Training Commission (P.T.C.) training program; and
2. Civilian employee training programs.

(b) In an adult county correctional facility of over 100 employees, a full time training officer shall be employed.

Amended by R.1993 d.324, effective July 6, 1993.
See: 25 N.J.R. 1817(a), 25 N.J.R. 2884(a).

10A:31-5.3 Orientation and training for employees

(a) All new employees shall receive orientation training prior to job assignment and additional training on an as-needed basis.

(b) Orientation shall cover the following subjects related to the adult county correctional facility:

1. Policies;
2. Organizational structure;
3. Programs; and
4. Regulations.

(c) All civilian employees who work in direct and continuing contact with inmates shall receive training that covers, at a minimum:

1. Security procedures;
2. Supervision of inmates;
3. Report writing;
4. Inmate rules and regulations;
5. Grievance and disciplinary procedures;
6. Rights and responsibilities of inmates;
7. Emergency procedures;
8. First aid;
9. Human relations and communication skills;
10. Special needs of minorities and women;
11. Crisis intervention;
12. Significant legal issues; and
13. Problem solving and guidance.

(d) It is recommended that the facility's administrative and senior managerial staff receive additional training in management skills each year.

(e) Library and reference services shall be available to complement the Training and Staff Development Program.

(f) All personnel authorized to use firearms shall be trained in weaponry on a continuing, in-service basis as required by the Gun Control Act (N.J.S.A. 2C:39-6j).

(g) Custody staff shall complete the Police Training Commission (P.T.C.) approved course at a P.T.C. approved school (see N.J.S.A. 52:17B-66 et seq.).

Amended by R.1993 d.324, effective July 6, 1993.

See: 25 N.J.R. 1817(a), 25 N.J.R. 2884(a).

Amended by R.1995 d.421, effective August 7, 1995.

See: 27 N.J.R. 1728(a), 27 N.J.R. 2928(a).

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (a), deleted "civilian" preceding "employees"; and rewrote (g).

SUBCHAPTER 6. MANAGEMENT INFORMATION SYSTEM AND RECORDS

10A:31-6.1 Inmate population accounting system

(a) An inmate population accounting system shall be utilized which provides the following information:

1. The arresting agency;
2. The sentencing court;
3. The charge(s);
4. The date of booking;
5. The amount of bail and whether bail was posted;
6. The date of release on bail;
7. The time detained;
8. The sentence imposed;
9. The work and other programs in which inmates are participating;
10. The date and manner of release (other than bail);
11. Fines imposed, restitution penalties, etc.; and
12. Other relevant information.

10A:31-6.2 Intake form

(a) An intake form shall be completed manually or electronically for every inmate admitted to the facility, which shall include, but is not limited to, the following information:

1. The inmate's picture;
2. The booking number;
3. The date and time of intake;
4. The name and aliases of the inmate;
5. The court and sentence, if sentenced;
6. The inmate's last known address;

7. The date and time of commitment and authority therefor;

8. The name, title and signature or badge number of the delivering officer;

9. The specific charge(s);

10. The sex of the inmate;

11. The age of the inmate;

12. The date of birth of the inmate;

13. The place of birth of the inmate;

14. The race of the inmate;

15. The occupation of the inmate;

16. The last place of employment;

17. The education attained;

18. The religion of the inmate;

19. Medical information to include:

i. Medical insurance coverage;

ii. Any open wounds or sores requiring treatment; and

iii. Evidence of disease, body vermin, tattoos, or other notable scars or conditions.

20. The name and relationship of next of kin;

21. The address of next of kin;

22. The number and state of the inmate's driver's license;

23. The disposition of motor vehicle, where applicable;

24. The Social Security number of the inmate;

25. The amount of cash and/or property of the inmate; and

26. Any additional remarks.

Amended by R.2008 d.270, effective September 15, 2008.

See: 40 N.J.R. 2652(a), 40 N.J.R. 5240(b).

In the introductory paragraph of (a), inserted "manually or electronically"; and in (a)8, inserted "or badge number" and inserted "the" preceding "delivering".

10A:31-6.3 Inmate population movement

(a) The facility shall maintain a report of inmate population movement. This report shall include the following:

1. The number of inmates in the facility;

2. The inmates' names, numbers, and housing assignments;

3. The number and types of daily admissions and releases; and

4. The count at close of day.

10A:31-6.4 Inmate records

(a) Staff at each adult county correctional facility shall maintain inmate records which contain, but are not limited to:

1. Intake information;

2. Commitment papers and court orders;

3. Cash and property receipts (signed by inmates);

4. Reports of disciplinary action and unusual occurrences; and

5. Work record and program involvement.

(b) Inmate records shall be reviewed and maintained by qualified personnel to ensure that these records are current and accurate.

(c) Medical and/or mental health information shall be verified promptly with other agencies.

Amended by R.2011 d.059, effective February 22, 2011.

See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

In the introductory paragraph of (a), substituted "Staff at each adult county correctional" for "The".

10A:31-6.5 Information pertaining to a victim(s)

(a) Pursuant to N.J.S.A. 47:1A-2.2, a person convicted of any indictable offense under the laws of this State, any other state or the United States shall be denied access to a government record if the record contains personal information pertaining to the victim(s) of an inmate or to the family member(s) of the victim(s).

(b) An exception to (a) above may be made only if a court, upon motion by the requester or his or her representative, has determined that the information is necessary to assist in the defense of the requester. The inmate or representative thereof shall submit the determination by the court to the record custodian for review and release authorization.

Repeal and New Rule, R.2006 d.59, effective February 6, 2006.

See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

Former section was "Public records."

10A:31-6.6 Access to records

(a) Requests for access to records held or controlled by the adult county correctional facility shall be submitted to the custodian of a government record in accordance with the Open Public Records Act.

(b) Contact information for the record custodian for the adult county correctional facility may be obtained from staff at the adult county correctional facility or by accessing a facility website if available.

Repeal and New Rule, R.2006 d.59, effective February 6, 2006.

See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

Former section was "Confidential records."

Amended by R.2011 d.059, effective February 22, 2011.

See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

In (b), inserted "staff at".

Case Notes

In a newspaper's action to obtain certain parole information under the Right to Know Law, N.J.S.A. 47:1A-1 et seq., the Parole Board could not rely on the Department of Corrections' regulation on the confidentiality of inmate records, former N.J.A.C. 10A:31-3.5, as an exemption to disclosure because under N.J.A.C. 10A:31-1.1, Chapter 31 regulations were only applicable to county facilities. *Home News Pub. Co. v. State*, 224 N.J. Super. 7, 539 A.2d 736, 1988 N.J. Super. LEXIS 70 (1988).

10A:31-6.7 Identity theft prevention and reporting

(a) Pursuant to the Identity Theft Prevention Act at N.J.S.A. 56:11-44 et seq. and definitions relative to security of personal information at N.J.S.A. 56:8-161, in order to prevent identity theft, adult county correctional facility staff shall be responsible for safeguarding "personal information" as this term is defined in N.J.A.C. 10A:31-1.3. Additionally, adult county correctional facility staff shall be responsible for taking reasonable steps to ensure that all records containing personal information are not lost, stolen, inappropriately accessed or released and for complying with any related internal management procedures.

(b) In the event that an incident which may constitute a breach of security is suspected or discovered, the staff member discovering the suspected breach shall report it to their immediate supervisor. Supervisory/administrative staff shall ensure that any such incident is reported through the administrative chain of command to the Administrator. For purposes of rules regarding identity theft, "breach of security" means unauthorized access to electronic files, media or data containing personal information that compromises the security, confidentiality or integrity of personal information when access to the personal information has not been secured by encryption or by any other method or technology that renders the personal information unreadable or unusable. Good faith acquisition of personal information by an employee or agent of the adult county correctional facility for a legitimate business purpose is not a breach of security, provided that the personal information is not used for a purpose unrelated to business or subject to further unauthorized disclosure.

(c) All reports related to identity theft shall be provided to the Administrator or designee in accordance with internal management procedures of the adult county correctional facility. The Administrator or designee shall report the incident of identity theft to the governing body of the county or to the County Board of Freeholders.

Repealed by R.2006 d.59, effective February 6, 2006.

See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

Section was "Limitation on inmate and parolee records."

New Rule, R.2007 d.64, effective February 20, 2007.

See: 38 N.J.R. 4622(b), 39 N.J.R. 652(b).

Section was "Reserved".

10A:31-6.8 Availability of information to non-institutional persons or outside agencies

(a) Information from adult inmate records shall be provided to law enforcement agencies or persons, who request it in the performance of their public duties.

(b) Adult inmate records may be made available to the following agencies or persons:

1. Courts of competent jurisdiction;
2. The Attorney General;
3. A county prosecutor;
4. The State Parole Board;
5. A county probation department; and
6. Police departments.

(c) Upon advice of the County Counsel, selected records of adult inmates shall be made available to government agencies or other authorized persons upon request. These agencies and persons include, but are not limited to, the following:

1. The Social Security Administration;
2. The Veterans Administration;
3. Attorneys of record in pending cases, or investigating claims;
4. Law enforcement agencies other than those in (b) above; or
5. Medical or psychiatric doctors.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (b)5, substituted "Division" for "Bureau"; and in (c), deleted a reference to the Department of Corrections' Special Assistance for Legal Affairs, Office of the Deputy Commissioner.

Amended by R.2006 d.59, effective February 6, 2006.

See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

In (a), deleted "and parolee" and reference to N.J.A.C. 10A:31-6.10; in introductory paragraph (b), deleted "or parolee"; deleted (b)5; recodified former (b)6-7 as (b)5-6; in introductory paragraph (c), deleted "or parolees."

10A:31-6.9 Availability of information to adult county correctional facility personnel

(a) Information from inmate records shall be provided to adult county correctional facility personnel on a limited basis.

(b) Information may be provided only to personnel who have a clear and specific need to know the information for use in connection with their work responsibilities.

(c) The provision of information shall be determined by the Administrator or designee in accordance with written policies and procedures established by the facility.

Amended by R.2006 d.59, effective February 6, 2006.

See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

Rewrote the section adding designation (a) and subsections (b) and (c).

10A:31-6.10 Records designated confidential

(a) In addition to records designated as confidential pursuant to the provisions of N.J.S.A. 47:1A-1 et seq., any other law, rule promulgated under the authority of any statute or

Executive Order of the Governor, resolution of both houses of the Legislature, Executive Order of the Governor, Rules of Court or any Federal law, Federal regulation or Federal order, the following records shall not be considered government records subject to public access pursuant to N.J.S.A. 47:1A-1 et seq.:

1. Informant documents and statements;
2. Internal Affairs/investigative unit investigations records and reports, provided that redaction of information would be insufficient to protect the safety of any person or the safe and secure operation of a correctional facility;
3. A record, which consists of any alcohol, drug or other substance abuse information, testing, assessment, evaluation, report, summary, history, recommendation or treatment, including any assessment instruments;
4. Any information relating to medical, psychiatric or psychological history, diagnosis, treatment or evaluation;
5. A report or record relating to an identified individual, which, if disclosed, would jeopardize the safety of any person or the safe and secure operation of the correctional facility or other designated place of confinement;
6. Comprehensive criminal history information (rap sheet);
7. Records of another department or agency allocated to that department in the possession of the Department of Corrections when those records are made confidential by a rule of that department or agency allocated to that department adopted pursuant to N.J.S.A. 47:1A-1 et seq., and Executive Order No. 9 (1963) or pursuant to another law authorizing the department or agency to make records confidential or exempt from disclosure;
8. The Department of Corrections Disaster/Terrorism Contingency Report;
9. All internal management procedures, or any portion thereof, including any portions of those procedures and/or any indexes or lists identifying the procedures related to the following: safety and security measures, inmate movement, staffing, investigative techniques, contraband detection, intelligence gathering techniques, structural or physical plant designs, surveillance techniques, and search techniques;
10. Records related to involuntary or voluntary protective custody;
11. Records related to security threat groups or security threat group investigations or validations;
12. Records and/or content related to inmate phone, e-mail, or visit information;
13. Log books; and
14. Surveillance footage of areas located within a correctional facility's secured perimeter.

(b) An inmate shall not be permitted to inspect, examine or obtain copies of documents concerning any other inmate.

Repealed by R.2006 d.59, effective February 6, 2006.

See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

Section was "Procedure for release of confidential inmate or parolee records."

New Rule, R.2011 d.040, effective February 7, 2011.

See: 42 N.J.R. 2305(a), 43 N.J.R. 308(a).

Section was "Reserved".

Amended by R.2016 d.182, effective December 19, 2016.

See: 48 N.J.R. 1775(a), 48 N.J.R. 2813(a).

In (a)7, deleted "or" from the end; in a(8), substituted a semicolon for a period at the end; and added (a)9 through (a)14.

10A:31-6.11 (Reserved)

Repealed by R.2006 d.59, effective February 6, 2006.

See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

Section was "Records authorized by the inmate or parolee for inspection or release."

10A:31-6.12 (Reserved)

Repealed by R.2006 d.59, effective February 6, 2006.

See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

Section was "Litigation."

10A:31-6.13 Reimbursement for costs of copying

(a) Pursuant to N.J.S.A. 47:1A-5, except as otherwise provided in this subchapter, adult county correctional facilities may charge the following fees for copying government records:

\$0.05 per letter size page or smaller, and \$0.07 per legal size page or larger.

(b) Governmental agencies or officers shall be exempt from payment of fees for copying records.

(c) The copying fees for documents or records other than government records shall also be based on the fee schedule in (a) above.

(d) When or if fees for the copying of government records change in accordance with N.J.S.A. 47:1A-5, these changes shall be published as a public notice in the New Jersey Register.

(e) Additional fees may be imposed in connection with a request for government records in accordance with N.J.S.A. 47:1A-1 et seq.

Amended by R.1993 d.635, effective December 6, 1993.

See: 25 N.J.R. 4552(a), 25 N.J.R. 5475(a).

Administrative change.

See: 37 N.J.R. 80(b).

Amended by R.2006 d.59, effective February 6, 2006.

See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

Added "government" to introductory paragraphs (a), (b) and (c); deleted "deemed to be public" from introductory paragraphs (a) and (c); in (d), deleted "public" following "copying of"; added (e).

Administrative change.

See: 42 N.J.R. 2806(b).

10A:31-6.14 Security of Management Information System and inmate records

(a) The adult county correctional facility Administrator shall provide for the security of the Management Information System and inmate records, to include:

1. Verification;
2. Access to data; and
3. Protection of the privacy of inmates under the jurisdiction of the adult county correctional facility.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (a), substituted "adult county correctional facility" for "Jail".

SUBCHAPTER 7. EMERGENCIES**10A:31-7.1 Meeting emergencies**

(a) Emergencies shall be met in a way which will safeguard the welfare of the inmate population, facility staff, and the public at large.

(b) All measures shall be taken to maintain effective security and restore normal conditions as expeditiously as possible.

(c) Each facility shall develop written plans for emergencies such as, but not limited to, passive resistance, work stoppage, escapes, riots and natural disasters.

(d) All emergency plans shall be implemented with appropriate consideration and care for both inmate and staff safety.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (c), inserted "but not limited to".

10A:31-7.2 Passive resistance

(a) Staff at each facility shall develop a written plan for maintaining security and custody of inmates, in the event of passive resistance by inmates.

(b) In the event of passive resistance by inmates, the facility shall be secured.

(c) Additional custody staff shall be readily available in passive resistance situations.

(d) Back up support shall be obtained from outside resources if, in the judgment of the adult county correctional facility Administrator or designee, the seriousness of the situation warrants.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (c), substituted "custody staff" for "correction officers"; and in (d), substituted "adult county correctional facility" for "Jail".

Amended by R.2011 d.059, effective February 22, 2011.

See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

In (a), substituted "Staff at each" for "Each".

10A:31-7.3 Work stoppage

(a) Staff at each facility shall develop a written plan for maintaining custody of inmates and the safety and well-being of inmates and staff members in the event of a work stoppage or other job action by employees.

(b) The work stoppage plan shall incorporate the ongoing continuation of essential services which may involve agreements with other law enforcement agencies such as local and State police or other outside resources.

Amended by R.2011 d.059, effective February 22, 2011.

See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

In (a), substituted "Staff at each" for "Each".

10A:31-7.4 Escapes

(a) Staff at each facility shall develop a written escape plan which shall be evaluated after each escape incident or escape attempt or at least once a year.

(b) All facility staff shall be trained in the specific action which is to be taken during or after an escape or an attempted escape.

(c) The adult county correctional facility Administrator or the ranking supervisor shall be in charge of the implementation of all emergency escape plans.

(d) All records and relevant information regarding an inmate involved in an escape shall be studied immediately and used in efforts to reapprehend or secure the inmate.

(e) Immediate notice shall be given to all appropriate agencies to protect public safety in the event of an escape.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (c), substituted "adult county correctional facility" for "Jail".

Amended by R.2011 d.059, effective February 22, 2011.

See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

In (a), substituted "Staff at each" for "Each".

10A:31-7.5 Riots

(a) Staff at each facility shall develop a written emergency riot plan which shall be evaluated at least once a year and immediately following a riot (see N.J.S.A. 2C:33-1).

(b) All facility staff shall be trained in the specific action which is to be taken during and after a riot.

(c) The adult county correctional facility Administrator or the ranking supervisory custody staff member shall be in charge of the implementation of all emergency riot plans.

(d) Immediate efforts shall be made to isolate the troubled area or segment of the inmate population.

(e) Only the restraining action that is necessary to adequately contend with the emergency situation shall be taken.

(f) Lethal forms of weaponry shall be used only with strict supervision and when the seriousness of the situation war-

rants, in the judgment of the adult county correctional facility Administrator or the ranking supervisory custody staff member.

(g) Immediate efforts shall be made to secure the facility and obtain as accurate a population count as possible.

(h) All available information shall be assessed and an appointed staff member or team shall be deployed to identify the cause of the riot and to initiate appropriate measures to resolve the situation.

(i) Due care shall be given to the safety of possible hostages, and special attempts shall be made to obtain their safe release.

(j) An alternative of safe return to security shall be offered to all inmates who select to cease and desist from continued participation in the riot.

(k) If the seriousness of the situation warrants, back up support shall be obtained from local law enforcement authorities.

(l) If the seriousness of the situation warrants, other relevant back up supports may be obtained from the community, such as medical, food service, emergency repairs, etc.

(m) The facility shall have a written post emergency plan which will be implemented as soon as the situation permits.

Amended by R.2000 d.332, effective August 7, 2000.
See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (c) substituted "adult county correctional facility" for "Jail" and "custody staff member" for "officer"; rewrote (f); and in (k) substituted "law enforcement authorities" for "and State police".
Amended by R.2006 d.59, effective February 6, 2006.
See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

In (a), added "(see N.J.S.A. 2C:33-1)."
Amended by R.2011 d.059, effective February 22, 2011.
See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

In (a), substituted "Staff at each" for "Each".

10A:31-7.6 Natural disasters

(a) Staff at each facility shall develop a written contingency plan that has been coordinated with the New Jersey Office of Emergency Management, the applicable county office of emergency management or equivalent, local law enforcement authorities, and such other agencies and resources needed to respond to a natural disaster.

(b) Staff at each facility shall develop a written comprehensive contingency plan for the movement of large numbers of inmates, which has been coordinated with neighboring correctional facilities, local law enforcement authorities and such other community resources as required.

(c) The contingency plan in (a) and (b) above shall be reviewed and updated at least once a year.

Amended by R.2000 d.332, effective August 7, 2000.
See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (a) and (b), substituted references to law enforcement authorities for references to the State police; and in (a), substituted a reference to

the Department of Emergency Management for a reference to the Department of Civil Defense.

Amended by R.2006 d.59, effective February 6, 2006.
See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

In (a), substituted "New Jersey Office" for "appropriate Department" and added ", the applicable county office of emergency management or equivalent,".

Amended by R.2011 d.059, effective February 22, 2011.
See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

In (a) and (b), substituted "Staff at each" for "Each"; and in (a), substituted "that" for "which".

SUBCHAPTER 8. SECURITY AND CONTROL

10A:31-8.1 Search of inmates and facilities

(a) Facilities and inmates may be searched as provided in this subchapter for the purpose of controlling and deterring the introduction and concealment of contraband.

(b) Staff at each facility shall develop and implement a comprehensive written plan governing searches of facilities and inmates.

The following annotation applies to N.J.A.C. 10A:31-8.1 prior to its recodification from N.J.A.C. 10A:31-8.2 by R.2017 d.047:

Repealed by R.2000 d.322, effective August 7, 2000.
See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Section was "Contraband defined".

The following annotations apply to N.J.A.C. 10A:31-8.1 subsequent to its recodification from N.J.A.C. 10A:31-8.2 by R.2017 d.047:

Amended by R.2011 d.059, effective February 22, 2011.
See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

In (b), substituted "Staff at each" for "Each".
Recodified from N.J.A.C. 10A:31-8.2 by R.2017 d.047, effective March 20, 2017.

See: 48 N.J.R. 2026(a), 49 N.J.R. 544(a).
Section was "(Reserved)".

10A:31-8.2 Search of inmates

(a) All inmates admitted to an adult county correctional facility shall be thoroughly searched in accordance with the applicable provisions of N.J.S.A. 2A:161A-1 et seq., and this subchapter.

(b) All searches shall be conducted under sanitary conditions, in a professional and dignified manner, with maximum courtesy and respect for the inmate's person.

(c) No inmate shall be searched as punishment or discipline.

Amended by R.2010 d.134, effective July 6, 2010.
See: 42 N.J.R. 34(a), 42 N.J.R. 1379(a).

In the introductory paragraph of (a), inserted "in accordance with the applicable provisions of N.J.S.A. 2A:161A-1 et seq., and this subchapter".

Recodified from N.J.A.C. 10A:31-8.3 by R.2017 d.047, effective March 20, 2017.

See: 48 N.J.R. 2026(a), 49 N.J.R. 544(a).

Former N.J.A.C. 10A:31-8.2, Search of inmates and facilities, recodified to N.J.A.C. 10A:31-8.1.

Case Notes

Counties and county officials were not entitled to Eleventh Amendment immunity with respect to a civil rights case brought by arrestees alleging that their Fourth Amendment rights were violated by certain strip search policies at county correctional facilities because the county parties failed to demonstrate that they were arms of the state. While N.J.A.C. 10A:31-8.5 provides that the New Jersey Department of Corrections governs the conduct inside county jails, N.J.A.C. 10A:31-8.2(b) makes clear that the facilities are to implement their own plans governing intake procedures and searches. *Florence v. Bd. of Chosen Freeholders of Burlington*, 595 F. Supp. 2d 492, 2009 U.S. Dist. LEXIS 7923 (2009).

10A:31-8.2A Pat search

(a) A pat search shall be conducted while the inmate is fully clothed. A pat search includes both the touching of the inmate's body through clothing, including hair, dentures, etc., and a thorough examination into pockets, cuffs, seams, etc., and all personal property in the inmate's possession.

(b) Pat searches of inmates may be conducted at any time in the following circumstances:

1. Prior to the departure or return of the inmate to or from any area where the inmate has had access to dangerous or valuable items;
2. Prior to entering or departing the visiting area; or
3. Under any other circumstances where conditions indicate a need for such searches, such as, but not limited to, upon departure of inmates from kitchen or dining areas.

(c) In addition to the foregoing routine searches, a pat search may be conducted at any time when there is a reasonable suspicion that the inmate is carrying contraband. Factors that may form the basis for such search include, but are not be limited to:

1. Personal observations of activities or conditions that may be interpreted in light of the custody staff member's experience and knowledge of the inmate as indicating the possession of contraband; or
2. Information received from a third party who is believed to be reliable.

(d) Pat searches may be conducted by either male or female custody staff members upon male inmates. Except in emergent circumstances, pat searches shall only be conducted by female custody staff members upon female inmates.

New Rule, R.2017 d.228, effective December 4, 2017.
See: 49 N.J.R. 2450(a), 49 N.J.R. 3751(a).

10A:31-8.3 Use of body imaging scanning equipment

(a) Body imaging scanning equipment may be utilized for the purpose of searching arrestees, detainees, and inmates. The use of body imaging scanning equipment pursuant to this section shall be limited to searches conducted in any of the following circumstances:

1. When an inmate enters or leaves the correctional facility;
2. Any time before or after an inmate is placed in close custody, prehearing restrictive housing, administrative segregation, protective custody, psychological observation, or suicide watch;
3. Any time before or after an inmate has a contact visit in which the inmate and a visitor are permitted physical contact with each other;
4. After an inmate has been in any area where the inmate has had access to dangerous or valuable items;
5. During a mass search of an inmate housing unit or inmate work area;
6. When a custody staff member with a rank of sergeant or above determines that there exists a reasonable suspicion that an inmate is carrying or concealing contraband on the inmate's person, or in the inmate's anal or vaginal cavity; or
7. When a custody staff member with a rank of sergeant or above determines that the search is reasonably necessary for safety and security.

(b) Notwithstanding the provisions of any other law to the contrary, the body image scanning equipment may be operated by an employee of the county correctional facility or other law enforcement officer.

(c) Prior to operating body imaging scanning equipment, an employee or officer shall successfully complete a training course approved by the Police Training Commission pursuant to P.L. 1961, c. 56 (N.J.S.A. 52:17B-66 et seq.).

(d) Body imaging scanning equipment shall be operated in compliance with all manufacturer standards, guidelines, instructions, recommendations, and safety precautions for inmates and equipment operators.

(e) County correctional facilities that utilize body imaging scanning equipment shall submit all training materials to the Police Training Commission for approval and certification.

1. Body imaging scanning equipment training materials shall be updated no less than every three years unless substantial changes are required to the training materials to incorporate manufacturer updates, enhancements, recommended operating changes, and/or safety precautions.

2. Should manufacturer changes be recommended, the body imaging scanning equipment operator training materials shall be updated as needed and submitted to the Police Training Commission for approval and recertification.

3. Copies of all Police Training Commission approvals and certifications shall be submitted to the Department of Corrections upon receipt and at least every three years, or upon receipt of recertification, and made assessable during

all Department of Corrections inspections of county facilities.

New Rule, R.2017 d.047, effective March 20, 2017.
See: 48 N.J.R. 2026(a), 49 N.J.R. 544(a).

Former N.J.A.C. 10A:31-8.3, Search of inmates, recodified to N.J.A.C. 10A:31-8.2.

10A:31-8.4 Strip search of a person(s) who has been detained or arrested for commission of an offense other than a crime

(a) A person who has been detained or arrested for commission of an offense other than a crime and who is confined in an adult county correctional facility shall not be subject to a strip search unless:

1. The search is authorized by a warrant or valid documented consent;

2. A recognized exception to the warrant requirement exists and the search is based on probable cause that a weapon, controlled dangerous substance, contraband or evidence of a crime will be found and the custody staff member authorized to conduct the strip search has obtained the authorization of the custody staff supervisor in charge;

3. The person is lawfully confined and the search is based on a reasonable suspicion that a weapon, controlled dangerous substance, contraband or evidence of a crime will be found, and the custody staff member authorized to conduct the strip search has obtained the authorization of the custody staff supervisor in charge; or

4. Emergent conditions prevent obtaining a search warrant or authorization of the custody staff supervisor in charge and such emergent conditions require custody staff to conduct a strip search in order to take immediate action for purposes of preventing bodily harm to the officer, person or others.

(b) As authorized in (a) above, a strip search of a person shall be conducted:

1. By a custody staff member of the same sex who has been authorized to conduct the search;

2. At a location where the search cannot be observed by unauthorized persons;

3. By the number of custody staff members deemed reasonably necessary to provide security;

4. Under sanitary conditions; and

5. In a professional and dignified manner.

(c) The custody staff member authorized to conduct a strip search shall file a written report to be made a part of the record of the detained or arrested person in accordance with this section. The report shall be reviewed by the supervisor who authorized the search and filed in accordance with internal management procedures. The report shall include, but not be limited to, the following information:

1. A statement of facts indicating any reasonable suspicion or probable cause for the search;

2. A statement of the emergent conditions requiring immediate action to prevent bodily harm to the custody staff member(s), person or others when such conditions existed;

3. The name of the custody staff supervisor in charge who authorized the search;

4. The name(s) of the custody staff member(s) present during the search and the reason for custody staff presence;

5. The name(s) of the custody staff member(s) conducting the search;

6. An inventory of any item(s) found during the search; and

7. Any supporting documentation consisting of the warrant or consent when such documentation is the basis for the search.

(d) Reports required pursuant to this section shall not be deemed public records; however, upon request, such reports shall be made available to:

1. The New Jersey Department of Corrections Commissioner, or designee;

2. The adult county correctional facility Administrator;

3. The Attorney General;

4. The county prosecutor; and/or

5. The person searched.

New Rule, R.1994 d.484, effective September 19, 1994.

See: 26 N.J.R. 2841(a), 26 N.J.R. 3863(a).

Amended by R.1998 d.263, effective May 18, 1998.

See: 30 N.J.R. 966(a), 30 N.J.R. 1811(a).

In (b), rewrote 2, inserted a new 3, and recodified former 3 and 4 as 4 and 5; and in (c), inserted references to "custody staff".

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (c), inserted "part" following "made" in the introductory paragraph, and substituted a reference to custody staff members for a reference to officers in 2.

Amended by R.2010 d.134, effective July 6, 2010.

See: 42 N.J.R. 34(a), 42 N.J.R. 1379(a).

Rewrote the section.

Case Notes

Subjecting driver to strip search violated driver's Fourth Amendment rights. *Ernst v. Borough of Fort Lee*, D.N.J.1990, 739 F.Supp. 220.

It was not reasonable to subject detainee to visual strip search on basis of mere suspicion that car in which detainee was passenger was stolen. *DiLoreto v. Borough of Oaklyn*, D.N.J.1990, 744 F.Supp. 610.

10A:31-8.5 Strip searches of a person(s) who is lawfully confined for commission of a crime

(a) A person lawfully confined for commission of a crime shall be strip searched in any of the following circumstances:

1. The custody staff supervisor in charge authorizes confinement in an adult county correctional facility; and

2. The custody staff member authorized to conduct the strip search obtains the authorization of the custody staff supervisor in charge and one of the following exists:

- i. A search warrant or valid documented consent; or
- ii. A reasonable suspicion that an inmate is concealing a weapon, controlled dangerous substance, contraband or evidence of a crime.

(b) In addition to (a) above, upon the authorization of the custody staff supervisor in charge, a strip search may be conducted in any of the following circumstances:

1. When a reasonable suspicion exists that an inmate may have had access to a weapon, controlled dangerous substance or contraband before the inmate enters the facility after being permitted to leave for any reason and the custody staff member obtains the authorization of the custody staff supervisor in charge to conduct the search;

2. Before placement of an inmate into:

- i. Prehearing Detention;
- ii. Disciplinary Detention; or
- iii. Protective Custody.

3. Before placement of an inmate under a psychological observation or suicide watch; and

4. After a contact visit.

(c) A strip search shall include a check for:

1. Body vermin;
2. Cuts;
3. Bruises;
4. Needle scars; and
5. Other injuries, where appropriate.

(d) A strip search shall be conducted:

1. At a location where the search cannot be observed by unauthorized persons;

2. By a custody staff member(s) of the same sex as the inmate except as set forth in (e) below;

3. By the number of custody staff members deemed reasonably necessary to provide security;

4. Under sanitary conditions; and

5. In a professional and dignified manner.

(e) Strip searches may be conducted by custody staff members of the opposite gender under emergency conditions

as ordered by the adult county correctional facility Administrator.

(f) No inmate shall be searched as punishment or discipline.

(g) For all strip searches conducted in accordance with this section, the custody staff member authorized to conduct a strip search shall file a written report to be made a part of the record of the inmate as set forth in this section. The report shall be reviewed by the supervisor who authorized the search when such authorization is required. The report shall be filed in accordance with internal management procedures. The report shall include, but not be limited to, the following information:

1. A statement of facts indicating any reasonable suspicion that is the basis for the search;

2. A statement of the emergent conditions requiring the presence of a custody staff member of the opposite sex when such conditions existed;

3. The name of the custody staff supervisor in charge who authorized the search;

4. The name(s) of the custody staff member(s) present during the search and the reason for custody staff presence;

5. The name(s) of the custody staff member(s) conducting the search; and

6. An inventory of the items(s) found during the search.

(h) Reports required pursuant to this section shall not be deemed public records; however, upon request, such reports shall be made available to:

1. The New Jersey Department of Corrections Commissioner, or designee;

2. The adult county correctional facility Administrator;

3. The Attorney General;

4. The county prosecutor; and/or

5. The inmate searched.

Recodified from 10A:31-8.4 and amended by R.1994 d.484, effective September 19, 1994.

See: 26 N.J.R. 2841(a), 26 N.J.R. 3863(a).

Amended by R.1998 d.263, effective May 18, 1998.

See: 30 N.J.R. 966(a), 30 N.J.R. 1811(a).

Rewrote (d).

Amended by R.2010 d.134, effective July 6, 2010.

See: 42 N.J.R. 34(a), 42 N.J.R. 1379(a).

Section was "Strip searches of a person(s) lawfully confined in an adult county correctional facility". Rewrote (a), (b), (d) and (e); and added (g).

Amended by R.2017 d.228, effective December 4, 2017.

See: 49 N.J.R. 2450(a), 49 N.J.R. 3751(a).

In (e), substituted "gender" for "sex".

Case Notes

Strip search of newly admitted county inmate found unjustified absent suspicion of concealed weapons or contraband; blanket strip search of all arrestees mandated by former rule found constitutionally unsupportable. *Davis v. City of Camden*, 657 F.Supp. 396 (D.N.J.1987).

Notwithstanding any ambiguity or inconsistency in N.J.A.C. 10A:31-8.5, a county jail warden was not entitled to qualified immunity with respect to a blanket policy on strip searches for arrestees because the law was well settled as of 1987 that strip searching of all incoming inmates charged with non-indictable offenses, performed without reasonable suspicion, violated the Fourth Amendment. *Florence v. Bd. of Chosen Freeholders of Burlington*, 595 F. Supp. 2d 492, 2009 U.S. Dist. LEXIS 7923 (2009).

Counties and county officials were not entitled to Eleventh Amendment immunity with respect to a civil rights case brought by arrestees alleging that their Fourth Amendment rights were violated by certain strip search policies at county correctional facilities because the county parties failed to demonstrate that they were arms of the state. While N.J.A.C. 10A:31-8.5 provides that the New Jersey Department of Corrections governs the conduct inside county jails, N.J.A.C. 10A:31-8.2(b) makes clear that the facilities are to implement their own plans governing intake procedures and searches. *Florence v. Bd. of Chosen Freeholders of Burlington*, 595 F. Supp. 2d 492, 2009 U.S. Dist. LEXIS 7923 (2009).

10A:31-8.6 Body cavity searches of a person(s) who has been detained or arrested for commission of an offense other than a crime

(a) A person who has been detained or arrested for the commission of an offense other than a crime shall not be subject to a body cavity search unless:

1. The search is authorized by a warrant or valid documented consent; or
2. The person is lawfully confined and the custody staff supervisor in charge determines that the search is based on a reasonable suspicion that a weapon, controlled dangerous substance, contraband or evidence of a crime will be found and the person authorized to conduct the body cavity search has obtained the authorization of the custody staff supervisor in charge.

(b) In the event the custody staff supervisor in charge determines that the search is based on a reasonable suspicion that a weapon, controlled dangerous substance, contraband or evidence of a crime is being concealed in the body cavity of the detained or arrested person, that person shall be escorted immediately to the medical unit or hospital used by the adult county correctional facility, and the examination of the person and removal of the contraband shall be conducted:

1. Under sanitary conditions;
2. At a location where the search cannot be observed by unauthorized persons;
3. By a licensed medical professional who must be of the same sex as the detained or arrested person;
4. In the presence of only those custody staff members deemed reasonably necessary for security, who are of the same sex as the detained or arrested person; and

5. In a professional and dignified manner, with maximum courtesy and respect for the person.

(c) The person who has been detained or arrested for the commission of an offense other than a crime may:

1. Remove the object in the presence of the licensed medical professional and a custody staff member(s) of the same sex as the person; or
2. Be examined by the licensed medical professional who may remove the object in a medically accepted manner and environment, without the use of force.

(d) In the event it is determined that a foreign object, which contains metal is present in the body cavity of the person who has been detained or arrested for the commission of an offense other than a crime, such object may be removed only by the licensed medical professional in a medically accepted manner and environment, with or without the use of force.

(e) In the event the custody staff supervisor in charge or the licensed medical professional has determined that non-metal contraband is being concealed in the body cavity of the person who has been detained or arrested for the commission of an offense other than a crime, and that person refuses to permit contraband removal, the person may be placed in medical isolation. During medical isolation, that person shall be treated in a medically accepted manner and environment as deemed necessary by the licensed medical professional and may be kept under visual surveillance to detect removal or elimination of the contraband.

(f) The person authorized to conduct a body cavity search shall file a written report to be made a part of the record of the detained or arrested person in accordance with this section. The report shall be reviewed by the supervisor who authorized the search and filed in accordance with internal management procedures. The report shall include, but not be limited to, the following information:

1. A statement of facts indicating any reasonable suspicion for the search and that the search was conducted in a medically accepted manner;
2. The name of the custody staff supervisor in charge who authorized the search;
3. The name(s) of the custody staff member(s) present during the search and the reason for custody staff presence;
4. The name(s) of the licensed medical professional(s) conducting the search;
5. An inventory of any item(s) found during the search;
6. The reason for use of force, if necessary; and
7. Any supporting documentation consisting of the warrant or consent when such documentation is the basis for the search.

(g) Reports required pursuant to this section shall not be deemed public records; however, upon request, such reports shall be made available to:

1. The New Jersey Department of Corrections Commissioner, or designee;
2. The adult county correctional facility Administrator;
3. The Attorney General;
4. The county prosecutor; and/or
5. The person searched.

New Rule, R.1994 d.484, effective September 19, 1994.

See: 26 N.J.R. 2841(a), 26 N.J.R. 3863(a).

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Substituted references to custody staff members for references to officers throughout; and in (g)2 inserted "adult county" preceding "correctional".

Amended by R.2010 d.134, effective July 6, 2010.

See: 42 N.J.R. 34(a), 42 N.J.R. 1379(a).

Rewrote the section.

10A:31-8.7 Body cavity searches of an inmate(s) lawfully confined for the commission of a crime

(a) Under no circumstances may a body cavity search be conducted on an inmate who is lawfully confined in an adult county correctional facility unless:

1. The custody staff supervisor in charge authorizes the search and the search is authorized by a warrant or valid documented consent; or
2. The search is based on a reasonable suspicion that a weapon, controlled dangerous substance, contraband or evidence of a crime will be found in the body cavity of the inmate.

(b) When the search is authorized in accordance with (a) above, the inmate shall be escorted immediately to the medical unit or hospital used by the adult county correctional facility and the following procedure shall be followed for examination of the inmate and removal of contraband.

1. A body cavity search shall be conducted:
 - i. Under sanitary conditions;
 - ii. At a location where the search cannot be observed by unauthorized persons;
 - iii. By a licensed medical professional of either sex;
 - iv. In the presence of only the custody staff member(s) deemed reasonably necessary for security, who are of the same sex as the inmate; and
 - v. Conducted in a professional and dignified manner, with maximum courtesy and respect for the inmate's person.
2. The inmate may:
 - i. Remove the object in the presence of the licensed medical professional and a custody staff member(s) of the same sex as the inmate; or
 - ii. Be examined by the licensed medical professional who may remove the object in a medically accepted manner and environment, without the use of force.

3. If the custody staff supervisor in charge authorizes a body cavity search in accordance with (a) above, the foreign object, which contains metal may be removed only by the licensed medical professional in a medically accepted manner and environment, with or without the use of force.

4. In the event the custody staff supervisor in charge or the licensed medical professional has determined that nonmetal contraband is being concealed in the inmate's body cavity, and the inmate refuses to permit contraband removal, the inmate shall receive appropriate disciplinary charges and may be placed in prehearing detention or medical isolation. During prehearing detention, medical isolation and disciplinary detention, if any, the inmate shall be treated in a medically accepted manner and environment as deemed necessary by the licensed medical professional and may be kept under visual surveillance to detect removal or elimination of the contraband.

(c) A written report of the results of a body cavity search shall be made a part of the record of the inmate and shall include, but not be limited to, the following information:

1. A statement of facts indicating any reasonable suspicion for the search and that the search was conducted in a medically accepted manner;
2. The name of the custody staff supervisor in charge who authorized the search;
3. The name(s) of the custody staff member(s) present during the search and the reason for custody staff presence;
4. The name(s) of the licensed medical professional(s) conducting the search;
5. An inventory of any item(s) found during the search; and
6. The reason for use of force, if necessary.

(d) Reports required pursuant to this section shall not be deemed public records; however, upon request, such reports shall be made available to:

1. The New Jersey Department of Corrections Commissioner, or designee;
2. The adult county correctional facility Administrator;
3. The Attorney General;
4. The county prosecutor; and/or
5. The inmate searched.

Recodified from 10A:31-8.5 and amended by R.1994 d.484, effective September 19, 1994.

See: 26 N.J.R. 2841(a), 26 N.J.R. 3863(a).

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Substituted references to custody staff members for references to officers throughout.

Amended by R.2010 d.134, effective July 6, 2010.

See: 42 N.J.R. 34(a), 42 N.J.R. 1379(a).

Section was "Body cavity searches of an inmate(s) lawfully confined in an adult county correctional facility". Rewrote (a) through (c); and added (d).

10A:31-8.8 Search of facilities

(a) All inmate residential, work, training and other areas to which inmates have access shall be searched thoroughly for contraband on a routine, continuing basis. Searches shall be unannounced and irregularly timed, and limited to a specific building or area.

(b) Procedures to be utilized in conducting searches shall be as set forth by each facility's plan governing searches required by N.J.A.C. 10A:31-8.1. Such procedures may provide that an inmate may be excluded from entry into an area being searched to facilitate the safe and effective performance of the search.

(c) Reports on the results of searches of the facility shall be submitted to the adult county correctional facility Administrator.

(d) Items which are not permitted in the facility shall be confiscated and placed in a secure storage area.

(e) Inmates shall be given a receipt for any property that is confiscated, and disciplinary action shall be initiated when appropriate.

(f) Searches shall be conducted with a minimum amount of disturbance to an inmate's property. An inmate's property shall not be damaged, destroyed or confiscated unless it is determined to be contraband. An inmate shall be permitted to observe the search of his or her cell and property from a distance, where reasonably feasible.

(g) All vehicular traffic and supplies entering the facility shall be thoroughly searched by a custody staff member.

Recodified from 10A:31-8.6 by R.1994 d.484, effective September 19, 1994.

See: 26 N.J.R. 2841(a), 26 N.J.R. 3863(a).

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (c), substituted a reference to adult county correctional facility Administrators for a reference to Jail Administrators; and in (g), substituted a reference to custody staff members for a reference to correctional officers.

Amended by R.2017 d.047, effective March 20, 2017.

See: 48 N.J.R. 2026(a), 49 N.J.R. 544(a).

In (b), updated the N.J.A.C. reference.

10A:31-8.9 Center Control

(a) The Center Control shall coordinate all security and communication functions within the facility.

(b) The Center Control shall be staffed 24 hours a day.

(c) Access to the Center Control shall be limited to authorized staff members who shall enter this location from a secure area not accessible to unauthorized persons, such as by way of the sally-port.

(d) All security perimeter doors, Center Control entrances and cell block doors shall remain secure except during use or in an emergency situation.

(e) The Center Control shall be responsible for the following:

1. Inmate counts;
2. Key control;
3. Operational coordination;
4. Internal and perimeter security; and
5. Communications.

(f) The Center Control shall monitor, as warranted, the following systems:

1. Fire alarms;
2. Smoke and thermal detection;
3. Public address;
4. Radio; and
5. Other mechanical and electrical systems.

Recodified from 10A:31-8.7 by R.1994 d.484, effective September 19, 1994.

See: 26 N.J.R. 2841(a), 26 N.J.R. 3863(a).

10A:31-8.10 Counts

(a) At the end of each work shift, a count shall be taken by the oncoming shift custody staff.

(b) Custody staff taking count shall convey count sheets to the area/individual designated in adult county correctional facility internal management procedures.

(c) Inmates assigned to cell blocks shall be in their respective cells during counts. During the count, custody staff shall verify that the inmates being counted are alive and not in an unsafe situation.

(d) No one except a custody staff member shall conduct a count.

(e) During the third shift hours, approximately 10 P.M. to 6 A.M., inmates shall be counted every half hour and the re-

sults of these counts shall be communicated to the central control area.

(f) The information contained on signed count slips shall be transposed to a master log located in the Center Control.

Recodified from 10A:31-8.8 by R.1994 d.484, effective September 19, 1994.

See: 26 N.J.R. 2841(a), 26 N.J.R. 3863(a).

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Substituted references to custody staff for references to correctional officers throughout; rewrote (e); and in (f), inserted "signed" preceding "count".

Amended by R.2006 d.59, effective February 6, 2006.

See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

In (a), deleted "written"; rewrote (b).

10A:31-8.11 Inmate movements

(a) Inmates shall move about the adult county correctional facility in an orderly fashion to facilitate the maintenance of security and the orderly operation of the facility.

(b) Inmate movements shall be observed by custody staff located in strategic areas in order to:

1. Detect the occurrence of assaults;
2. Deter the passage of contraband;
3. Maintain security and order; and
4. Expedite the movement of inmates from one location to another.

Recodified from 10A:31-8.9 by R.1994 d.484, effective September 19, 1994.

See: 26 N.J.R. 2841(a), 26 N.J.R. 3863(a).

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (b), substituted a reference to custody staff for a reference to correction officers.

10A:31-8.12 Custody staff posts

(a) Staff at every adult county correctional facility shall develop written operating procedures for every post which shall include, but not be limited to, provisions for staffing and collapsing a post when operationally necessary. These procedures shall be reviewed and updated annually.

(b) Custody staff shall be required to sign for post orders and acknowledge that the content is understood.

(c) Custody staff posts shall be located immediately in or adjacent to inmate living areas.

(d) Custody staff shall not leave their assigned posts without being properly relieved unless authorized by the Administrator or designee.

(e) Under no circumstances shall a custody staff member be removed from his or her post to perform another function if such removal results in the post becoming unstaffed unless authorized by the Administrator or designee.

(f) Custody staff shall not respond to violent situations unless the custody staff have received prior approval from the Center Control.

(g) Post orders for each custody staff member working in a housing unit shall include a requirement that each inmate, who has been classified as being in need of close supervision, shall be observed as frequently as the adult county correctional facility Administrator or designee has determined to be necessary.

Recodified from 10A:31-8.10 by R.1994 d.484, effective September 19, 1994.

See: 26 N.J.R. 2841(a), 26 N.J.R. 3863(a).

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Substituted a reference to custody staff for references to correction officers throughout.

Amended by R.2006 d.59, effective February 6, 2006.

See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

Rewrote (a); in (d) and (e), added "unless authorized by the Administrator or designee"; in (e), substituted "unstaffed" for "unmanned."

Amended by R.2011 d.059, effective February 22, 2011.

See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

In (a), substituted "Staff at every" for "Every".

10A:31-8.13 Electronic surveillance

(a) Observation through electronic surveillance systems may be used to observe special risk inmates and to observe inmates during movement and other activities and only when approved by the adult county correctional facility Administrator. Electronic surveillance shall not substitute for regular contact with staff members.

(b) Electronic surveillance should be utilized in such a manner as to avoid interference with the privacy of inmates, wherever possible.

Recodified from 10A:31-8.11 by R.1994 d.484, effective September 19, 1994.

See: 26 N.J.R. 2841(a), 26 N.J.R. 3863(a).

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (a) substituted a reference to adult county correctional facility Administrators for a reference to Jail Administrators; and deleted "direct staff supervision or for" preceding "regular".

10A:31-8.14 Transportation of inmates

(a) Custody staff involved in transportation shall receive special instructions, which shall include, but not be limited to:

1. Use of firearms;
2. Use of mechanical restraints;
3. Search of the transportation vehicle;
4. Strip searches;
5. Appropriate courtroom demeanor; and
6. Use of force.

(b) Special written transportation guidelines shall be developed by staff at each adult county correctional facility which emphasize safety and the prevention of escape.

(c) All personnel involved in the transport of inmates shall receive a copy of the transportation guidelines.

(d) Prior to custody staff members accepting escort responsibility for the custody of any inmate, sending facility staff shall ensure that the custody staff members are provided all mandatory inmate transportation documentation to include, but not be limited to:

1. Name and number;
2. Destination;
3. Custody status;
4. Current inmate photograph; and
5. Appropriate medical information for which there is a reason to know and any prescribed medications or instructions for special handling when transporting inmates with medical or psychiatric conditions.

Recodified from 10A:31-8.12 by R.1994 d.484, effective September 19, 1994.

See: 26 N.J.R. 2841(a), 26 N.J.R. 3863(a).

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (a) substituted a reference to custody staff for correction officer.

Amended by R.2006 d.59, effective February 6, 2006.

See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

In (a)2, added "mechanical."

Amended by R.2008 d.2, effective January 7, 2008.

See: 39 N.J.R. 3869(a), 40 N.J.R. 183(b).

Added (d).

Amended by R.2011 d.059, effective February 22, 2011.

See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

In (b), inserted "staff at" and "adult county correctional".

Amended by R.2017 d.228, effective December 4, 2017.

See: 49 N.J.R. 2450(a), 49 N.J.R. 3751(a).

In the introductory paragraph of (a), inserted a comma following "instructions"; in (a)4, deleted "and" from the end; in (a)5, substituted "courtroom" for "court room" and "; and" for a period; and added (a)6.

10A:31-8.15 Staffing plan

(a) The adult county correctional facility shall have a written staffing plan for all shifts.

(b) The staffing plan shall provide for back up assistance for all custody staff assigned to inmate living areas.

Recodified from 10A:31-8.13 by R.1994 d.484, effective September 19, 1994.

See: 26 N.J.R. 2841(a), 26 N.J.R. 3863(a).

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (b), substituted a reference to custody staff for a reference to correction officers.

10A:31-8.16 Reports and meetings

(a) A monthly meeting shall be conducted by the adult county correctional facility Administrator or designee with the supervisory staff.

(b) All supervisors shall submit a daily report to the adult county correctional facility Administrator that is consistent with their assigned areas of responsibility.

Recodified from 10A:31-8.14 by R.1994 d.484, effective September 19, 1994.

See: 26 N.J.R. 2841(a), 26 N.J.R. 3863(a).

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Substituted references to adult county correctional facility Administrators for references to Jail Administrators throughout.

10A:31-8.17 Use of force

(a) Staff at all adult county correctional facilities shall promulgate written procedures governing the use of physical force.

(b) Custody staff are authorized to enforce adult county correctional facility rules and regulations. Means to enforce such rules and regulations include, but are not limited to:

1. "Constructive authority" which means authority that does not involve actual physical contact with the individual, but does involve the use of the authority of the custody staff member to exert control over the individual. Examples of constructive authority include, but are not limited to, verbal commands, gestures, warnings and unholstering a weapon. Pointing a firearm at an individual is an element of constructive authority to be used only in appropriate situations; and

2. "Physical contact" which means routine or procedural contact with an individual that is necessary to effectively accomplish a legitimate law enforcement objective. Examples of physical contact include, but are not limited to, holding the arm of an individual during escort, handcuffing an individual, maneuvering or securing an individual for a search, and guiding the individual into a vehicle.

(c) Custody staff members are encouraged to interrupt the flow of events to help ensure that a fellow custody staff member does not resort to employing an inappropriate or excessive use of force.

(d) In any case that a custody staff member uses force to control an individual, the minimum force possible that is objectively reasonable under the totality of the circumstances shall be used, consistent with facility procedures.

(e) A custody staff member may use the amount of force reasonably necessary to accomplish the law enforcement objective. If the individual resists, the custody staff member may increase the degree of force as necessary to accomplish the law enforcement objective; however, as soon as the individual submits, the custody staff member shall reduce the degree of force used.

(f) Following the use of physical force, written reports shall be prepared and completed before the completion of the tour of duty by the custody staff members involved.

(g) In no case shall use of force be justified as a means of punishment or discipline.

(h) Custody staff members shall be prepared to justify the use of physical force.

Recodified from 10A:31-8.15 by R.1994 d.484, effective September 19, 1994.

See: 26 N.J.R. 2841(a), 26 N.J.R. 3863(a).

Amended by R.1999 d.327, effective September 20, 1999.

See: 31 N.J.R. 1848(b), 31 N.J.R. 2754(a).

In (b), deleted a former 4, and recodified former 5 as 4; in (d), substituted a reference to custody staff members for a reference to correctional officers in the introductory paragraph, and substituted a reference to supervisory custody staff members for a reference to supervisory officers in 6; in (e), substituted a reference to custody staff members for a reference to correctional officers; and in (g), substituted a reference to custody staff members for a reference to custody personnel.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (b)2, inserted a reference to non-chemical agents.

Amended by R.2004 d.332, effective September 7, 2004.

See: 36 N.J.R. 2294(a), 36 N.J.R. 4146(b).

In (b)2, substituted "natural" for "non-chemical".

Amended by R.2006 d.59, effective February 6, 2006.

See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

Rewrote the section.

Amended by R.2011 d.059, effective February 22, 2011.

See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

In (a), substituted "Staff at all" for "All".

10A:31-8.18 Use of non-deadly force; when justified

(a) The use of non-deadly force against persons is justified only under the following circumstances:

1. To protect self or others against the use of unlawful force;
2. To protect self or others against death or serious bodily harm;
3. To prevent damage to property;
4. To prevent escape;
5. To prevent or quell a riot or disturbance;
6. To prevent a suicide or attempted suicide; or
7. To enforce adult county correctional facility regulations where expressly permitted by facility regulations or in situations where a custody staff member with the rank of Sergeant or above believes that failure of the inmate to comply with regulations constitutes an immediate threat to personal safety or correctional facility security.

(b) Non-deadly force includes, but is not limited to, the use of the following:

1. "Physical force" which means contact with an individual beyond that which is generally utilized to affect a law enforcement objective. Physical force is employed when necessary to overcome an individual's physical resistance to the exertion of the authority of the custody staff member, or to protect persons or property. Examples of physical force include, but are not limited to, wrestling a

resisting individual to the ground, using wrist locks or arm locks, striking with the hands or feet, or other similar methods of hand-to-hand confrontation; and

2. "Mechanical force" which means the use of some device or substance, other than a firearm, to overcome an individual's resistance to the exertion of the authority of the custody staff member. Examples of mechanical force include, but are not limited to, the use of a baton or other object, use of canine physical contact with an individual, or use of a chemical or natural agent.

New Rule, R.2006 d.59, effective February 6, 2006.

See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

Amended by R.2017 d.228, effective December 4, 2017.

See: 49 N.J.R. 2450(a), 49 N.J.R. 3751(a).

In (a)3, deleted "serious" preceding "damage".

10A:31-8.19 Deadly force; when justified and when restricted

(a) Deadly force may be used against persons, consistent with provisions of the New Jersey Code of Criminal Justice, N.J.S.A. 2C:1-1 et seq., as determined by the governing body of the county or the County Board of Freeholders and upon authorization of the Administrator of the adult county correctional facility.

(b) Deadly force may be used in the following situations under limitations consistent with the provisions of the New Jersey Code of Criminal Justice, N.J.S.A. 2C:1-1 et seq.:

1. When the custody staff member reasonably believes that deadly force is immediately necessary to protect the custody staff member or another person from imminent danger of death or serious bodily harm. However, deadly force is not justifiable if the custody staff member can otherwise secure his or her complete safety or the complete safety of the protected person;

2. When the custody staff member reasonably believes that deadly force is immediately necessary to prevent or stop an individual from committing or continuing to commit a criminal offense that would endanger human life or inflict serious bodily harm upon another person unless the commission or the consummation of the crime is prevented; or

3. When the custody staff member reasonably believes that deadly force is immediately necessary to prevent the escape of an inmate committed to a correctional facility, deadly force may be used to detain the person charged with, or convicted of an offense, provided that the custody staff member reasonably believes that the force employed creates no substantial risk of injury to innocent persons.

(c) Deadly force includes, but is not limited to, the use of shotguns, handguns, rifles, and other lethal weapons.

(d) Where feasible, before using a firearm, the custody staff member shall attempt to identify himself or herself as a custody staff member and state his or her intent to shoot. A

custody staff member shall not discharge a firearm as a signal for help or as a warning shot.

(e) The custody staff member shall not discharge a firearm if there is a substantial risk of injury to innocent persons.

(f) A custody staff member shall not engage in a high-speed vehicle pursuit. A custody staff member shall not fire his or her firearm from a moving vehicle or at the driver or occupant of a moving vehicle or engage in any vehicle contact action, such as ramming, unless the custody staff member reasonably believes that:

1. An imminent danger of death or serious bodily harm to the custody staff member or another person exists; and
2. No other means are available at that time to avert or eliminate the danger.

(g) A custody staff member shall not fire a weapon solely to disable a moving vehicle.

(h) Whenever feasible, the custody staff member shall contact the central control of the adult county correctional facility to request assistance before engaging in any use of force that reasonably could result in serious bodily harm.

(i) A custody staff member is under no obligation to retreat or desist when resistance is encountered or threatened. However, a custody staff member shall not resort to the use of deadly force if the custody staff member reasonably believes that an alternative to the use of deadly force will avert or eliminate an imminent danger of death or serious bodily harm, and achieve the law enforcement objective at no increased risk to the custody staff member or another person.

(j) A custody staff member shall not use deadly force to subdue persons whose actions are only destructive to property.

(k) Deadly force shall not be used against persons whose conduct is injurious only to themselves.

(l) The discharge of any projectile from a firearm is considered to be deadly force, including less lethal means such as, but not limited to, bean bag (BB) ammunition or rubber bullets. For that reason, these and similar less lethal means of deadly force can only be used when a custody staff member reasonably believes such action is immediately necessary to protect the custody staff member or another person from imminent danger of death or serious bodily harm.

(m) Written internal management procedures and/or post orders shall govern the use of deadly force by custody staff members.

New Rule, R.2006 d.59, effective February 6, 2006.
See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

10A:31-8.20 Use of force against persons other than inmates during duties outside the adult county correctional facility security perimeter

(a) While engaged in roving patrol or other duty outside the adult county correctional facility security perimeter, appropriate force may be used against persons other than inmates when a custody staff member observes what he or she believes to be a violation of the law and when there is also imminent peril of bodily harm to any individual or destruction of property.

(b) Whenever possible, the custody staff member shall contact central control of the adult county correctional facility to request assistance before engaging in any use of force.

(c) In situations where a violation of law is suspected, but no imminent danger of harm to an individual or destruction of property is present, the custody staff member shall immediately contact the central control of the adult county correctional facility.

(d) Non-deadly force may be used against or toward persons other than inmates only under the following circumstances:

1. To protect self or others against the use of unlawful force;
2. To protect self or others against death or serious bodily harm;
3. To thwart the commission of a crime involving or threatening bodily harm or damage to property;
4. To prevent a suicide or attempted suicide;
5. To prevent escape, or flight from arrest for a crime; and/or
6. To effect an arrest for any offense or crime.

(e) Deadly force may be used against persons other than inmates when the custody staff member reasonably believes that the person presents an imminent threat of death or serious bodily harm to the staff member or another person.

(f) The custody staff member shall not discharge a firearm if there is substantial risk of injury to innocent persons.

New Rule, R.2006 d.59, effective February 6, 2006.
See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

10A:31-8.21 Use of force while off-duty

(a) Although N.J.S.A. 2A:154-4 authorizes peace officers to exercise law enforcement powers, custody staff members are not required to exercise those powers or to carry firearms during off-duty hours.

(b) Custody staff members, while off-duty, should use extreme caution to determine when and under what circumstances to become involved with day-to-day law enforcement

duties that are under the jurisdiction of Federal, State or local law enforcement agencies. As an example, when a custody staff member observes what he or she believes to be a violation of the law, he or she should take note of the vehicle description, license plate numbers and/or letters, identifying characteristics of persons involved and other relevant information, and report such information to the local law enforcement agency having jurisdiction. Adult county correctional facility Administrators are encouraged to develop internal management procedures and/or post orders relative to this section.

(c) The utmost caution shall be exercised by the custody staff member to determine when and under what conditions to use force. Whenever he or she believes that possible criminal action is taking place and that a reasonable alternative to use of force exists, the custody staff member must take the action which he or she determines to be least dangerous or harmful to persons or property.

(d) A custody staff member shall be deemed to have acted within the scope of his or her employment or within the law enforcement interest of the State of New Jersey, if he or she exercises police powers in accordance with the provisions of this subchapter, internal management procedures and/or post orders promulgated in connection therewith.

New Rule, R.2006 d.59, effective February 6, 2006.

See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

Amended by R.2011 d.059, effective February 22, 2011.

See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

In (b), inserted "and/or letters"; and in (c), substituted "The utmost" for "Extreme".

10A:31-8.22 Reports

(a) The custody staff member shall immediately contact the shift commander and shall write a special report when the custody staff member participated in, or witnessed an incident in which:

1. A firearm was discharged outside of the firing range area;
2. A use of force resulted in death or serious bodily harm; and/or
3. An individual alleges that serious bodily harm has been inflicted.

(b) The report shall contain the following information:

1. A description of the incident including events leading up to the use of force;
2. The type of force used;
3. The reason(s) for employing force;
4. A list of all participants and witnesses to the incident;
5. A description of the injuries suffered, if any, and medical treatment given; and

6. Other relevant facts or comments about the incident or conduct of employees or inmates.

(c) All reports shall be provided to the Administrator and/or directors of custody operations and/or investigation unit in accordance with internal management procedures of the adult county correctional facility. The Administrator shall then report the incident to the governing body of the county or the County Board of Freeholders.

New Rule, R.2006 d.59, effective February 6, 2006.

See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

10A:31-8.23 Training

(a) Training in proper methods and techniques of the lawful and appropriate use of force shall be provided as part of the basic course for county correction officers provided at a Police Training Commission approved academy.

(b) All security and custody personnel shall receive annual training in proper methods and techniques of using the types of force listed in this subchapter and in the lawful and appropriate use of force. In addition to annual training, retraining may be repeated as needed. Such training shall be provided in accordance with internal management procedures of the adult county correctional facility.

New Rule, R.2006 d.59, effective February 6, 2006.

See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

10A:31-8.24 Custody staff authorized to carry firearms while on-duty

(a) Prior to being permitted to carry a firearm on-duty, custody staff shall have:

1. Taken and successfully completed the Police Training Commission (P.T.C.) approved basic course for county correction officers as set forth in N.J.S.A. 52:17B-66 et seq.;
2. Taken and successfully completed a firearms training course at a P.T.C. approved training facility; and
3. Been sworn as peace officers by taking the oath of office and completing the Oath of Office form.

New Rule, R.2006 d.59, effective February 6, 2006.

See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

10A:31-8.25 On-duty firearms training, qualification and requalification

(a) As required by N.J.S.A. 2C:39-1 et seq., all custody staff members shall be initially trained and shall qualify and requalify in the use and handling of approved on-duty firearms.

(b) Custody staff members shall requalify on a range approved by the Police Training Commission.

(c) Only those custody staff members who achieve and maintain the required level of proficiency during range qualification and requalification shall be authorized to possess firearms while on-duty.

(d) Once a custody staff member has qualified on his or her county approved firearms, the custody staff member shall receive the official State of New Jersey Firearms Unit Weapons Card. Custody staff members shall be required to carry their weapons card (if issued), their official badge and photo identification card while on-duty.

(e) Each Administrator or designee shall be responsible for preparing and maintaining a current master list of all custody staff members authorized to carry a firearm.

1. The master list shall be maintained by the Administrator or designee to indicate the custody staff member's firearm qualification date (new or expired).

2. In the event that a custody staff member is assigned to a post that requires the issuance of a firearm for that custody staff member's exclusive use while on-duty, the Administrator or designee shall maintain a list that indicates the custody staff member's issued firearm, model name and number, and serial number of the firearm.

New Rule, R.2006 d.59, effective February 6, 2006.
See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).
Amended by R.2011 d.059, effective February 22, 2011.
See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).
Rewrote (d).

Case Notes

Appointing authority acted reasonably in suspending a correction officer (CO) for ten days on the ground that he had failed to qualify with his duty firearm as required by governing regulations and actually had allowed that qualification to lapse from December 4, 2012 through January 3, 2013. Though the CO explained the circumstances that had resulted in his failing to requalify in a timely manner, the fact remained that his failure to timely requalify constituted insubordination and neglect of duty and resulted in his being unable to perform the duties of his position. Given the CO's disciplinary record, the appointing authority could have imposed a more severe penalty but inasmuch as the appointing authority did not do so, the administrative law judge declined to recommend an increase in the length of the suspension. In re McMillian, Burlington Cty. Jail, OAL DKT. NO. CSV 09391-13, 2015 N.J. AGEN LEXIS 292, Initial Decision (June 1, 2015).

10A:31-8.26 On-duty firearm

(a) The authorized on-duty firearm shall be the responsibility of the custody staff member at all times.

(b) The custody staff member shall not draw or exhibit his or her firearm except in one of the following circumstances:

1. For maintenance of the firearm;
2. To secure the firearm;
3. When commanded by the firearms training staff during training exercises, range practice, qualification or requalification with the firearm;

4. When circumstances result in a reasonable belief that it may be necessary to use the firearm in the performance of the custody staff member's duties; or

5. When circumstances result in a reasonable belief that display of a firearm as an element of constructive authority will help establish or maintain control in a potentially dangerous situation in an effort to discourage resistance and ensure custody staff safety.

(c) A custody staff member, if required to carry a firearm while on-duty, shall carry his or her on-duty firearm on his or her person at all times unless otherwise instructed by his or her immediate supervisor. The firearm shall:

1. Remain in the holster while in a rest room; and
2. Not be left in a motor vehicle or other unauthorized location except under unusual or special circumstances, such as when a custody staff member must remove his or her on-duty firearm and another authorized staff member is unavailable to take custody of the firearm. Under an unusual or special circumstance, every effort shall be made to secure and conceal the firearm within a locked compartment.

(d) The custody staff member entering any adult county correctional facility shall store his or her firearm at the main correctional facility in accordance with internal management procedures or at an authorized weapons storage unit approved by the adult county correctional facility Administrator.

(e) When an authorized firearm is believed to have been lost or stolen, the custody staff member shall report this fact to the local law enforcement authorities where the firearm is known or believed to be lost or stolen and to the Administrator or designee as soon as possible, but no later than three hours from the time the custody staff member is aware that the firearm is missing.

(f) When an official State of New Jersey Firearms Unit Weapons Card, official photo identification card and/or badge is believed to have been lost or stolen, the custody staff member shall notify the local law enforcement authorities and the Administrator or designee as soon as practicable.

New Rule, R.2006 d.59, effective February 6, 2006.
See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).
Amended by R.2011 d.059, effective February 22, 2011.
See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

In (f), substituted "State of New Jersey Firearms Unit Weapons Card" for "weapons qualification card".

10A:31-8.27 Firearms training instructors

(a) As established by the New Jersey Division of Criminal Justice requirement, all firearms training instructors shall have successfully completed a Police Training Commission (P.T.C.) approved firearms instruction course and be P.T.C. certified as Firearm Instructors.

(b) As established by the New Jersey Division of Criminal Justice, all annual and requalification firearms training shall be conducted by firearms training instructors who have satisfied at least one of the following requirements:

1. Certification by the P.T.C.; or
2. Possess training equivalent to the P.T.C. approved firearms instructor course and able to demonstrate a knowledge of and skill with a firearm.

New Rule, R.2006 d.59, effective February 6, 2006.
See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

10A:31-8.28 (Reserved)

New Rule, R.2006 d.59, effective February 6, 2006.
See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).
Amended by R.2011 d.059, effective February 22, 2011.
See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).
Substituted "Staff at each" for "Each".
Repealed by R.2017 d.228, effective December 4, 2017.
See: 49 N.J.R. 2450(a), 49 N.J.R. 3751(a).

Section was "Adult county correctional facility internal management procedures".

SUBCHAPTER 9. USE AND CONTROL OF SECURITY EQUIPMENT

10A:31-9.1 Determining equipment needs

Careful analysis of the physical plant, the inmate population profile, and other relevant factors shall be utilized in determining the equipment an adult correctional facility needs for maintaining effective security and a state of readiness to adequately respond to major disturbances.

10A:31-9.2 Control of equipment

Written procedures shall specify the level of authority required for access and use of equipment for maintaining security.

10A:31-9.3 Use of restraining equipment

(a) Restraining equipment may be used only in the following instances:

1. As a precaution against escape during transit;
2. For medical reasons by direction of appropriately authorized medical staff;
3. To prevent inmate injury or injury to others; or
4. To prevent property damage.

(b) Restraining equipment shall be used to prevent property damage only in instances when such use has been approved by the adult county correctional facility Administrator or designee.

(c) At no time shall an inmate be left without proper supervision while in restraints.

(d) Restraints shall not be used as punishment, or in any way that causes undue physical discomfort, inflicts physical pain or restricts the blood circulation or breathing of an inmate.

(e) Restraints shall be removed promptly when the reason for their initial use has ceased to exist or has sufficiently abated.

(f) In the event restraints are used, a written report by the correctional personnel involved shall be submitted to the appropriate supervisor before the end of the tour of duty.

(g) The use of restraining equipment on a pregnant inmate shall be as set forth in N.J.A.C. 10A:31-13.10(d) through (h).

Amended by R.2000 d.332, effective August 7, 2000.
See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Rewrote (a)2; and in (b), substituted a reference to adult county correctional facility Administrators for a reference to Jail Administrators.
Amended by R.2017 d.228, effective December 4, 2017.
See: 49 N.J.R. 2450(a), 49 N.J.R. 3751(a).
Added (g).

10A:31-9.4 Key control

(a) A written ongoing control system shall govern the access, use and return of all adult county correctional facility keys.

(b) Facility keys shall be stored in a secure locker when not in use.

(c) There shall be one full set of duplicate facility keys, other than the keys in use, that is stored in a safe place. These keys shall be accessible only to appropriate facility personnel for emergency use.

(d) Inmates shall under no condition have access to any facility keys.

Amended by R.2011 d.059, effective February 22, 2011.
See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

In (c), deleted "at least" preceding "one full", and inserted "duplicate".

10A:31-9.5 Use and storage of chemical and natural agents

(a) Only chemical and natural agents approved by the adult county correctional facility Administrator shall be used by custody staff members in accordance with applicable provisions of this subchapter.

(b) Whenever chemical or natural agents are used as a means of control, a report shall be submitted to the adult county correctional facility Administrator which provides the reason(s) for the use of chemical or natural agents and the results achieved from such use.

(c) A custody staff member is not permitted to carry or use chemical or natural agents unless he or she has received appropriate training and annual retraining in chemical or natural agent use and effects.

(d) After each instance of use, individuals who have been exposed to chemical or natural agents shall be referred to medical staff for any necessary examination and treatment as soon as possible.

(e) Chemical and natural agents shall be safely stored, legibly labeled to show the chemical or natural agent name and expiration date, and properly inventoried to ensure security and an adequate unexpired supply.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Inserted references to non-chemical agents throughout; rewrote (a); and in (e), inserted a reference to expiration dates.

Amended by R.2004 d.332, effective September 7, 2004.

See: 36 N.J.R. 2294(a), 36 N.J.R. 4146(b).

Rewrote the section.

10A:31-9.6 Storage of weapons

(a) Firearms shall be located in an arsenal readily available in case of emergencies, but outside the security perimeter.

(b) All law enforcement officers entering the adult county correctional facility shall check their weapons at the facility's weapons collection station located outside the security perimeter.

(c) Weapons may be used only under orders of the adult county correctional facility Administrator or designee, in emergency situations in which any lesser degree of force would be ineffective, or would subject the custody staff to serious threat of injury.

(d) A strict accounting procedure governing the issue, use and return of weapons shall be developed by the designated staff person. This procedure shall include a record of the lethal and non-lethal projectiles expended.

(e) Any staff or inmate injured in an incident where a weapon is used shall receive an immediate medical examination and treatment.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (c), substituted a reference to adult county correctional facility Administrators for a reference to Jail Administrators, and substituted a reference to custody staff for a reference to correction officers.

SUBCHAPTER 10. FOOD SERVICE

10A:31-10.1 Nationally recommended dietary allowance

Staff at each adult county correctional facility shall document that the system of dietary allowance is reviewed at least annually by a dietician, registered by the American Dietetic

Association, to ensure compliance with nationally recommended food allowances as stated by the National Academy of Sciences.

Amended by R.2011 d.059, effective February 22, 2011.

See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

Substituted "Staff at each" for "Each".

10A:31-10.2 Food service management

A staff member, experienced in food service management, shall be designated to be responsible for food service management and operations within the adult county correctional facility.

Amended by R.2011 d.059, effective February 22, 2011.

See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

Inserted "member".

10A:31-10.3 Menus

(a) Menu evaluations shall be conducted and maintained at least quarterly by the adult county correctional facility food service supervisory staff to verify adherence to nationally recommended basic daily serving.

(b) The signature of a registered dietician on the menus shall indicate official approval of the nutritional adequacy of food served to inmates within the facility.

(c) All menus including special diets shall be planned, dated and available for review at least one week in advance.

(d) In any case when a food substitution is made, the food that is substituted shall be of equal nutritional value and a notation of the substitution shall be made on the menu.

(e) A file of tested recipes, adjusted to prepare the number of meals appropriate to the size of the facility, should be maintained on the premises of the facility.

10A:31-10.4 Special diets or alternate foods

(a) Provisions shall be made for special diets as prescribed by a physician or dentist of the adult county correctional facility.

(b) When the religious beliefs of an inmate(s) require the inmate(s) to adhere to dietary laws, provisions shall be made for alternate food items.

10A:31-10.5 Serving of meals

(a) Three meals shall be provided at regular meal times during each 24 hour period. Two of the three meals provided shall be hot meals unless an emergency situation precludes the serving of hot meals. No more than 14 hours shall elapse between the evening and breakfast meals.

(b) All meals shall be served under direct supervision of staff members in order to ensure sanitary conditions and avoid favoritism, careless serving and waste.

(c) A uniform system to record the number, type, cost of meals served to inmates, staff and visitors and any variances due to an emergency situation shall be established and maintained.

(d) A sanitary space shall be provided for group dining. Meals shall not be served in cells unless it is necessary for purposes of safety or security and only if a small table, shelf and seating arrangement can be provided.

(e) Compartment type trays and cups shall be utilized.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Rewrote (a); and in (c), inserted "and any variances due to an emergency situation" following "visitors".

Amended by R.2017 d.228, effective December 4, 2017.

See: 49 N.J.R. 2450(a), 49 N.J.R. 3751(a).

In (e), deleted ", bowls" following "trays".

10A:31-10.6 Prohibited use of food for discipline

Food shall not be used as a disciplinary measure.

Amended by R.1999 d.328, effective September 20, 1999.

See: 31 N.J.R. 1849(a), 31 N.J.R. 2755(a).

Deleted "reward, or as a" preceding "disciplinary".

10A:31-10.7 Medical examination of food service personnel

(a) All food service personnel and inmates shall receive a pre-assignment medical examination to ensure freedom from illnesses transmissible by food.

(b) All food service personnel and inmates shall receive a medical examination prior to resumption of duties if, for any reason, the inmate(s) or food service personnel have been away from the job for 30 days or more.

Amended by R.2011 d.059, effective February 22, 2011.

See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

In (a), substituted "ensure" for "insure".

10A:31-10.8 Personal hygiene of food service personnel

(a) All food service personnel shall maintain high standards of personal hygiene and comply with Federal, State and local laws and regulations for food handlers.

(b) All food handlers shall wash their hands upon reporting to duty and after using toilet facilities.

(c) A daily inspection of food handlers for cleanliness and to detect any illness or infection shall be conducted by the food service supervisor.

(d) Written documentation that food service personnel comply with applicable health regulations shall be available for review.

10A:31-10.9 Inspection of food service areas and equipment

(a) A weekly inspection of all food service areas and equipment shall be conducted by administrative or dietary personnel.

(b) A daily check of refrigerator and water temperatures by administrative or dietary personnel shall be made.

(c) Written documentation that food service facilities and equipment meet established safety and protection standards and requirements shall be available for review.

10A:31-10.10 Storage areas

(a) Sanitary temperature controlled storage areas for all foods shall be provided in:

1. Refrigerators and freezers;
2. Cool, dry storage areas; and
3. Lockable areas for pepper, nutmeg, vanilla, yeast, dry fruit, or other food additives which may be utilized to manufacture illegal products.

10A:31-10.11 Security in the food service area

(a) Written procedures shall be developed and implemented that govern the safe and secure storage of all cutlery items and hazardous kitchen utensils.

(b) A designated staff person shall be accountable for maintaining an ongoing inventory of all cutlery items.

10A:31-10.12 Budgeting, purchasing and accounting procedures

(a) The food service operation shall follow written budgeting, purchasing and accounting procedures to ensure nutritional and economical meals with minimum waste.

(b) When the adult county correctional facility's food services are provided by an outside agency or individual, the facility shall have written verification that the outside provider complies with the State and local regulations regarding food service.

10A:31-10.13 (Reserved)

Amended by R.2011 d.059, effective February 22, 2011.

See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

Substituted "Staff at each" for "Each".

Repealed by R.2017 d.228, effective December 4, 2017.

See: 49 N.J.R. 2450(a), 49 N.J.R. 3751(a).

Section was "Written policies and procedures".

SUBCHAPTER 11. SANITATION

10A:31-11.1 Federal, State and local codes

Each adult county correctional facility shall comply with Federal, State and local sanitation, safety and health codes.

10A:31-11.2 Housekeeping plan

Staff at each adult county correctional facility shall develop a written housekeeping plan that includes daily, weekly, and periodic cleaning schedules. These schedules shall set forth the type and frequency of cleaning assignments necessary to maintain all areas of the facility and grounds in a clean, orderly, and safe condition.

Amended by R.2011 d.059, effective February 22, 2011.
See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

Substituted "Staff at each" for "Each" and "that" for "which".
Amended by R.2017 d.228, effective December 4, 2017.
See: 49 N.J.R. 2450(a), 49 N.J.R. 3751(a).
Rewrote the section.

10A:31-11.3 Sanitation inspections

(a) The adult county correctional facility Administrator shall require that a designated staff member inspect the facility at least weekly utilizing a check list developed by the adult county correctional Administrator, or designee.

(b) The completed inspection check list shall be submitted to the adult county correctional facility Administrator or designee.

Amended by R.2000 d.332, effective August 7, 2000.
See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Substituted references to adult county correctional facility Administrators for references to Jail Administrators throughout; and in (a), inserted a reference to designees.
Amended by R.2017 d.228, effective December 4, 2017.
See: 49 N.J.R. 2450(a), 49 N.J.R. 3751(a).
Section was "Daily sanitation inspections". Rewrote (a).

10A:31-11.4 Floors

The floors of each adult county correctional facility shall be kept clean, dry and free from hazardous substances.

10A:31-11.5 Control of vermin and pests

(a) Staff at each adult county correctional facility shall make arrangements for the control of vermin and pests.

(b) Licensed pest control professionals shall be used at least once per month to clean or fumigate the facility.

(c) Integrated pest management practices shall be utilized to control the use of toxic pesticides.

Amended by R.2011 d.059, effective February 22, 2011.
See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

Substituted "Staff at each" for "Each".
Amended by R.2017 d.228, effective December 4, 2017.
See: 49 N.J.R. 2450(a), 49 N.J.R. 3751(a).
Added (c).

10A:31-11.6 Disposal of liquid and solid wastes

Staff at each adult county correctional facility shall develop a written plan for the disposal of liquid and solid wastes.

Amended by R.2011 d.059, effective February 22, 2011.
See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).
Substituted "Staff at each" for "Each".

SUBCHAPTER 12. INMATE CLOTHING AND HYGIENIC LIVING CONDITIONS

10A:31-12.1 Clothing

(a) All inmates shall be provided with clothing that is clean, climatically suitable, durable and in good condition.

(b) Inmates participating in food service, sanitation, mechanical and other special work assignments shall be issued appropriate clothing and equipment in quantities that permit exchange as frequently as the work assignment requires.

10A:31-12.2 Towels, linen, and bedding

(a) Each inmate shall be issued the following clean items:

1. One towel;
2. One fire retardant mattress;
3. One pillow or an integrated pillow within the fire retardant mattress;
4. Two sheets;
5. One pillowcase, if appropriate; and
6. Sufficient clean blankets to provide comfort under existing temperature conditions, as deemed appropriate by the facility Administrator, or designee.

Amended by R.2000 d.332, effective August 7, 2000.
See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (a)1 reduced the number of towels issued per inmate from two to one.

Amended by R.2017 d.228, effective December 4, 2017.
See: 49 N.J.R. 2450(a), 49 N.J.R. 3751(a).

Section was "Towels, linen and bedding". Rewrote (a)3, (a)5, and (a)6.

10A:31-12.3 Laundry services

(a) Laundry services shall permit the exchange or laundering of inmate clothing (facility issue and/or personal), linen, and bedding on a weekly basis.

(b) The collection, storage and exchange of clothing and linen shall be accomplished hygienically.

Amended by R.2017 d.228, effective December 4, 2017.
See: 49 N.J.R. 2450(a), 49 N.J.R. 3751(a).

In (a), inserted "or laundering", and inserted a comma following "linen".

10A:31-12.4 Issue of clothing, linen and bedding

(a) The clothing, linen and bedding supply shall exceed that required for the maximum inmate population in order to allow the adult county correctional facility to compensate without delay for items that are lost, destroyed, or worn out.

(b) The issue of clothing and bedding shall be recorded to provide accountability for their use. Inmate accountability for clothing and bedding should be specified in the copy of the facility's regulations given to each inmate upon admission.

10A:31-12.5 Cleaning of mattresses

Mattresses shall be cleaned, sanitized, and/or disinfected before reissue.

Amended by R.2017 d.228, effective December 4, 2017.
See: 49 N.J.R. 2450(a), 49 N.J.R. 3751(a).

Section was "Cleaning of blankets and mattresses". Rewrote the section.

10A:31-12.6 Storage of inmate personal clothing

Provisions shall be made for the storage of inmate personal clothing and, when necessary, the clothing shall be cleaned and/or disinfected prior to storage.

10A:31-12.7 Personal hygiene products

(a) As part of the admission process, each inmate shall be provided with the following articles necessary for maintaining proper personal hygiene:

1. Soap;
2. Toothbrush;
3. Toothpaste or powder;
4. A comb;
5. Toilet paper;
6. Shaving equipment upon request; and
7. Products for the special hygiene needs of female inmates.

(b) Indigent inmates shall be provided basic items for personal hygiene set forth in (a) above on a continuing basis.

(c) Personal hygiene needs of inmates shall not be denied for punitive reasons.

Amended by R.2017 d.228, effective December 4, 2017.
See: 49 N.J.R. 2450(a), 49 N.J.R. 3751(a).

In (a)6, deleted a comma following "Shaving" and following "equipment".

10A:31-12.8 Shower and hair care services

(a) Upon admission to the adult county correctional facility inmates shall be required to shower and shall be permitted to shower daily thereafter.

(b) Hair care services shall be made available to all inmates on a regular basis.

(c) The area used for hair services shall be located to permit observation by the staff and equipment shall be stored securely when not in use.

10A:31-12.9 (Reserved)

Amended by R.2011 d.059, effective February 22, 2011.

See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

Substituted "Staff at each" for "The".

Repealed by R.2017 d.228, effective December 4, 2017.

See: 49 N.J.R. 2450(a), 49 N.J.R. 3751(a).

Section was "Written policies and procedures".

SUBCHAPTER 13. MEDICAL, DENTAL, AND HEALTH SERVICES**10A:31-13.1 Essential medical, dental and health services**

Staff at the adult county correctional facility shall be responsible for essential medical, dental and health care services.

Amended by R.2011 d.059, effective February 22, 2011.

See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

Substituted "Staff at the" for "The".

Case Notes

County required to provide medical treatment for inmates injured during imprisonment. *Saint Barnabas Medical Center v. Essex County*, 111 N.J. 67, 543 A.2d 34 (1988).

County was liable to private hospital for costs of treatment provided during indigent inmate's incarceration. *Saint Barnabas Medical Center v. Essex County*, 111 N.J. 67, 543 A.2d 34 (1988).

County not liable to private hospital for costs of indigent inmate's medical care provided after expiration of sentence. *Saint Barnabas Medical Center v. Essex County*, 111 N.J. 67, 543 A.2d 34 (1988).

10A:31-13.2 Responsibility for adult county correctional facility's medical services

(a) A physician, licensed in the State of New Jersey, shall be responsible for the adult county correctional facility's medical services pursuant to a written agreement between:

1. The county funding agency responsible for the facility;
2. The adult county correctional facility Administrator; and
3. The physician responsible for medical services, or a qualified medical authority, such as a physician's group.

(b) The physician responsible for medical services shall have no restriction imposed on him or her by the adult county correctional facility administration regarding the practice of medicine.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (a)2, substituted "adult county correctional facility" for "Jail".

10A:31-13.3 Security regulations

Security regulations applicable to adult county correctional facility personnel shall also apply to medical personnel.

10A:31-13.4 Standard operating procedures

(a) Written standard operating procedures approved by the physician who is responsible for medical services should be consistent with P.L. 2016, c. 70, and other applicable statutes and shall be developed for the following:

1. Medical screening;
2. Health appraisal data collections;
3. Non-emergency medical services;
4. Emergency medical and dental services;
5. Evaluating the emergency nature of illness or injury;
6. Dental screening, prevention, examination and treatment;
7. Medical and dental prosthetics;
8. First aid;
9. Notification of next of kin or legal guardian in case of major surgery, serious illness, injury or death;
10. Chronic care;
11. Convalescent care;
12. Medical preventive maintenance;
13. Screening, referral and care of mentally ill and developmentally disabled inmates;
14. Care of inmates requiring close medical supervision;
15. Delousing;
16. Detoxification;
17. Pharmaceuticals; and
18. Ensuring inmate identification prior to rendering care or treatment.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (a), substituted "developmentally disabled" for "retarded" in 13, and added 18.

Amended by R.2017 d.228, effective December 4, 2017.

See: 49 N.J.R. 2450(a), 49 N.J.R. 3751(a).

In the introductory paragraph of (a), inserted "should be consistent with P.L. 2016, c. 70, and other applicable statutes and".

10A:31-13.5 Licensure

(a) State licensure and/or certification requirements and restrictions shall apply to health care personnel working in

the adult county correctional facility to the same extent as to those working in the community.

(b) Copies of current licenses and/or certification credentials shall be on file in the facility.

10A:31-13.6 Job descriptions

The work of medical personnel shall be governed by written job descriptions which are approved by the physician or medical authority responsible for medical services.

10A:31-13.7 Treatment

(a) Treatment by medical personnel other than the physician responsible for medical services shall be performed pursuant to written standing or direct orders from that physician.

(b) In lieu of written standing orders, certified physician assistants and nurse practitioners may practice within the limits of their certification(s), providing that such practice(s) shall be consistent with State law and shall be authorized by the physician or a qualified medical authority who is responsible for medical services within the adult county correctional facility.

(c) If medical services are delivered in the facility, adequate space, equipment, supplies and materials as determined by the physician who is responsible for medical services shall be provided for primary health care delivery.

(d) The physician who is responsible for medical services shall ensure that inmates are notified in a timely manner of any serious medical condition that requires treatment along with an explanation of the condition and treatment.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (b), deleted "nationally" preceding "certified" and deleted "national" preceding "certification(s)".

Amended by R.2008 d.48, effective April 7, 2008.

See: 39 N.J.R. 2583(c), 40 N.J.R. 1869(a).

Added (d).

10A:31-13.8 First aid kits

(a) First aid kits shall be available in all adult county correctional facilities.

(b) The physician who is responsible for medical services shall approve the:

1. Content of the kits;
2. Number of kits; and
3. Location of the kits.

(c) Written procedures for the use and monthly inspection of all first aid kits shall be established.

10A:31-13.9 Medical screening

(a) Prior to placement in general population or housing area, all inmates shall receive:

1. A medical screening by qualified health care personnel;
2. A physical examination by a licensed physician, certified physician assistant or nurse practitioner practicing within the limits of their certification(s);
3. A pregnancy test for all female inmates, except those who are post-menopausal or who have had a hysterectomy; and
4. Any tests determined to be necessary by the physician who is responsible for medical services.

(b) The findings of the medical screening shall be recorded on a printed form approved by the physician who is responsible for medical services.

(c) The medical screening should be consistent with the criteria set forth in P.L. 2016, c. 70, and all other applicable statutes and include, but not be limited to:

1. Current illnesses and health problems, including those specific to women;
2. Medications taken and special health requirements;
3. Evaluating other health problems designated by the physician responsible for medical services;
4. Behavior observation, including state of consciousness and mental awareness;
5. Notation of body deformities, such as trauma markings, bruises, lesions, jaundice, ease of movement;
6. Condition of skin and body orifices, including rashes and infestation; and
7. Referral of inmates to qualified medical personnel on an emergency basis.

Amended by R.1991 d.190, effective April 15, 1991 (operative April 22, 1991).

See: 23 N.J.R. 15(a), 23 N.J.R. 1128(b).

Added pregnancy test for female inmates.

Amended by R.1995 d.421, effective August 7, 1995.

See: 27 N.J.R. 1728(a), 27 N.J.R. 2928(a).

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Rewrote (a).

Amended by R.2011 d.059, effective February 22, 2011.

See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

In the introductory paragraph of (a), inserted "or housing area"; deleted (b); and recodified (c) and (d) as (b) and (c).

Amended by R.2017 d.228, effective December 4, 2017.

See: 49 N.J.R. 2450(a), 49 N.J.R. 3751(a).

In the introductory paragraph of (c), inserted "be consistent with the criteria set forth in P.L. 2016, c. 70, and all other applicable statutes and".

Case Notes

There was a sufficient rational basis for the July 1986 amendments to former N.J.A.C. 10A:31-3.12(b) and former N.J.A.C. 10A:31-3.15(b); the amendments, which abandoned the provision that all inmates be tested for infectious diseases and provided for testing at the discretion of the county jail's physician, were intended to heighten the counties' responsibilities with regard to medical screening. The prior provisions did not require screening by trained personnel or physical exams by physicians as did the new provisions, and because each physician retained the discretion to order tests, it had to be presumed that the physician would exercise that discretion if good medical practice dictated. *Office of Inmate Advocacy v. Fauver*, 222 N.J. Super. 357, 536 A.2d 1306, 1988 N.J. Super. LEXIS 22 (1988).

July 1986 amendments to former N.J.A.C. 10A:31-3.12(b) and former N.J.A.C. 10A:31-3.15(b) did not violate inmates' federal and state constitutional rights because there had been no proof that the lack of mandatory tests for venereal disease and tuberculosis had resulted in, or was likely to result in, medically significant consequences. Further, prison inmates had no fundamental right to protect their bodies against contagious disease under Article I, Paragraph 1 of the New Jersey Constitution. *Office of Inmate Advocacy v. Fauver*, 222 N.J. Super. 357, 536 A.2d 1306, 1988 N.J. Super. LEXIS 22 (1988).

10A:31-13.10 Care of pregnant inmates

(a) Designated staff at the adult county correctional facility shall provide pregnant inmates with medical and social services as soon as possible after the pregnancy is diagnosed. Medical and social services shall include:

1. Prenatal medical evaluation and care;
2. Nutritional supplements and diet as prescribed by the treating physician;
3. Non-directive counseling regarding:
 - i. Family planning;
 - ii. Birth Control;
 - iii. Termination of pregnancy;
 - iv. Child placement services; and
 - v. Religious counseling, if desired by the inmate.
4. Obstetrical services;
5. Abortion services, unless the treating physician and/or gynecologist determines that the pregnancy cannot be terminated; and
6. Appropriate postpartum and follow-up medical care.

(b) The delivery or termination of pregnancy shall be scheduled only at a State-licensed medical facility or hospital.

(c) Designated staff at the adult county correctional facility shall also provide the pregnant inmate with:

1. Suitable maternity clothes if the inmate is unable to provide her own;
2. Reasonable housing assignments, as permitted by available space and the inmate's security status; and
3. Appropriate exercise and reduced work schedules as deemed advisable by the treating physician.

(d) A pregnant inmate should not be placed in restraints, other than handcuffs, without prior medical approval, unless there are reasonable grounds to believe the inmate presents an immediate, serious threat of hurting herself, staff, or others, or that she presents an immediate credible risk of escape that cannot be reasonably contained through other methods. Medical personnel will review the placement of restraints as soon as practicable.

(e) The following types of restraints and restraint practices are prohibited for use on a pregnant inmate:

1. Abdominal restraints;
2. Leg and ankle restraints;
3. Wrist restraints behind the back; or
4. Four-point restraints.

(f) Restraints should not be used on a pregnant inmate during labor and delivery and should be avoided during the post-partum period, unless the use of restraints meets the criteria of (d) above. The determination of when post-partum has commenced and has ended shall rest solely with the medical providers of the pregnant inmate.

(g) Written standard operating procedures shall be established that include, but are not limited to:

1. Use of restraints on a pregnant inmate during transportation;
2. Frequency for reassessing the use of restraints when they have been deemed necessary or appropriate; and
3. Documentation for the use of restraints, such as what type was used, what manner it was used in, and the length of time it was used.

(h) When it is deemed that a pregnant inmate must be restrained, necessary precautions must be taken to ensure her unborn child is unharmed. Health Services personnel must prescribe the necessary precautions, including decisions about the manner in which the inmate is to be restrained, that is, whether medical personnel should be present during the application of restraints, whether the inmate should be restrained at the institutional hospital or a local medical facility, etc.

New Rule, R.1991 d.190, effective April 15, 1991 (operative April 22, 1991).

See: 23 N.J.R. 15(a), 23 N.J.R. 1128(b).

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (a) and (c), inserted "adult" preceding "county" in the introductory paragraphs.

Amended by R.2011 d.059, effective February 22, 2011.

See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

In the introductory paragraph of (a) and (c), substituted "Designated staff at the" for "The".

Amended by R.2017 d.228, effective December 4, 2017.

See: 49 N.J.R. 2450(a), 49 N.J.R. 3751(a).

Added (d) through (h).

Case Notes

Held that county order requiring inmates to secure court-ordered releases to obtain abortions while in county's custody was unconstitutional; county regulations requiring inmates to obtain their own funding for abortion was held unconstitutional as infringing on inmate's right to make abortion choice. *Monmouth County Correctional Institution Inmates v. Lanzaro*, 834 F.2d 326 (3C1987).

10A:31-13.11 Access to medical and dental services

At the time of admission, all inmates shall be provided with a copy of the adult county correctional facility's rules and regulations which shall include the procedures for gaining access to medical and dental services (see N.J.A.C. 10A:31-21.4).

Recodified from 10A:31-13.10 by R.1991 d.190, effective April 15, 1991 (operative April 22, 1991).

See: 23 N.J.R. 15(a), 23 N.J.R. 1128(b).

10A:31-13.12 Inmate medical complaints

(a) The written medical complaints of inmates shall be collected daily.

(b) The medical staff shall assess the medical complaints of inmates and provide for the treatment of inmates according to priorities of need.

Recodified from 10A:31-13.11 by R.1991 d.190, effective April 15, 1991 (operative April 22, 1991).

See: 23 N.J.R. 15(a), 23 N.J.R. 1128(b).

10A:31-13.13 Sick call

(a) Sick call conducted in adult county correctional facilities by a physician and/or other qualified medical personnel shall be available to each inmate as follows:

1. Facilities with fewer than 100 inmates shall conduct sick call at least once a week;
2. Facilities with 100 to 300 inmates shall conduct sick call at least three times per week; and
3. Facilities with over 300 inmates shall conduct sick call at least four times per week.

Recodified from 10A:31-13.12 by R.1991 d.190, effective April 15, 1991 (operative April 22, 1991).

See: 23 N.J.R. 15(a), 23 N.J.R. 1128(b).

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Rewrote (a).

10A:31-13.14 Physician availability

A physician shall be available at least once each week to respond to inmate medical complaints.

Recodified from 10A:31-13.13 by R.1991 d.190, effective April 15, 1991 (operative April 22, 1991).

See: 23 N.J.R. 15(a), 23 N.J.R. 1128(b).

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Inserted "medical" preceding "complaints".

10A:31-13.15 Emergency medical and dental care

(a) Staff at the adult county correctional facility shall provide 24 hour seven day per week emergency medical and dental care.

(b) Written standard operating procedures (S.O.P.'s) shall be established which shall include, but not be limited to, arrangements for the following:

1. On-site emergency first aid;
2. Emergency evacuation of the inmate from the adult county correctional facility;
3. Use of an emergency medical vehicle;
4. Use of one or more designated hospital emergency rooms or other appropriate health facilities; and
5. An emergency on call physician or dental services when the emergency health facility is not located in a near-by community.

(c) Facility personnel shall be trained in the use of emergency care procedures. This training shall include, but not be limited to:

1. Signs and symptoms of potential emergency situations;
2. Types of action required for potential emergency situations;
3. Administration of first aid;
4. Method of obtaining emergency care;
5. Location of the facility's first aid kits; and
6. Transferring patient to appropriate medical provider.

(d) All facility personnel likely to be needed or involved in a medical emergency shall be trained in basic first aid that is equivalent to that defined by the American Red Cross.

(e) At least one person per shift shall have training in the following:

1. Receiving screening;
2. Basic life support;
3. Cardio-pulmonary resuscitation (C.P.R.); and
4. Recognition of symptoms of the illnesses common to the facility.

Recodified from 10A:31-13.14 by R.1991 d.190, effective April 15, 1991 (operative April 22, 1991).

See: 23 N.J.R. 15(a), 23 N.J.R. 1128(b).

Administrative correction.

See: 39 N.J.R. 4126(b).

Amended by R.2011 d.059, effective February 22, 2011.

See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

In (a), substituted "Staff at the" for "The".

10A:31-13.16 Chronic and convalescent care

Chronic care, convalescent care and medical preventive maintenance shall be provided to inmates.

Recodified from 10A:31-13.15 by R.1991 d.190, effective April 15, 1991 (operative April 22, 1991).

See: 23 N.J.R. 15(a), 23 N.J.R. 1128(b).

10A:31-13.17 Medical and dental prosthetics

As determined by the physician who is responsible for medical services, medical and dental prosthetics shall be provided when the health of the inmate patient would otherwise be adversely affected.

Recodified from 10A:31-13.16 by R.1991 d.190, effective April 15, 1991 (operative April 22, 1991).

See: 23 N.J.R. 15(a), 23 N.J.R. 1128(b).

10A:31-13.18 Dental care

(a) Dental care shall be provided under the direction of a dentist licensed in the State of New Jersey.

(b) Dental screening shall be provided to new admissions.

(c) Inmates shall receive dental treatment as determined by the dentist in accordance with the Classification and Priority Treatment Program (see N.J.A.C. 10A:31-13.19).

Recodified from 10A:31-13.17 by R.1991 d.190, effective April 15, 1991 (operative April 22, 1991).

See: 23 N.J.R. 15(a), 23 N.J.R. 1128(b).

10A:31-13.19 Classification and Priority Treatment Program

(a) A written Classification and Priority Treatment Program shall be established that will place inmates into a dental scheduling system.

(b) The Classification and Priority Treatment Program shall use the date of the inmate's incarceration as a basis for placement on the dental treatment lists in all categories of classification.

(c) The Classification and Priority Treatment Program shall give priority scheduling to:

1. Inmates who need emergency dental treatment;
2. Inmates who have medical problems, such as allergies, diabetes, heart conditions and blood diseases; and
3. Inmates who do not have sufficient teeth to masticate the food provided by the adult county correctional facility.

Recodified from 10A:31-13.18 by R.1991 d.190, effective April 15, 1991 (operative April 22, 1991).

See: 23 N.J.R. 15(a), 23 N.J.R. 1128(b).

10A:31-13.20 Preventive dentistry

Preventive dentistry shall be routinely implemented into the adult county correctional facility's dental program.

Recodified from 10A:31-13.19 by R.1991 d.190, effective April 15, 1991 (operative April 22, 1991).
See: 23 N.J.R. 15(a), 23 N.J.R. 1128(b).

10A:31-13.21 Refusal of treatment

The inmate shall have the right to refuse dental treatment.

Recodified from 10A:31-13.20 by R.1991 d.190, effective April 15, 1991 (operative April 22, 1991).
See: 23 N.J.R. 15(a), 23 N.J.R. 1128(b).

10A:31-13.22 Mentally ill and developmentally disabled inmates

(a) Screening and referral for care shall be provided to mentally ill or developmentally disabled inmates whose adaptation to the adult county correctional facility environment is significantly impaired.

(b) The physician who is responsible for medical services shall provide a written list of symptoms or behavior indicative of mental illness and developmental disabilities and shall designate, in advance, specific referral sources.

(c) Facility personnel shall be trained regarding recognition of symptoms of mental illness and developmental disabilities.

Recodified from 10A:31-13.21 by R.1991 d.190, effective April 15, 1991 (operative April 22, 1991).
See: 23 N.J.R. 15(a), 23 N.J.R. 1128(b).
Amended by R.2000 d.332, effective August 7, 2000.
See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (a), substituted "developmentally disabled" for "retarded"; and in (b) and (c), substituted "developmental disabilities" for "retardation".

10A:31-13.23 Close medical supervision program

(a) A special program shall be established for inmates requiring close medical supervision.

(b) An individual medical treatment plan for inmates requiring close medical supervision shall be developed by a physician which includes directions to medical and non-medical personnel regarding the staff's role in the care and supervision of these inmates.

Recodified from 10A:31-13.22 by R.1991 d.190, effective April 15, 1991 (operative April 22, 1991).
See: 23 N.J.R. 15(a), 23 N.J.R. 1128(b).

10A:31-13.24 Suicide prevention and intervention plan

(a) The adult county correctional facility Administrator or designee shall ensure that a written suicide prevention and intervention plan shall be developed that is reviewed and approved by a qualified medical or mental health professional.

(b) This plan shall include provisions for training staff responsible for inmate supervision, as well as specific procedures for intake screening, identifying and supervising inmates who may be at risk for suicidal behavior.

New Rule, R.2000 d.332, effective August 7, 2000.
See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Former N.J.A.C. 10A:31-13.24, Special diets, recodified to N.J.A.C. 10A:31-13.25.

10A:31-13.25 Special diets

Special medical diets shall be prepared and served to inmates as ordered by the physician or dentist who is responsible for medical or dental services (see N.J.A.C. 10A:31-10.4).

Recodified from 10A:31-13.23 by R.1991 d.190, effective April 15, 1991 (operative April 22, 1991).
See: 23 N.J.R. 15(a), 23 N.J.R. 1128(b).
Recodified from N.J.A.C. 10A:31-13.24 by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Former N.J.A.C. 10A:31-13.25, Detoxification, recodified to N.J.A.C. 10A:31-13.26.

10A:31-13.26 Detoxification

Detoxification from alcohol, barbiturates and similar drugs, when not provided in a hospital or community detoxification center, shall be performed at the adult county correctional facility under medical supervision.

Recodified from 10A:31-13.24 by R.1991 d.190, effective April 15, 1991 (operative April 22, 1991).
See: 23 N.J.R. 15(a), 23 N.J.R. 1128(b).
Recodified from N.J.A.C. 10A:31-13.25 by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Former N.J.A.C. 10A:31-13.26, Pharmaceutical management, recodified to N.J.A.C. 10A:31-13.27.

10A:31-13.27 Pharmaceutical management

(a) The adult county correctional facility's written standard operating procedures for the management of pharmaceuticals should be consistent with P.L. 2016, c. 70, and all other applicable statutes and shall also include:

1. A formulary;
2. Requirements that the facility shall adhere to regulations established by the State Board of Pharmacy regarding medications;
3. A policy regarding prescription practices which shall include, but not be limited to:
 - i. Prescriptions generated by consultant health providers;
 - ii. Blanket standing orders;
 - iii. Written prescriptions;
 - iv. Oral prescriptions; and
 - v. Renewal schedule of drugs.

4. Policies regarding medication dispensing and administration;
5. Policies on documenting the administration of medication; and
6. Policies regarding the maximum security storage, daily and weekly inventory, labeling, disposal upon expiration, and restocking of all controlled substances, syringes, needles and surgical instruments.

Recodified from 10A:31-13.25 by R.1991 d.190, effective April 15, 1991 (operative April 22, 1991).

See: 23 N.J.R. 15(a), 23 N.J.R. 1128(b).

Recodified from N.J.A.C. 10A:31-13.26 by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Former N.J.A.C. 10A:31-13.27, Medical Records, recodified to N.J.A.C. 10A:31-13.28.

Amended by R.2006 d.59, effective February 6, 2006.

See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

In (a)6, added “, daily” and “, labeling, disposal upon expiration, and restocking.”

Amended by R.2017 d.228, effective December 4, 2017.

See: 49 N.J.R. 2450(a), 49 N.J.R. 3751(a).

In the introductory paragraph of (a), inserted “should be consistent with P.L. 2016, c. 70, and all other applicable statutes and” and “also”.

10A:31-13.28 Medical records

(a) A medical record shall be maintained for each inmate to accurately document all healthcare services in one or both of the following:

1. “Electronic medical record” (EMR), which is a healthcare record of an inmate in an electronic format that contains recorded information concerning the medical, dental and mental health history and related health activities of the inmate; and/or
2. “Medical reference file” (MRF), which is a paper, written or printed record that contains information concerning the medical, dental and mental health history and related health activities of an inmate.

(b) The EMR and/or MRF shall contain the following:

1. Completed medical screening forms;
2. First appraisal data collection forms;
3. All findings, diagnoses, treatments, dispositions, prescriptions and administrations of medication;
4. Notes concerning health, medical instructions, or health education provided to the inmate; and
5. Notation of place, date and time of medical encounters and discharges from medical treatment.

(c) The method of recording entries in the EMR and/or MRF and the form and format of the record shall be approved by the physician who is responsible for medical services.

(d) Access to the EMR and/or MRF is controlled by the physician who is responsible for medical services. The physician/patient privilege shall apply to the EMR and MRF (see

N.J.A.C. 10A:31-6). An inmate may obtain a copy of his or her medical records in accordance with N.J.A.C. 13:35-6.5 as amended and supplemented. Additionally, an inmate may request an amendment or correction of his or her medical record in writing to the physician or designee who is responsible in accordance with internal management procedures. The inmate shall be notified as soon as possible within 60 calendar days of the receipt of the request to amend or correct the medical record that:

1. The request has been granted and the amendment or correction has been made and the amended or corrected section of the record will be provided to the inmate at no cost to the inmate;
2. The request has been denied along with a written statement of the reasons for the denial and information regarding appeal procedures; or
3. An extension has been deemed necessary in order to research or obtain additional information relative to the request. In this case, the written notification shall include reasons for the extension and the reasonable time period within which a response will be provided.

(e) The EMR and/or MRF shall be kept separate from the inmate’s classification record.

(f) A medical summary sheet shall accompany an inmate who is being transferred from one facility to another.

Recodified from 10A:31-13.26 by R.1991 d.190, effective April 15, 1991 (operative April 22, 1991).

See: 23 N.J.R. 15(a), 23 N.J.R. 1128(b).

Recodified from N.J.A.C. 10A:31-13.27 and amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Added (e). Former N.J.A.C. 10A:31-13.28, Informed consent for treatment, recodified to N.J.A.C. 10A:31-13.29.

Amended by R.2006 d.59, effective February 6, 2006.

See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

Rewrote the section.

Amended by R.2008 d.48, effective April 7, 2008.

See: 39 N.J.R. 2583(c), 40 N.J.R. 1869(a).

In the introductory paragraph of (d), added the third through fifth sentences; and added (d)1 through (d)3.

10A:31-13.29 Informed consent for treatment

All examinations, treatments and procedures affected by informed consent standards in the community shall be likewise observed when providing care for inmates.

Recodified from 10A:31-13.27 by R.1991 d.190, effective April 15, 1991 (operative April 22, 1991).

See: 23 N.J.R. 15(a), 23 N.J.R. 1128(b).

Recodified from N.J.A.C. 10A:31-13.28 by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Former N.J.A.C. 10A:31-13.29, Quarterly and annual report, recodified to N.J.A.C. 10A:31-13.30.

10A:31-13.30 Quarterly and annual report

The physician who is responsible for medical services shall prepare and submit to the adult county correctional facility

Administrator a quarterly report on the health delivery system and an annual statistical summary of the health services provided to inmates during the previous year.

Recodified from 10A:31-13.28 by R.1991 d.190, effective April 15, 1991 (operative April 22, 1991).

See: 23 N.J.R. 15(a), 23 N.J.R. 1128(b).

Recodified from N.J.A.C. 10A:31-13.29 and amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Substituted "adult county correctional facility" for "Jail".

10A:31-13.31 Responsibility of adult county correctional facility to notify the Department of Corrections of a death in custody

In the case of a death of an inmate, the Administrator, or designee, of the adult county correctional facility shall be responsible to ensure that the New Jersey Department of Corrections is notified.

New Rule, R.2017 d.228, effective December 4, 2017.

See: 49 N.J.R. 2450(a), 49 N.J.R. 3751(a).

SUBCHAPTER 14. MISCELLANEOUS INMATE RIGHTS

10A:31-14.1 Presumption of innocence

(a) The presumption of innocence of pre-trial detainees shall be respected at all times, and adult county correctional facility staff shall take no action which may interfere with the detainee's right to:

1. Remain silent regarding the charges; or
2. Prepare a defense to the charges.

10A:31-14.2 Protection from abuse

(a) Inmates shall be protected by adult county correctional facility staff from personal abuse, corporal punishment, personal injury, disease, property damage, and harassment.

(b) In accordance with the Federal Prison Rape Elimination Act of 2003 (PREA), 42 U.S.C. §§15601 et seq., a zero tolerance for the incidence of sexual assault shall be maintained at adult county correctional facilities.

(c) Appropriate disciplinary action shall be taken against facility staff who engage in abusive behavior and, when necessary, these cases will be referred to the county prosecutor.

Amended by R.2007 d.221, effective July 16, 2007.

See: 39 N.J.R. 1393(a), 39 N.J.R. 2648(a).

Added new (b); and recodified former (b) as (c).

10A:31-14.3 Prohibition against discrimination

(a) There shall be no discrimination on the basis of race, creed, color, ancestry, gender identity or expression, national origin, religion, economic status, political belief, affectional

or sexual orientation, marital status, nationality or disability (see N.J.S.A. 10:5-3).

(b) Care, custody and treatment services of inmates shall be provided equally to male and female inmates.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (a), substituted "gender" for "sex" and "disability" for "handicap", and deleted "color,".

Amended by R.2011 d.059, effective February 22, 2011.

See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

Rewrote (a).

10A:31-14.4 Inmate grievance procedure

A written inmate grievance procedure shall be afforded to all inmates which shall include at least one level of appeal.

10A:31-14.5 Opportunity to practice religion

Inmates shall be afforded full and equal opportunity to practice their religion, or refrain from involvement in religion, subject only to the limitations necessary to maintain the safe, secure and orderly operation of the facility (See N.J.A.C. 10A:31-26.3).

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Substituted "the safe, secure and orderly operation of the facility" for "order and security".

10A:31-14.6 Access to representatives of the media

Inmates shall be afforded reasonable access to representatives of the media by correspondence, telephone and/or visits.

SUBCHAPTER 15. ACCESS TO THE COURTS

10A:31-15.1 Inmate access to courts

(a) Persons detained prior to trial and sentenced inmates have a constitutional right of access to the courts.

(b) Adult county correctional facility Administrators shall assist detainees and inmates in the preparation and filing of meaningful legal papers by providing law libraries or adequate assistance from persons trained in the law.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (b), substituted "Adult county correctional facility" for "Jail".

10A:31-15.2 Inmate Law Library

(a) If the Inmate Law Library is the selected method in assisting inmates in the preparation and filing of legal papers, the Inmate Law Library shall be so located as to enable the inmates to be taken to the library to do research.

(b) Arrangements shall be made with a bar association, law school(s), or other law libraries to borrow law books not con-

tained in the adult county correctional facility's own collection.

(c) Inmates who so request shall be given access to the Inmate Law Library on a schedule which permits as many inmates as possible to use the library, depending on:

1. The resources of the adult county correctional facility;
2. The availability of space; and
3. Security considerations.

(d) Punishment for any Inmate Law Library infraction such as damage to law books or disruptive conduct shall not ordinarily include denial of access to the Inmate Law Library.

(e) An inmate who abuses the right of access to the Inmate Law Library may be disciplined in accordance with prescribed procedures as set forth in N.J.A.C. 10A:31-16, Disciplinary Procedures.

(f) In certain extreme instances and only with the approval of the adult county correctional facility Administrator, an inmate may be denied direct personal access to the Inmate Law Library. In such instances, the inmate shall receive legal reference materials and related services from assigned persons trained in the law.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (f), substituted "adult county correctional facility" for "Jail".

10A:31-15.3 Access to supplies and services

(a) Inmates shall have access to legal supplies and services for preparing legal papers, such as:

1. Writing paper;
2. Pens;
3. Reproduction equipment; and
4. Large mailing envelopes.

(b) The cost of the legal supplies noted in (a) above shall be borne by the inmate unless the inmate is indigent.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (a)2, substituted "pens" for "carbon paper".

10A:31-15.4 Attorneys and court related personal visits

(a) Suitable meeting facilities shall be provided for inmates to meet with attorneys and representatives of attorneys in privacy with reasonable comfort.

(b) Representatives of attorneys may include:

1. Investigators;
2. Investigative aides;
3. Paralegals; and

4. Law students.

(c) Visits of attorneys and representatives of attorneys shall be permitted without notice, or upon reasonable notice, during at least six hours each business day.

(d) Only necessary security requirements may be permitted to interfere with such visits.

10A:31-15.5 Legal telephone calls

Telephone access to attorneys, courts, probation officers, and parole officers shall be provided for all inmates who so request.

SUBCHAPTER 16. DISCIPLINARY PROCEDURES

10A:31-16.1 Disciplinary rules and sanctions

(a) Equitable and consistent inmate discipline shall be employed to ensure the maintenance of security and the orderly operation of all adult county correctional facilities.

(b) Rules, upon which inmate discipline is based, must be reasonable and evenly applied, and the action taken to determine an alleged infraction must be based on findings of fact.

(c) The sanction(s) for infractions shall not be imposed in any manner that violates the inmate's civil rights. The sanction(s) must be related to the infraction, and must be fairly applied to all inmates.

(d) All persons who supervise the activities of inmates shall receive sufficient training to ensure that these staff members understand the rules of inmate conduct, the sanctions available and the rationale for the rules.

(e) N.J.A.C. 10A:4, Inmate Discipline, applies to State inmates incarcerated at adult county correctional facilities.

Amended by R.1994 d.182, effective April 4, 1994.

See: 26 N.J.R. 727(a), 26 N.J.R. 1506(a).

10A:31-16.2 Disciplinary rule book

(a) Staff at the adult county correctional facility shall develop a written inmate disciplinary rule book which includes:

1. All chargeable offenses;
2. The schedule of sanctions;
3. The disciplinary procedures;
4. The disciplinary appeal process; and
5. A notice that N.J.A.C. 10A:4, Inmate Discipline, also applies to State sentenced inmates incarcerated within the adult county correctional facility.

(b) Each inmate, upon admission to the facility, shall be given a copy of the disciplinary rule book, the contents of

which may be incorporated into a general book of facility rules and regulations, and the inmate shall sign a form acknowledging receipt of the rule book.

(c) Each staff member shall be given a copy of the inmate disciplinary rule book.

(d) Staff members shall assist inmates who are illiterate, not sufficiently conversant with the English language or otherwise unable to read due to a physical or medical inability in understanding the disciplinary rules.

(e) Where a facility has a large number of inmates in the population who speak a foreign language, the disciplinary rules shall be printed and/or presented verbally in the foreign language.

Amended by R.1994 d.182, effective April 4, 1994.

See: 26 N.J.R. 727(a), 26 N.J.R. 1506(a).

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Rewrote (d).

Amended by R.2011 d.059, effective February 22, 2011.

See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

In the introductory paragraph of (a), substituted "Staff at the" for "The".

Amended by R.2017 d.228, effective December 4, 2017.

See: 49 N.J.R. 2450(a), 49 N.J.R. 3751(a).

In (b), inserted "the contents of which may be incorporated into a general book of facility rules and regulations,".

10A:31-16.3 Disciplinary report

(a) Employees shall prepare a disciplinary report when the employees have reasonable belief that an inmate has committed a violation of the adult county correctional facility rules.

(b) The disciplinary report shall include the following information:

1. The specific rule violated;
2. Facts supporting the charge;
3. Unusual inmate behavior;
4. Staff or inmate witnesses;
5. The disposition of any physical evidence;
6. Any immediate action taken, including the use of force;
7. The reporting staff member's signature;
8. The date and time the report is prepared; and
9. The date, time and name of staff person who delivers the disciplinary report to the inmate.

10A:31-16.4 Inmate Law Library violation and sanctions

Punishment for any Inmate Law Library infraction, such as damage to the law books or disruptive conduct, shall not ordinarily include denial of access to the Inmate Law Library (see N.J.A.C. 10A:31-15.2).

Amended by R.2006 d.59, effective February 6, 2006.

See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

Added "(see N.J.A.C. 10A:31-15.2)."

10A:31-16.5 Minor violations and sanctions

(a) The immediate imposition of a sanction upon an inmate for a minor violation shall be referred to as On-The-Spot Correction.

(b) Written guidelines shall specify the minor violations that may be handled informally through the imposition of On-The-Spot Correction.

(c) The following are authorized sanctions for On-The-Spot Correction:

1. Verbal reprimand;
2. Loss of recreation privileges for a period of no more than five days;
3. Up to four hours of extra work duty;
4. Up to four hours confinement to tier, room or cell;
5. Loss of radio or television privileges for a period of no more than five days; and/or
6. Confiscation.

(d) Minor violations must be reported in writing and forwarded immediately to the shift supervisor for review.

(e) The shift supervisor shall issue the inmate a copy of the report and afford the inmate the right to a conference before the imposition of any sanction(s).

(f) If the shift supervisor concurs with the written minor violation report, the On-The-Spot Correction sanction shall be imposed within 24 hours of the shift supervisor's review.

(g) The shift supervisor may also dismiss the minor rule violation or upgrade the minor violation to a major violation.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (c), added 5 and 6.

Amended by R.2011 d.059, effective February 22, 2011.

See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

In the introductory paragraph of (c), substituted "On-The-Spot" for "On The Spot".

10A:31-16.6 Major violations and sanctions

(a) Major violations shall be defined as that conduct which is punishable by sanctions more stringent than those for minor violations.

(b) The following are authorized sanctions for major violations:

1. Up to 15 days Disciplinary Detention;
2. Loss of commutation time subject to confirmation by the adult county correctional facility Administrator;

3. Loss of privileges up to 30 days;
4. Forfeiture/confiscation;
5. Restitution;
6. Any sanction prescribed for On-the-Spot Correction; and/or
7. Suspension of any one or more of the above sanctions at the discretion of the Disciplinary Board/hearing officer for 60 days.

(c) No inmate may receive more than 15 days in Disciplinary Detention as a result of a single disciplinary charge.

(d) If an inmate is found guilty of multiple disciplinary charges, he or she may receive up to 15 days Disciplinary Detention for each charge provided that the total time to be served does not exceed 30 days.

(e) All violations that may constitute crimes of the first, second, third or fourth degree under the Criminal Code of the State of New Jersey, N.J.S.A. 2C:1-1 et seq., shall be referred to the prosecutor of the county in which the adult county correctional facility is located.

Amended by R.2000 d.332, effective August 7, 2000.
See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (b)2, substituted "adult county corrections facility" for "Jail"; and in (b)7, inserted "hearing officer".

Amended by R.2007 d.221, effective July 16, 2007.
See: 39 N.J.R. 1393(a), 39 N.J.R. 2648(a).

Added (e).

10A:31-16.7 Notification of inmate

(a) As a notification of the major violation charge(s), a copy of the disciplinary report shall be served upon the inmate within 48 hours of the violation unless there are exceptional circumstances, and at least 24 hours prior to the disciplinary hearing unless such notice is waived by the inmate in writing.

(b) The disciplinary report shall be delivered by the reporting staff member or the investigating officer. The report shall be signed by the person delivering it, and the time of delivery shall be noted.

10A:31-16.8 Use immunity

(a) In all cases, the inmate shall be advised of his or her right to use immunity at any investigative interview and at the disciplinary hearing.

(b) The use immunity warning shall consist of a statement which indicates that any statements made in connection with the disciplinary hearing or evidence derived directly or indirectly from those statements shall not be used in any subsequent criminal proceeding.

(c) Failure to give the use immunity warning by the investigative officer shall not be grounds for dismissing the disciplinary report.

10A:31-16.9 Investigation

(a) An investigation of the infraction shall be conducted within 48 hours of the time the disciplinary report is served upon the inmate, unless there are exceptional circumstances for delaying the investigation.

(b) The adult county correctional facility Administrator shall appoint an investigating officer who was not involved in the incident to conduct the investigation.

(c) The inmate shall be advised of his or her right to consult with a counsel substitute prior to the Disciplinary Hearing.

(d) The inmate shall be advised of his or her right to waive the Disciplinary Hearing and plead guilty to the disciplinary charges.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (b), substituted "adult county correctional facility" for "Jail".

Amended by R.2017 d.228, effective December 4, 2017.

See: 49 N.J.R. 2450(a), 49 N.J.R. 3751(a).

In (b), substituted "conduct the investigation" for "be investigated".

10A:31-16.10 Prehearing Detention

(a) Until the Disciplinary Hearing, the inmate shall remain in his or her existing status, unless the inmate constitutes a threat to other inmates, staff members, himself or herself or to the orderly operation of the adult county correctional facility.

(b) If Prehearing Detention is ordered by the shift supervisor, such order shall be reviewed by the adult county correctional facility Administrator or designee within 24 hours. Failure to do so shall return the inmate to his or her previous status.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (b), substituted "adult county correctional facility" for "Jail".

10A:31-16.11 Disciplinary Board/hearing officer

(a) All hearings for major offenses shall take place before a hearing officer or a Disciplinary Board composed of an impartial three-member panel which shall include one custody supervisor and two non-custody staff members.

(b) Any hearing officer or Disciplinary Board member shall be disqualified in every case in which the hearing officer or Board member:

1. Filed the complaint or witnessed the incident;
2. Participated as an investigating officer;
3. Will be charged with subsequent review of the decision; and/or
4. Has personal interest in the outcome.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Rewrote the section.

10A:31-16.12 Disciplinary hearing

(a) The inmate shall be entitled to a hearing within seven calendar days of the alleged violation, including weekends and holidays, unless such hearing is prevented by exceptional circumstances, unavoidable delays or reasonable postponements. Should the seventh day fall on a Saturday, Sunday or holiday, the hearing shall be held on the business day immediately following the weekend or holiday.

(b) Inmates confined in Prehearing Detention shall receive a hearing within three calendar days of their placement in Prehearing Detention, including weekends and holidays, unless there are exceptional circumstances, unavoidable delays or reasonable postponements. Should the third day fall on a Saturday, Sunday or holiday, the hearing shall be held on the business day immediately following the weekend or holiday.

(c) Inmates confined in Prehearing Detention shall be given priority in scheduling their appearance before the Disciplinary Board or hearing officer.

(d) Time spent in Prehearing Detention shall be credited against any subsequent sentence imposed.

(e) No delays in hearing a case shall be permitted for the purpose of punishment or discipline.

(f) An inmate shall be provided the opportunity to be present during the Disciplinary Hearing except for the Disciplinary Board's/hearing officer's deliberations and reasons of security. The reasons for excluding an inmate from a Disciplinary Hearing shall be documented in the inmate's record.

(g) An inmate may be represented by a counsel substitute (staff or inmate) when it is determined by the Disciplinary Board/hearing officer that the inmate is illiterate, not sufficiently conversant with the English language, or otherwise unable to read, understand or communicate due to a physical/medical inability, or cannot adequately collect and present the evidence on his or her own behalf.

(h) An inmate shall be provided an opportunity to call witnesses on his or her behalf, unless doing so would be irrelevant, repetitive or unduly effect the safe, secure or orderly operation of the adult county correctional facility safety. The reasons for denying the opportunity to call witnesses shall be stated in writing and filed in the inmate's record.

(i) An inmate shall be provided the opportunity to make a statement and present documentary evidence.

(j) An inmate shall be provided the opportunity to confront and cross-examine his or her accuser and all adverse witnesses unless doing so would be unduly hazardous to facility safety or would endanger the physical safety of a witness. The reasons for denying the opportunity to cross-examine accusers or adverse witnesses shall be stated in writing and filed in the inmate's record.

(k) In absentia hearings may be held if the inmate refuses to attend the Disciplinary Hearing. Documentation of this refusal shall be reported in writing.

(l) Should further investigation be required, the Disciplinary Hearing may be postponed by the Disciplinary Board/hearing officer for up to 48 hours for Prehearing Detention cases and for seven days for all other Hearings.

Amended by R.2000 d.332, effective August 7, 2000.
See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (c) inserted "or hearing officer" at the end; in (f) added "hearing officer's" following "Board's" and substituted shall for must; rewrote (g) and (h); in (j) substituted facility for institutional and shall for must; in (k) substituted shall for must; and in (l), inserted "hearing officer" following "Board".

Amended by R.2011 d.059, effective February 22, 2011.
See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

In (a) and (b), inserted "calendar", and substituted "business day" for "weekday"; and in (g), substituted "on" for "in".

10A:31-16.13 Referral to the prosecutor

All rule violations which may constitute crimes of the first, second, third or fourth degree under the Criminal Code of the State of New Jersey (N.J.S.A. 2C:1-1 et seq.) shall be referred to the prosecutor of the county in which the adult county correctional facility is located.

10A:31-16.14 Decision of the Disciplinary Board

(a) At the conclusion of the Disciplinary Hearing, the Disciplinary Board/hearing officer shall issue a written decision. This decision shall contain:

1. The finding on the question of guilt;
2. The sanction imposed;
3. A summary of the evidence upon which the finding is based, with the exception of confidential information which was withheld for security reasons;
4. A list of all non-confidential witnesses;
5. The reason requested witnesses were not called or cross-examination was not permitted if applicable;
6. The reason for the sanction which shall include such factors as the offender's past history and circumstances of the offense;
7. The date and time of the Disciplinary Hearing; and
8. The signatures of all Board members or the hearing officer.

Amended by R.2000 d.332, effective August 7, 2000.
See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (a), inserted references to hearing officers in the introductory paragraph and 8, and deleted "Board's" following "The" in 1.

10A:31-16.15 Appeal of disciplinary decisions

(a) The inmate shall be advised of his or her right to appeal the decision of the Disciplinary Board/hearing officer.

(b) Appeals of disciplinary decisions shall be submitted to the adult county correctional facility Administrator in writing, within 48 hours of the Disciplinary Hearing.

(c) Appeals of disciplinary decisions shall be reviewed by the adult county correctional facility Administrator who shall affirm, rescind or down-grade the decision. The Administrator may reduce but may not increase the sanction imposed by the Disciplinary Board/hearing officer.

(d) Copies of the appeal and the disposition on appeal shall be forwarded to the Disciplinary Board and Classification Unit for their records.

Amended by R.2000 d.332, effective August 7, 2000.
See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (a) and (c) inserted "hearing officer" following "Board"; in (d) inserted "and Classification unit" following "Board"; and substituted references to adult county correctional facility for jail throughout.

10A:31-16.16 Expungement

(a) If the Disciplinary Board/hearing officer finds the inmate innocent of the charges, all references to the offense shall be removed from the inmate's classification file.

(b) Copies of the disciplinary report, investigation and adjudication sheet shall be maintained by staff at the adult county correctional facility, the Disciplinary Board/hearing officer and the Classification Unit in the event of judicial review and for statistical and accounting purposes only. These records shall be maintained separately from the inmate's record.

Amended by R.2000 d.332, effective August 7, 2000.
See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Inserted references to hearing officers throughout; in (a), inserted "classification" following "inmate's"; and in (b), inserted a reference to Classification Units.

Amended by R.2011 d.059, effective February 22, 2011.
See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

In (b), inserted "staff at".

SUBCHAPTER 17. DISCIPLINARY DETENTION

10A:31-17.1 Placement in Disciplinary Detention

A decision to place an inmate in Disciplinary Detention may be made only by the Disciplinary Board/hearing officer subject to review by the adult county correctional facility Administrator.

Amended by R.2000 d.332, effective August 7, 2000.
See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).
Rewrote the section.

10A:31-17.2 Time spent in Disciplinary Detention

(a) Inmates may be placed in Disciplinary Detention by the Disciplinary Board/hearing officer for a period not to exceed 15 days as a result of a single disciplinary charge.

(b) Inmates found guilty of multiple disciplinary charges may receive up to 15 days Disciplinary Detention for each charge provided that the total time to be served does not exceed 30 days.

(c) The time an inmate spends in Disciplinary Detention shall be proportionate to the offense committed, taking into consideration:

1. The severity of the offense;
2. The inmate's prior conduct;
3. The inmate's specific program needs; and
4. Other relevant factors.

Amended by R.2000 d.332, effective August 7, 2000.
See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (a), inserted a reference to hearing officers.

10A:31-17.3 Disciplinary problems while in Disciplinary Detention

In the event of further disciplinary infractions by the inmate(s) while in Detention, the inmate(s) shall be charged with the appropriate violation and be given a Disciplinary Hearing.

Amended by R.2000 d.332, effective August 7, 2000.
See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Deleted "by the Disciplinary Board" at the end.

10A:31-17.4 Security checks

Security and visual observation checks in Disciplinary Detention shall take place in staggered and irregular intervals that are no more than 30 minutes apart.

Amended by R.2017 d.228, effective December 4, 2017.
See: 49 N.J.R. 2450(a), 49 N.J.R. 3751(a).

Rewrote the section.

10A:31-17.5 Records in Disciplinary Detention

(a) A written log of all security checks and/or counts shall be maintained, and the log shall be signed by the respective custody staff member conducting the security check(s) and/or counts.

(b) Visits by medical, psychiatric, social work or custody supervisory staff, and all unusual behavior shall be noted in the log book together with the time and date.

(c) A record stating the following information shall be maintained in Disciplinary Detention:

1. The inmate's name;
2. The inmate's number;
3. The date of admission;
4. The type of infraction leading to Disciplinary Detention;

5. The expiration date of Disciplinary Detention; and
6. Any special problems, such as medical, behavioral, etc.

Amended by R.2000 d.332, effective August 7, 2000.
See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Substituted a reference to custody staff members for a reference to correction officers.

10A:31-17.6 Security procedures for Disciplinary Detention

(a) Each adult county correctional facility Administrator shall be responsible to develop written internal management procedures for the safe, secure and orderly operation of Disciplinary Detention and for setting forth the ratio of custody staff members to inmates.

(b) At no time in Disciplinary Detention shall more than one inmate at a time be out of his or her cell.

(c) The Disciplinary Detention area shall be equipped with an alarm device which, when activated, will alert the Center Control of any unusual occurrences. The alarm device shall be tested on each shift.

(d) A telephone(s) shall be available within Disciplinary Detention in order to provide immediate communication with the Center Control.

(e) All inmates in Disciplinary Detention may be strip searched any time they enter or leave the Disciplinary Detention area in accordance with internal management procedures of the adult county correctional facility.

(f) Bars, doors, windows, locks, corridors, floors and ceilings of the Disciplinary Detention area shall be checked daily and a written report completed and forwarded to the supervising custody staff member responsible for this area.

Amended by R. 332, effective August 7, 2000.
See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Rewrote (a); in (f) changed "supervising officer" to "supervising custody staff member".

Amended by R.2006 d.59, effective February 6, 2006.
See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

In (e), substituted "may" for "shall" and added "in accordance with internal management procedures of the adult county correctional facility."

Amended by R.2011 d.059, effective February 22, 2011.
See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

In (e), substituted "strip" for "stripped".

10A:31-17.7 Correspondence, visits, and telephone calls

(a) Inmates in Disciplinary Detention shall have the same correspondence opportunities that are available to inmates in the general population.

(b) Inmates in Disciplinary Detention shall not be provided with visit or telephone opportunities while in Disciplinary Detention except for:

1. Legal visits and legal telephone calls when authorized by the adult county correctional facility Administrator or designee; and

2. Special visits or telephone calls when compelling reasons exist and when authorized by the adult county correctional facility Administrator or designee.

(c) Every effort shall be made to notify expected social visitors of the restriction on ordinary visiting procedures prior to the next regularly scheduled visiting period. If adequate time for correspondence exists, the burden of this notification shall be placed on the inmate.

Amended by R.2000 d.332, effective August 7, 2000.
See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (c), changed "Jail" to "adult county correctional facility".

Amended by R.2011 d.059, effective February 22, 2011.

See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

In the introductory paragraph of (b), substituted "except for:" for "with the exception of legal telephone calls."; and added (b)1 and (b)2.

Amended by R.2017 d.228, effective December 4, 2017.

See: 49 N.J.R. 2450(a), 49 N.J.R. 3751(a).

Section was "Correspondence, visits and telephone calls". Deleted former (c); and recodified (d) as (c).

10A:31-17.8 Recreation

The facility shall provide inmate recreation outside the cells for at least five hours per week, unless security or safety considerations dictate otherwise.

Amended by R.1995 d.421, effective August 7, 1995.
See: 27 N.J.R. 1728(a), 27 N.J.R. 2928(a).

SUBCHAPTER 18. PROTECTIVE CUSTODY

10A:31-18.1 Admission to Protective Custody

An inmate may be placed in Protective Custody only with the approval of the adult county correctional facility Administrator or designee.

Amended by R.2000 d.332, effective August 7, 2000.
See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Changed "Jail" to "adult county correctional facility".

10A:31-18.2 Hearing procedure for involuntary placement to Protective Custody

(a) The adult county correctional facility's Classification Committee shall review involuntary Protective Custody placements within seven days.

(b) At the involuntary Protective Custody review the inmate shall be given the opportunity to appear personally before the Classification Committee.

(c) The Classification Committee shall provide the inmate with a written notice of the committee's decision and a summary of the evidence relied upon.

10A:31-18.3 Review of inmates in Protective Custody

Each inmate in Protective Custody shall be reviewed every 30 days by the Classification Committee.

10A:31-18.4 Release of inmates from Protective Custody

(a) Provided the Classification Committee and the adult county correctional facility Administrator or designee are satisfied that there is no known danger to the inmate's well-being, an inmate who has voluntarily signed himself or herself into Protective Custody may sign himself or herself out upon completion of a release form.

(b) An inmate who has been placed in Protective Custody involuntarily may be released by the adult county correctional facility Administrator or designee upon recommendation by the Classification Committee when they are satisfied that the conditions giving rise to the inmate's placement in Protective Custody have abated or no longer exist.

(c) A release form that is signed by the adult county correctional facility Administrator and the inmate shall be placed in the inmate's classification folder.

Amended by R.2000 d.332, August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Changed "Jail" to "adult county correctional facility".

10A:31-18.5 Security procedures for Protective Custody

(a) Any inmate who is not in a Protective Custody status shall be prohibited from entering the Protective Custody area at any time.

(b) All Protective Custody inmates shall be escorted by the number of custody staff members established by protective custody internal management procedures any time the inmate or inmates leave the Protective Custody area.

(c) All inmates in Protective Custody shall be searched when entering and leaving the Protective Custody area.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Rewrote (b); and in (c), changed "strip-search" to "search".

10A:31-18.6 Correspondence, visits and telephone calls

The writing, visiting and telephone privileges of inmates shall not be suspended while the inmate(s) is confined in Protective Custody.

(b) There shall be no restriction on the length, language or content of letters or on the persons to whom an inmate may write, except as established in this subchapter.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Rewrote (b).

10A:31-19.2 Cost of mailing correspondence by indigent inmates

Indigent inmates shall be provided with postage and stationery enabling the inmates to send at least three letters of general correspondence per week.

10A:31-19.3 Processing mail

(a) Daily collection, handling and distribution of inmate mail shall be done by authorized staff personnel only.

(b) Outgoing correspondence shall not be held within the adult county correctional facility more than 24 hours after the correspondence has been received or collected for mailing, except on weekends, holidays or during emergency incidents.

(c) Incoming correspondence will be delivered to the inmate within 24 hours after the correspondence has been received at the facility, excluding weekends and holidays and when precluded by an emergency incident.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (b) and (c), added references to emergency incidents.

Amended by R.2017 d.228, effective December 4, 2017.

See: 49 N.J.R. 2450(a), 49 N.J.R. 3751(a).

Rewrote (c).

10A:31-19.4 Disapproved content

(a) Any correspondence or publication for an inmate may be withheld in the mailroom or taken from an inmate's possession by the adult county correctional facility Administrator, designee or custody staff, if it falls within one of the following categories:

1. The correspondence or publication contains material that is detrimental to the security and/or order of the adult county correctional facility because it incites violence based upon race, religion, creed or nationality and a reasonable inference can be drawn, based upon the experience and professional expertise of correctional administrators, that it may result in the outbreak of violence within the facility.

2. The correspondence or publication contains information on the following subjects that, based upon the experience and professional expertise of correctional administrators and custody staff and judged in the context of a correctional facility and its paramount interest in security order and rehabilitation is detrimental to the secure and orderly operation of the correctional facility:
 - i. Explosives;

SUBCHAPTER 19. MAIL**10A:31-19.1 Limitation on outgoing and incoming mail**

(a) There shall be no limit on the amount of outgoing or incoming correspondence an inmate may send or receive.

- ii. Weapons;
 - iii. Controlled dangerous substances;
 - iv. Escape plans;
 - v. Lock picking or locking devices;
 - vi. Depictions or descriptions of procedures for the brewing of alcoholic beverages, or the manufacture of drugs; or
 - vii. Anything that might pose a threat to the safety, security or orderly operation of the adult county correctional facility;
3. The correspondence or publication contains information which appears to be written in code;
4. The correspondence or publication contains information concerning activities within or outside the adult county correctional facility which would be subject to criminal prosecution under the law of New Jersey or the United States;
5. The correspondence or publication incites violence or destructive or disruptive behavior toward:
- i. Law enforcement officers;
 - ii. Department of Corrections or contract vendor personnel;
 - iii. Facility inmates, visitors and/or volunteers; or
 - iv. Facility protocols, programs or procedures; or
6. The correspondence or publication contains material, which, based upon the experience and professional expertise of correctional administrators and judged in the context of an adult county correctional facility and its paramount interest in maintaining safety, security, order and rehabilitation:
- i. Taken as a whole, appeals to a prurient interest in sex;
 - ii. Lacks, as a whole, serious literary, artistic, political or scientific value; and
 - iii. Depicts, in a patently offensive way, actual or simulated sexual conduct including patently offensive representations or descriptions of ultimate sexual acts, masturbation, excretory functions, lewd exhibition of the genitals, child pornography, sadism, masochism or bestiality.

New Rule, R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Former N.J.A.C. 10A:31-19.4, Inspection and reading of incoming mail, recodified to N.J.A.C. 10A:31-19.5.

Amended by R.2008 d.141, effective June 2, 2008.

See: 39 N.J.R. 5043(a), 40 N.J.R. 3309(a).

In the introductory paragraph of (a), inserted "by the adult county correctional facility Administrator, designee, or custody staff,;" rewrote the introductory paragraph of (a)2; in (a)2v, deleted "or" at the end; added new (a)2vi; recodified former (a)2vi as (a)2vii; in (a)2vii, inserted "safe-

ty,;" in (a)5iv, inserted "protocols," and "or" at the end; in the introductory paragraph of (a)6, inserted a comma following "material" and inserted "maintaining safety,;" and in (a)6iii, inserted "child pornography,;"

Amended by R.2011 d.059, effective February 22, 2011.

See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

In the introductory paragraph of (a), deleted a comma following "designee"; and in (a)1, substituted the first occurrence of "that" for "which".

10A:31-19.5 Inspection and reading of incoming mail and receipt of funds

(a) All incoming correspondence and packages shall be opened and inspected by designated adult county correctional facility staff for cash, checks, money orders, disapproved content (see N.J.A.C. 10A:31-19.4) and contraband (see N.J.A.C. 10A:31-1.3).

(b) Funds received through the mail shall be credited to the inmate's account and a receipt shall be given to the inmate. The Administrator may establish internal management procedures setting forth that money orders, checks and/or certified checks shall be the only approved form of funds received through the mail.

(c) Contraband and disapproved content shall be removed from incoming correspondence and the inmate shall be notified concerning the items removed and the disposition of the contraband. Contraband and disapproved content shall be fully described in the copy of adult county correctional facility rules and regulations given to the inmate upon admission to the facility (see N.J.A.C. 10A:31-21.4).

(d) Incoming inmate correspondence may not be read except when there is reliable information indicating that the mail is a threat to order and security, contains contraband or disapproved content, or when mail is being used in the furtherance of illegal activity. It shall be the responsibility of the adult county correctional facility Administrator to document that sufficient reason exists to read an inmate's correspondence.

Recodified from N.J.A.C. 10A:31-19.4 and amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (d), substituted a reference to adult county correctional facilities for a reference to jails. Former N.J.A.C. 10A:31-19.5, Inspection of outgoing mail, recodified to N.J.A.C. 10A:31-19.6.

Amended by R.2006 d.59, effective February 6, 2006.

See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

Section was "Inspection and reading of incoming mail"; in (a), added "opened and" ", disapproved content (see N.J.A.C. 10A:31-19.4)" and "(see N.J.A.C. 10A:31-1.3)"; in (b), substituted "Funds" for "Monies" and added the last sentence; in (c), added "and disapproved content" throughout, and substituted "upon admission to the facility" for "at admissions"; in (d), added ", contains contraband or disapproved content,." Amended by R.2008 d.141, effective June 2, 2008.

See: 39 N.J.R. 5043(a), 40 N.J.R. 3309(a).

In (a), inserted "designated adult county correctional facility staff".

10A:31-19.6 Inspection of outgoing mail

(a) Outgoing correspondence shall be reviewed by designated adult county correctional facility staff to determine the

sender. The Administrator may establish internal management procedures that stipulate if the sender of the correspondence cannot be identified, the correspondence can be destroyed.

(b) Inmates shall be permitted to seal outgoing correspondence and such correspondence shall not be opened, inspected or censored unless there is evidence to suspect that there is contraband or disapproved content enclosed or that a criminal activity is involved.

(c) Outgoing correspondence which is opened pursuant to this section shall be resealed and mailed promptly only when the correspondence does not contain contraband or disapproved content.

(d) The Administrator may establish internal management procedures that requires the full name of the adult county correctional facility be clearly stamped or printed and visible on the outside of all outgoing envelopes from inmates or inmate groups.

Recodified from N.J.A.C. 10A:31-19.5 by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Former N.J.A.C. 10A:31-19.6, Publications, recodified to N.J.A.C. 10A:31-19.7.

Amended by R.2006 d.59, effective February 6, 2006.

See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

Rewrote the section, adding designation (a) and subsections (b) and (c).

Amended by R.2008 d.141, effective June 2, 2008.

See: 39 N.J.R. 5043(a), 40 N.J.R. 3309(a).

Added new (a); and recodified former (a) through (c) as (b) through (d).

Case Notes

Trial court denied defendant's motion to suppress letters he sent from jail, as one letter was properly seized based on his admitted gang affiliation and the recipient's suspected gang affiliation, and his letters to other inmates were properly opened under N.J.A.C. 10A:18-2.5 without any articulable suspicion of prohibited content. *State v. Young*, 435 N.J. Super. 434, 89 A.3d 242, 2013 N.J. Super. LEXIS 206 (2013).

10A:31-19.7 Legal correspondence

(a) All incoming legal correspondence should clearly indicate on the outside of the envelope that the correspondence is being sent from a legal correspondent as established in the definition for "legal correspondence" at N.J.A.C. 10A:31-1.3. The absence of a particular name of an attorney or judge shall not preclude the correspondence from being treated as legal correspondence if the return address indicates it was sent by an office or court as established in the definition for "legal correspondence" at N.J.A.C. 10A:31-1.3.

(b) Incoming legal correspondence shall be opened and inspected by designated adult county correctional facility staff only in the presence of the inmate to whom it is addressed.

(c) All incoming legal correspondence shall be opened and inspected by designated adult county correctional facility staff only for contraband. Incoming legal correspondence shall not be read or copied. The content of the envelope may

be removed and shaken loose to ensure that no contraband is enclosed. After the envelope has been inspected, the correspondence shall be given to the inmate.

(d) The Administrator may establish internal management procedures requiring that the inmate sign a slip acknowledging receipt of the incoming legal correspondence.

(e) Letter-writing materials shall be provided to inmates by staff at each adult county correctional facility and the facility shall assume the cost of mailing legal correspondence for indigent inmates (see "indigent inmate" as defined at N.J.A.C. 10A:31-1.3). The cost of mailing legal correspondence shall extend only to First Class or standard postage and shall not include:

1. Registered mail;
2. Certified mail;
3. Preferential mail; or
4. Insured mail.

(f) Whenever an inmate is transferred from one adult county correctional facility to another facility, the inmate shall be responsible for notifying his or her correspondents of the change of address. The Administrator or designee of the adult county correctional facility from which the inmate is transferred shall develop internal management procedures that establish a time period that reasonably enables the inmate to have sufficient time to provide such notification to his or her correspondents via mail. This time period shall not exceed three months during which all incoming legal correspondence shall be forwarded to the correctional facility to which the inmate has been transferred. Any legal correspondence received after the time period established shall be returned to the sender.

(g) All outgoing legal correspondence shall be clearly marked with the inmate's name and number on the envelope.

(h) An inmate who is sending legal correspondence out of the adult county correctional facility shall be responsible for clearly marking "legal mail" on the front and back of the envelope.

(i) The absence of the "legal mail" designation shall not mean that the correspondence may be treated as non-legal correspondence if the address on the envelope clearly indicates that it is being sent to a "legal correspondent" as enumerated in the definitions of "legal correspondence" or "legitimate public official" in N.J.A.C. 10A:31-1.3.

New Rule, R.2006 d.59, effective February 6, 2006.

See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

Former N.J.A.C. 10A:31-19.7, Publications, recodified as N.J.A.C. 10A:31-19.8.

Amended by R.2007 d.158, effective May 21, 2007.

See: 39 N.J.R. 341(a), 39 N.J.R. 2122(a).

Added new (b); and recodified former (b) through (e) as (c) through (f).

Amended by R.2008 d.141, effective June 2, 2008.

See: 39 N.J.R. 5043(a), 40 N.J.R. 3309(a).

In (b) and (c), inserted "designated adult county correctional facility staff"; and added (g) through (i).

Amended by R.2011 d.059, effective February 22, 2011.

See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

In the introductory paragraph of (e), substituted "staff at each" for "the"; and rewrote (f).

10A:31-19.8 Publications

(a) Inmates shall be permitted to receive books, magazines, newspapers or other printed matter, except as established in this subchapter, or if the publications are deemed to constitute an immediate threat to the security of the adult county correctional facility, or these publications are determined to contain disapproved content or to be obscene by current laws or court decisions on obscenity.

(b) All incoming books, magazines, publications and newspapers must be prepaid.

(c) Each incoming publication shall be opened and inspected for contraband and disapproved content, but shall not be read unless there is reason to believe that the publication contains contraband or disapproved content. The publication may be read only in the above circumstances, with prior authorization from the Administrator or designee.

(d) The adult county correctional facility Administrator may establish internal management procedures that stipulate whether the publication shall be obtained only from an authorized source of sale.

Recodified from N.J.A.C. 10A:31-19.6 and amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Substituted "except as established in this subchapter, or if the" for "unless such" following "matter,". Former N.J.A.C. 10A:31-19.7, Packages, recodified to N.J.A.C. 10A:31-19.8.

Recodified from N.J.A.C. 10A:31-19.7 and amended by R.2006 d.59, effective February 6, 2006.

See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

Added designation (a) and subsections (b), (c) and (d); in (a), added "contain disapproved content"; former N.J.A.C. 10A:31-19.8, Packages, recodified as N.J.A.C. 10A:31-19.9.

Amended by R.2008 d.141, effective June 2, 2008.

See: 39 N.J.R. 5043(a), 40 N.J.R. 3309(a).

In (d), inserted "an authorized".

10A:31-19.9 Packages

(a) Inmates shall be provided with a list of items permitted to be received in packages. The adult county correctional facility Administrator may establish internal management procedures stipulating that any package limitations, such as, but not limited to, the number and weight of packages that may be received each month and whether packages shall be obtained only from an authorized source of sale.

(b) All incoming and outgoing packages shall be clearly marked with the name and address of the inmate, opened and thoroughly searched for contraband (see N.J.A.C. 10A:31-1.3) and disapproved content (see N.J.A.C. 10A:31-19.4).

(c) All incoming packages must be prepaid.

Recodified from N.J.A.C. 10A:31-19.7 and amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (b), changed N.J.A.C. reference. Former N.J.A.C. 10A:31-19.8, Written policy and procedures, recodified to N.J.A.C. 10A:31-19.9.

Recodified from N.J.A.C. 10A:31-19.8 and amended by R.2006 d.59, effective February 6, 2006.

See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

In (a), added the last sentence; rewrote (b); added (c); former N.J.A.C. 10A:31-19.9, Written policies and procedures, recodified as N.J.A.C. 10A:31-19.10.

Amended by R.2008 d.141, effective June 2, 2008.

See: 39 N.J.R. 5043(a), 40 N.J.R. 3309(a).

In (a), inserted a comma following "limitations" and inserted "an authorized".

10A:31-19.10 (Reserved)

Recodified from N.J.A.C. 10A:31-19.8 by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Recodified from N.J.A.C. 10A:31-19.9 by R.2006 d.59, effective February 6, 2006.

See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

Repealed by R.2017 d.228, effective December 4, 2017.

See: 49 N.J.R. 2450(a), 49 N.J.R. 3751(a).

Section was "Written policy and procedures".

SUBCHAPTER 20. VISITS

10A:31-20.1 Visit regulations

Written visit regulations shall be available for all staff, inmates, and visitors.

10A:31-20.2 Visit regulations translated into foreign language

Where deemed necessary by the adult county correctional facility Administrator, visit regulations shall be translated into a foreign language.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Substituted a reference to adult county correctional facilities for a reference to jails.

10A:31-20.3 Contact visits

An area shall be provided for contact visits, for those inmates who do not represent a substantial security risk, and the area shall meet the conditions set forth in N.J.A.C. 10A:31-3.14(f).

Amended by R.2017 d.228, effective December 4, 2017.

See: 49 N.J.R. 2450(a), 49 N.J.R. 3751(a).

Inserted ", and the area shall meet the conditions set forth in N.J.A.C. 10A:31-3.14(f)".

10A:31-20.4 Non-contact visits

An area shall be provided for non-contact visits, for those inmates classified as high risk inmates, and the area shall meet the conditions set forth in N.J.A.C. 10A:31-3.14(f).

Amended by R.2017 d.228, effective December 4, 2017.
See: 49 N.J.R. 2450(a), 49 N.J.R. 3751(a).

Inserted "; and the area shall meet the conditions set forth in N.J.A.C. 10A:31-3.14(f)".

10A:31-20.5 Visit scheduling

(a) The visit program shall include provisions for week-day, evening and weekend visitation.

(b) Visits shall be no less than 15 minutes in length.

(c) Limitation on the length or frequency of visits shall be imposed only to avoid overcrowded conditions in the visiting area.

10A:31-20.6 Registering and search of visitors

(a) Visitors shall register upon entry into the adult county correctional facility, and their belongings shall be searched and/or stored in lockers.

(b) Circumstances under which a visitor may be searched shall be specified in written visit regulations (N.J.A.C. 10A:31-20.1). The facility Administrator, or designee, should refer to N.J.A.C. 10A:18-6.14 when developing policies and procedures regarding searches of visitors.

Amended by R.2017 d.228, effective December 4, 2017.
See: 49 N.J.R. 2450(a), 49 N.J.R. 3751(a).

In (b), inserted the second sentence.

10A:31-20.7 Visits by attorneys and religious advisors

(a) Attorneys and religious advisors (chaplains, ministers, priests, imams, etc.) shall be allowed additional visitation privileges and accommodations that ensure privacy.

(b) Visit hours shall include evening hours for attorneys, where reasonably feasible.

10A:31-20.8 Special visits

(a) Prior arrangements should be made for special visits, if possible.

(b) Special visits may include, but are not limited to:

1. Visits from persons who have come long distances;
2. Visits to hospitalized inmates;
3. Visits to inmates in disciplinary status; and
4. Visits between inmates and:
 - i. Members of the clergy;
 - ii. Social service agency representatives;
 - iii. Prospective employers;
 - iv. Sponsors;
 - v. Parole advisors;

vi. Foreign counsels; and

vii. Representatives of the media.

Amended by R.2008 d.141, effective June 2, 2008.

See: 39 N.J.R. 5043(a), 40 N.J.R. 3309(a).

In (b)2, deleted "and" at the end; in (b)3, substituted "; and" for a period at the end; and added (b)4.

Amended by R.2017 d.228, effective December 4, 2017.

See: 49 N.J.R. 2450(a), 49 N.J.R. 3751(a).

In (b)4v, deleted "and" from the end; in (b)4vi, substituted "; and" for a period; and added (b)4vii.

10A:31-20.9 (Reserved)

Amended by R.2011 d.059, effective February 22, 2011.

See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

Substituted "Staff at each" for "Each".

Repealed by R.2017 d.228, effective December 4, 2017.

See: 49 N.J.R. 2450(a), 49 N.J.R. 3751(a).

Section was "Written policies and procedures".

SUBCHAPTER 21. ADMISSION, SEARCH, ORIENTATION, PROPERTY CONTROL, AND RELEASE

10A:31-21.1 Written policies and procedures regarding newly admitted inmates

(a) Staff at each adult county correctional facility shall develop written policies and procedures regarding the admission of new inmates which include, but are not limited to:

1. Verification of commitment papers;
2. A thorough search of individual inmates;
3. Disposition of clothing and personal possessions;
4. Medical screening;
5. Telephone calls;
6. Showers;
7. Hair care;
8. Issue of clean institutional clothing;
9. Photographs;
10. Fingerprinting;
11. Notations of identifying marks and unusual characteristics;
12. Intake screening interview by staff member, preferably a social worker or counselor;
13. Provision of an inmate identification;
14. Distribution of personal hygiene items; and
15. Classification and assignment to a housing unit.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (a), inserted a new 13, and recodified former 13 and 14 as 14 and 15.

Amended by R.2011 d.059, effective February 22, 2011.

See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

In the introductory paragraph of (a), substituted "Staff at each" for "Each".

Case Notes

There was a sufficient rational basis for the July 1986 amendments to former N.J.A.C. 10A:31-3.12(b) and former N.J.A.C. 10A:31-3.15(b); the amendments, which abandoned the provision that all inmates be tested for infectious diseases and provided for testing at the discretion of the county jail's physician, were intended to heighten the counties' responsibilities with regard to medical screening. The prior provisions did not require screening by trained personnel or physical exams by physicians as did the new provisions, and because each physician retained the discretion to order tests, it had to be presumed that the physician would exercise that discretion if good medical practice dictated. *Office of Inmate Advocacy v. Fauver*, 222 N.J. Super. 357, 536 A.2d 1306, 1988 N.J. Super. LEXIS 22 (1988).

July 1986 amendments to former N.J.A.C. 10A:31-3.12(b) and former N.J.A.C. 10A:31-3.15(b) did not violate inmates' federal and state constitutional rights because there had been no proof that the lack of mandatory tests for venereal disease and tuberculosis had resulted in, or was likely to result in, medically significant consequences. Further, prison inmates had no fundamental right to protect their bodies against contagious disease under Article I, Paragraph 1 of the New Jersey Constitution. *Office of Inmate Advocacy v. Fauver*, 222 N.J. Super. 357, 536 A.2d 1306, 1988 N.J. Super. LEXIS 22 (1988).

10A:31-21.2 Search of newly admitted inmates

Newly admitted inmates may be subjected to a strip search or body cavity search only in accordance with the conditions set forth in N.J.A.C. 10A:31-8.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Changed N.J.A.C. references.

10A:31-21.3 Orientation

Orientation shall be provided to newly admitted inmates in their own languages where possible. Such orientation shall be documented by the dated signatures of the inmates who have been oriented to the adult county correctional facility.

10A:31-21.4 Adult county correctional facility rules and regulations

(a) All inmates shall be provided with a copy of the facility's rules and regulations which shall be verbally explained by a staff member to inmates who are illiterate, not sufficiently conversant with the English language, or otherwise unable to read or understand due to a physical/medical inability.

(b) State sentenced inmates incarcerated in an adult county correctional facility shall be advised that they are subject to the inmate discipline of the adult county correctional facility except when there is a conflict with N.J.A.C. 10A:4. When a conflict exists, the State sentenced inmate is subject to N.J.A.C. 10A:4, Inmate discipline.

(c) The rules and regulations shall be available in English and Spanish, where appropriate.

(d) An interpreter may be provided at the discretion of the adult county correctional facility Administrator.

Amended by R.1994 d.182, effective April 4, 1994.

See: 26 N.J.R. 727(a), 26 N.J.R. 1506(a).

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Rewrote (a); in (b), substituted references to adult county correctional facilities for references to county correctional facilities; and in (d), substituted a reference to adult county correctional facilities for a reference to jails.

10A:31-21.5 Electronic communication device possession, telephone use and calls

(a) Newly admitted inmates shall be permitted to complete at least two local or collect long distance telephone calls using authorized telephones, as soon as practicable during the admission process.

(b) All inmate telephone calls may be monitored and recorded except calls to the Internal Affairs Unit and legal telephone calls.

(c) Calls to the Internal Affairs Unit and legal telephone calls shall be monitored only until the identity of the party called is verified.

(d) The possession or use of an electronic communication device, as defined at N.J.A.C. 10A:31-1.3, by an inmate confined in an adult county correctional facility is prohibited. Any such violation is considered major and shall be referred to the prosecutor in accordance with N.J.S.A. 2C:29-10 and the inmate shall be subject to disciplinary action and sanctions pursuant to N.J.A.C. 10A:31-16.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Rewrote the section.

Amended by R.2006 d.59, effective February 6, 2006.

See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

Section was "Telephone calls"; in (a), substituted "practicable" for "practical"; added (d).

Amended by R.2008 d.118, effective May 5, 2008.

See: 40 N.J.R. 84(a), 40 N.J.R. 2278(a).

Section was "Telephone possession, use and calls". In (a), inserted "using authorized telephones,"; and rewrote (d).

10A:31-21.6 Release or diversion to intervention programs

(a) Written procedures shall be developed with the Court and Probation Department for initial screening and evaluation of individuals for possible release or diversion to intervention programs.

(b) Adult county correctional facility Administrators shall coordinate with the Courts, Probation Departments and other community agencies the release from confinement under certain conditions, selected individuals who are not a danger to the community.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (b), substituted a reference to adult county correctional facility Administrators for a reference to jail Administrators.

10A:31-21.7 Property control

(a) Written policy and procedures shall specify the types of personal property inmates can retain in their possession during incarceration.

(b) A written itemized inventory of all personal property shall be given to newly admitted inmates.

(c) Secure storage of inmate property including money and other valuables shall be provided and inmates shall be given receipts for all property held until release.

(d) A system of strict staff accountability shall be maintained to assure the safety of inmate personal property, money and other valuables.

(e) Clothing and personal property taken from inmates shall be cleaned and/or placed in appropriate storage areas.

10A:31-21.8 Release of inmates

(a) Staff at each adult county correctional facility shall develop written policies and procedures related to the release of inmates which include, but are not limited to:

1. Verification of inmate's identity;
2. Verification of inmate's release reports;
3. Completion of release arrangement, including the person or agency to whom the inmate is to be released;
4. Return of inmate's personal property;
5. Verification that no facility property leaves with the inmate;
6. Completion of any pending action, such as grievances or claims for damages or lost possessions; and
7. Collection of restitution or fees owed to the facility.

Amended by R.1991 d.143, effective March 18, 1991.

See: 22 N.J.R. 3714(c), 23 N.J.R. 860(a).

Deleted list of types of inmates who should not be confined in same cell or living space.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (a), added 7.

Amended by R.2011 d.059, effective February 22, 2011.

See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

In the introductory paragraph of (a), substituted "Staff at each" for "Each".

10A:31-21.9 Disposition of property when an inmate is released from custody

(a) When an inmate is released from the adult county correctional facility, the inmate shall:

1. Take the personal property when leaving the correctional facility; or

2. Arrange for a family member(s) or friend(s) to pick up the personal property from the county correctional facility within 30 calendar days after the inmate's release.

(b) In circumstances where property remains at the facility or the inmate or designee fails to have the property removed within 30 calendar days of the inmate's release, correctional facility personnel shall forward written notification to the ex-inmate's last known address stating that:

1. The property will be held for a maximum of 30 additional calendar days;
2. The property will be disposed of if not removed by the specified date; and
3. The correctional facility is not responsible for property held longer than 60 days.

(c) If the written notification sent to the ex-inmate's last known address is not responded to within 30 calendar days, correctional facility personnel may dispose of the personal property by:

1. Donating the personal property to any recognized public charitable organization;
2. Retaining the personal property for use by the general inmate population, if the item(s) has been approved by the facility Administrator or designee; or
3. Destroying the personal property.

(d) The facility Administrator or designee shall approve any property that is to be donated or destroyed.

(e) Perishable items are subject to donation or being destroyed at any time when property is left at the facility and it creates a health hazard or pest control issue.

(f) Copies of written notices to the ex-inmate about personal property shall become a permanent part of the ex-inmate's record file.

New Rule, R.2017 d.228, effective December 4, 2017.

See: 49 N.J.R. 2450(a), 49 N.J.R. 3751(a).

SUBCHAPTER 22. CLASSIFICATION**10A:31-22.1 Written classification policies and procedures**

(a) Staff at each adult county correctional facility shall develop written policies and procedures for classifying inmates which include the following:

1. The composition and responsibilities of the Classification Committee;
2. The initial classification of inmates;
3. The review of the classification of inmates; and

4. The reassignment or transfer of inmates from one program and/or facility to another.

Amended by R.2011 d.059, effective February 22, 2011.

See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

In the introductory paragraph of (a), substituted "Staff at each" for "Each".

10A:31-22.2 Classification and housing of inmates

(a) The classification and housing of inmates shall be based upon available space and either:

1. The objective classification scoring system; or
2. The reception classification system, which shall be based upon the following factors regarding the inmate:
 - i. Gender;
 - ii. Age;
 - iii. Size;
 - iv. Offense;
 - v. Previous incarcerations;
 - vi. Aggressive and passive/dependent behavior;
 - vii. Problems, such as, but not limited to, alcoholism and drug addiction(s);
 - viii. Physical illness;
 - ix. Mental status;
 - x. Confinement status, such as pretrial detainee or sentenced inmate; and
 - xi. Security needs.

(b) The classification of inmates in the categories in (a) above may be modified based on the direct observation and supervision of individual inmates, and in such instances each classification decision shall be fully documented.

(c) The classification of State prisoners housed in county correctional facilities remains the responsibility of the New Jersey Department of Corrections.

(d) Segregation of inmates by race, color, creed, or national origin shall be prohibited.

Amended by R.1991 d.143, effective March 18, 1991.

See: 22 N.J.R. 3714(c), 23 N.J.R. 860(a).

Changed terms from "misdemeanors" and "felons"; also changed "first offenders" and "habitual criminals".

Amended by R.2000 d.206, effective May 15, 2000.

See: 31 N.J.R. 3908(a), 32 N.J.R. 1772(a).

Rewrote the section.

Amended by R.2010 d.134, effective July 6, 2010.

See: 42 N.J.R. 34(a), 42 N.J.R. 1379(a).

In the introductory paragraph of (a)2, inserted a comma following "system"; and in (a)2i, substituted "Sex" for "Gender".

Amended by R.2017 d.228, effective December 4, 2017.

See: 49 N.J.R. 2450(a), 49 N.J.R. 3751(a).

In (a)2i, substituted "Gender" for "Sex".

10A:31-22.3 Male and female inmates' access to programs and activities

Male and female inmates, depending on their custody levels, shall have equal access to all programs and activities, but integrated participation by male and female inmates in programs and activities is not required.

Recodified from N.J.A.C. 10A:31-22.4 by R.2000 d.206, effective May 15, 2000.

See: 31 N.J.R. 3908(a), 32 N.J.R. 1772(a).

Text of former N.J.A.C. 10A:31-22.3, Segregation of inmates based upon race, color, creed or national origin, recodified to N.J.A.C. 10A:31-22.2(d).

10A:31-22.4 Initial classification

(a) Initial classification of sentenced inmates shall be completed within two weeks after admission from court or transfer from another institution, except where there are clear and convincing reasons to do otherwise.

(b) Wherever possible, inmates shall initially be assigned to an intake area until appropriately classified and medically screened pursuant to N.J.A.C. 10A:31-13.9.

Amended by R.1995 d.421, effective August 7, 1995.

See: 27 N.J.R. 1728(a), 27 N.J.R. 2928(a).

Recodified from N.J.A.C. 10A:31-22.5 by R.2000 d.206, effective May 15, 2000.

See: 31 N.J.R. 3908(a), 32 N.J.R. 1772(a).

Former N.J.A.C. 10A:31-22.4, Male and female inmates' access to programs and activities, recodified to N.J.A.C. 10A:31-22.3.

10A:31-22.5 Classification hearing

All sentenced inmates may be given 48 hours notice prior to their classification hearing and may have the opportunity to appear and participate in their hearing.

Recodified from N.J.A.C. 10A:31-22.6 by R.2000 d.206, effective May 15, 2000.

See: 31 N.J.R. 3908(a), 32 N.J.R. 1772(a).

Former N.J.A.C. 10A:31-22.5, Initial classification, recodified to N.J.A.C. 10A:31-22.4.

Amended by R.2011 d.059, effective February 22, 2011.

See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

Substituted "shall" for "may" twice.

10A:31-22.6 Appeal of Classification Committee decision

All sentenced inmates shall be given the opportunity to appeal the decision of the Classification Committee to the adult county correctional facility Administrator or designee.

Recodified from N.J.A.C. 10A:31-22.7 and amended by R.2000 d.206, effective May 15, 2000.

See: 31 N.J.R. 3908(a), 32 N.J.R. 1772(a).

Substituted a reference to the county correctional facility Administrator for a reference to the Jail Administrator. Former N.J.A.C. 10A:31-22.6, Classification hearing, recodified to N.J.A.C. 10A:31-22.5.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Substituted a reference to adult county correctional facilities for a reference to county correctional facilities.

10A:31-22.7 (Reserved)

Recodified to N.J.A.C. 10A:31-22.6 by R.2000 d.206, effective May 15, 2000.

See: 31 N.J.R. 3908(a), 32 N.J.R. 1772(a).

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SUBCHAPTER 23. REMISSION OF TIME FROM SENTENCE

10A:31-23.1 Eligibility for cash or remission of time from sentence

(a) Inmates who are employed in productive occupations while incarcerated in an adult county correctional facility shall receive compensation for such employment that may be in the form of cash or remission of time from sentence or both (see N.J.S.A. 30:4-92). Such remission of time shall be subject to provisions, limitations and preclusions set forth in State law, such as, but not limited to N.J.S.A. 39:4-50.

1. An inmate employed under this section may receive remission of time from sentence not to exceed one day for each five days of productive occupation. Any remission granted under this section shall not affect deductions for good behavior as otherwise provided by law.

2. In addition, all minimum security inmates who are considered sufficiently trustworthy to be employed in honor camps, farms or details, may receive further remission of time from sentence at the rate of three days per month for each month of such employment (see N.J.S.A. 30:4-92).

(b) Inmates in adult county correctional facilities, who are employed in the community pursuant to N.J.A.C. 10A:31-25, Work Release Program, are eligible for diminution of sentence as set forth in N.J.S.A. 30:8-50. The inmate may be granted a diminution of not more than one-quarter of his or her term if the inmate's conduct, diligence and general attitude meet such diminution.

(c) Inmates who are receiving credits while participating in a Work Release Program under (b) above may also, in appropriate circumstances, receive work credits under (a) above. Such additional credits may be granted only where the inmate engages in a productive occupation in the adult county correctional facility in addition to the inmate's participation in the Work Release Program.

(d) As permitted in this section, any remission of time shall in no way affect deduction for good behavior as otherwise provided in N.J.S.A. 2A:164-24.

(e) Pursuant to N.J.S.A. 30:4-123.51, commutation credits shall not be awarded until after the expiration of the mandatory minimum portion of the sentence. When the mandatory minimum portion of the sentence has been served, commutations credits are awarded on the full sentence.

(f) In accordance with N.J.S.A. 30:4-123.51, commutation credits, work credits, gap time, and minimum credits shall not be used to reduce a maximum sentence to a period of incarceration that is less than the judicial or statutory mandatory minimum term.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Amended by R.2011 d.012, effective January 3, 2011.

See: 42 N.J.R. 2195(a), 43 N.J.R. 53(b).

In the introductory paragraph of (a), substituted "shall" for "may" following "facility", inserted "that may be" and inserted the last sentence; in (a)1, substituted ". Any" for ", but" following "occupation"; in (a)2, substituted "may" for "shall" and inserted "(see N.J.S.A. 30:4-92)"; and in (d), substituted "As permitted in this section, any" for "Any".

Amended by R.2013 d.097, effective July 15, 2013.

See: 45 N.J.R. 719(a), 45 N.J.R. 1778(a).

Added (e) and (f).

10A:31-23.2 Records and audits

(a) Designated staff from the New Jersey State Department of Corrections shall periodically audit records pertinent to the remission of time or cash payments for periodic occupation or minimum security status of inmates. Such audits shall be conducted not less than annually.

(b) The remission of time or cash payment records shall indicate the following:

1. The dates the inmate was placed upon and removed from productive occupation and/or minimum security status;
2. The reason for removal from productive occupation or minimum security status;
3. The time the inmate earned while in productive occupation or on minimum security status; and
4. The cash remuneration, if any, the inmate received while in productive occupation.

(c) Individual records shall be maintained for each inmate placed in productive occupation or classified on minimum security status.

Amended by R.2011 d.059, effective February 22, 2011.
See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

In (a), substituted "Designated staff from the" for "The".

10A:31-23.3 Reports

(a) The adult county correctional facility Administrator shall submit an annual report to the New Jersey State Department of Corrections, Office of County Services.

(b) The annual report shall contain, but not be limited to, the following:

1. Statistics related to the remission of time for productive occupations and minimum security status of inmates; and/or
2. The payment of cash to inmates for employment in productive occupations.

(c) In counties electing to provide cash payments for employment in productive occupations, the schedule of payments shall be filed with the New Jersey State Department of Corrections, Office of County Services.

Amended by R.2000 d.332, effective August 7, 2000.
See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (a), substituted a reference to adult county correctional facility Administrators for a reference to jail Administrators.
Amended by R.2006 d.59, effective February 6, 2006.
See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

Rewrote (b)1.

Amended by R.2011 d.059, effective February 22, 2011.
See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

In (a) and (c), substituted "Office" for "Bureau".

10A:31-23.4 Consultations

The New Jersey State Department of Corrections will provide the consultative services of staff members with respect to questions, issues or problems arising out of the interpretation of the Statutes or from operational procedures.

SUBCHAPTER 24. INMATE WORK PROGRAM

10A:31-24.1 Inmate work plan

(a) Staff at the adult county correctional facility shall develop and maintain a written inmate work assignment plan that provides for inmate employment, subject to the availability of work opportunities and the security considerations of the facility.

(b) The inmate work plan shall include provisions for inmate employment in facility maintenance and operations such as, but not limited to:

1. Cleaning;
2. Painting;
3. Food service; and
4. Laundry operations.

(c) The inmate work plan shall include provisions for inmate employment in public works projects such as construction work, conservation projects, county road work, and cleaning and maintenance tasks in local government buildings.

(d) The inmate work plan shall include provisions for the employment of handicapped inmates.

Amended by R.2006 d.59, effective February 6, 2006.

See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

In introductory paragraph (b), pluralized "provision" and added ", but not limited to:".

Amended by R.2011 d.059, effective February 22, 2011.

See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

In (a), substituted "Staff at the" for "The".

10A:31-24.2 Pretrial and unsentenced detainees

Pretrial and unsentenced detainees shall not be required to work except to do personal housekeeping.

10A:31-24.3 Inmate volunteers

Any inmate may volunteer for work assignments or adult county correctional facility programs.

10A:31-24.4 Compensation

(a) Inmates employed in inmate work programs shall receive compensation for employment in the form of cash or remission of time from sentence or both as set forth in N.J.A.C. 10A:31-23.

(b) Such remission of time shall in no way interfere with the deduction of time for good behavior as set forth in N.J.S.A. 2A:164-24.

(c) State-sentenced inmates who are being housed in adult county correctional facilities shall be compensated in accordance with N.J.A.C. 10A:9-5.6.

Amended by R.2006 d.59, effective February 6, 2006.

See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

In (b), substituted "deduction of time" for "reduction" and deleted "time" following "behavior."

Amended by R.2011 d.012, effective January 3, 2011.

See: 42 N.J.R. 2195(a), 43 N.J.R. 53(b).

In (a), substituted "as set forth in" for "(see" and deleted a closing parenthesis following "10A:31-23"; in (b), substituted "Such" for "Any" and inserted "as set forth in N.J.S.A. 2A:164-24"; and in (c), substituted "State-sentenced" for "State sentenced".

SUBCHAPTER 25. WORK AND VOCATIONAL TRAINING RELEASE PROGRAM

10A:31-25.1 Authority

N.J.S.A. 30:8-44 authorizes the operation of a county Work Release Program for inmates to participate in employment, a vocational training course, or to care for the offender's family in the counties in which the governing body or Board of Freeholders has approved the establishment of this type of program(s).

Amended by R.2006 d.59, effective February 6, 2006.
See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).
Rewrote the section.

10A:31-25.2 Role of New Jersey Department of Corrections

The New Jersey Department of Corrections may make staff available for maintaining general supervision over County Work Release Programs.

10A:31-25.3 Benefit to inmates

(a) Participation in the Work Release Program provides the following benefits to inmates:

1. Provides inmates the opportunity to participate in full time normal employment or vocational training in the community;
2. Permits inmates the opportunity to develop or strengthen good work habits and skills;
3. Affords inmates opportunities to continue or strengthen constructive ties with family, friends and the community;
4. Permits the pre-release preparation of inmates and the opportunity to evaluate the readiness of these inmates for release to the community;
5. Permits disbursements to be made from inmate earnings to help defray the cost of incarceration, support dependents, reduce debts and pay court fines;
6. Enables inmates to accumulate savings to help meet financial needs or burdens after release from confinement;
7. Provides inmates the opportunity to meet family needs; and
8. Provides inmates the opportunity to earn credits which will reduce the time to be served on the inmate's sentence.

10A:31-25.4 Responsibility for designating County Work Release Administrator

(a) Upon adoption of a resolution to implement a Work Release Program, the governing body of the county or the County Board of Freeholders shall designate a County Work

Release Administrator who may be the Sheriff, adult county correctional facility Administrator or other persons who shall be responsible for administering the Work Release Program.

(b) The governing body or Board of Freeholders shall promptly notify the Commissioner of the Department of Corrections of the action and name of the designated County Work Release Administrator.

Amended by R.2000 d.332, effective August 7, 2000.
See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (a), substituted a reference to adult county correctional facility Administrators for a reference to Jail Administrators.

Amended by R.2006 d.59, effective February 6, 2006.
See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

In (a), added "the governing body of the county or"; in (b), added "governing body or" and deleted "Board's" and "the" preceding "name."

10A:31-25.5 Placement in a Work Release Program

A person convicted and sentenced to an adult county correctional facility may be placed in a Work Release Program by order of the court in which such person was convicted, or by the assignment judge of the county in which the sentence was imposed at the time such person is sentenced or at any time thereafter during the term of the sentence.

Amended by R.2006 d.59, effective February 6, 2006.
See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).
Section was "Placement in Work Release."

10A:31-25.6 Inmates ineligible for Work Release Program participation

(a) The following shall make an inmate ineligible for participation in the Work Release Program:

1. Untried detainees for criminal offenses or immigration detainees;
2. Current convictions involving arson offenses;
3. Previous convictions for arson offenses, even if the current conviction is for an offense(s) other than arson; and/or
4. The applicable provisions of related statutes of the State of New Jersey, such as, but not limited to, Michael's Law at N.J.S.A. 39:4-51.

(b) Pursuant to N.J.S.A. 30:8-44.1, no person confined to an adult county correctional facility shall be eligible to participate in any work release or vocational training release program if he or she has been convicted of any of the following:

1. Any crime involving a sexual offense or child molestation as set forth in N.J.S.A. 2C:14-1 et seq.;
2. Any crime endangering the welfare of children or incompetents which concerns sexual conduct which would impair or debauch the morals of the child or an incompetent, as set forth in N.J.S.A. 2C:24-4 and N.J.S.A. 2C:24-7;

3. Any crime involving the manufacture, transportation, sale or possession, with the intent to sell or distribute, of a "controlled dangerous substance" or a "controlled dangerous substance analog," as defined in the "Comprehensive Drug Reform Act of 1986," P.L. 1987, c.106 (C.2C:35-1 et al.); or

4. Any crime involving the use of force or the threat of force upon a person or property including: armed robbery, aggravated assault, kidnapping, arson, manslaughter and murder.

Amended by R.1995 d.421, effective August 7, 1995.

See: 27 N.J.R. 1728(a), 27 N.J.R. 2928(a).

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (b), substituted a reference to adult county correctional facilities for a reference to county correctional facilities.

Amended by R.2006 d.59, effective February 6, 2006.

See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

In introductory paragraph (a), deleted "circumstances"; in (a)2, deleted "or"; in (a)3, substituted "and/or" for "or"; added (a)4; in introductory paragraph (b), added reference to N.J.S.A. 30:8-44.1; in (b)1 and 2, added "A." following "N.J.S."

10A:31-25.7 Application for admission to the Work Release Program

(a) The County Work Release Administrator designated by the governing body of the county or the County Board of Freeholders in accordance with N.J.S.A. 30:8-44 shall be responsible for advising county sentenced inmates that an application may be submitted to the County Work Release Administrator, who shall submit the application to the court for approval or disapproval to participate in the Work Release Program for purposes of employment, vocational training or to care for the offender's family. At any time, a work release order may be revoked by the court that granted the order.

(b) An inmate sentenced by the court to an adult county correctional facility, who desires an opportunity to participate in the Work Release Program by being released to the community for employment, vocational training or meeting family needs shall be required to complete and submit Form CWR-1 Application and Agreement for Assignment Under the Work Release Program to the County Work Release Administrator for submission to the court.

(c) The County Work Release Administrator shall review and evaluate the information collected on each application and make a recommendation to the court concerning admission to the Work Release Program. The basic information shall include, but is not limited to:

1. Prior criminal history;
2. Detailed information concerning present offense;
3. Detailed information regarding untried criminal charges pending and the current status of these charges;
4. Psychological and psychiatric evaluations, when available;

5. Record of violent or assaultive conduct;
6. Record of violation of financial or public trust;
7. Data on family relationships including responsibility to assist in family maintenance;
8. Work history;
9. Personal health;
10. Record of substance abuse; and
11. Information on job opportunities or vocational programs to meet the inmate's needs.

(d) The following facts and circumstances shall be viewed as negative factors when considering an inmate's application for the Work Release Program:

1. A record of association with organized crime;
2. A record of serious emotional or personality disorders;
3. A record of violent or assaultive behavior;
4. Previous violations of financial or public trust;
5. A high degree of public notoriety which would cause adverse reaction if the inmate were released to the community;
6. Indications that release to the community would be contrary to punitive intention of sentence; and
7. A history which indicates a record of convictions for offenses related to controlled dangerous substances (CDS).

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Amended by R.2006 d.59, effective February 6, 2006.

See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

Rewrote (a).

10A:31-25.8 Job site evaluation

(a) The County Work Release Administrator shall be responsible for evaluating all prospective places of employment of inmates in accordance with N.J.S.A. 30:4-91.3 et seq.

(b) Whenever possible, work release employment shall be related to prior vocational training, work experience and/or the institutional training of the inmate.

(c) The following shall initially be taken into account when evaluating the job site:

1. Working conditions of employees;
2. Potential hazards to health of employees;
3. Credibility of the employer;
4. Verification of a fair rate of pay, not less than minimum wage;

5. Coverage of an appropriate workers' compensation plan;
6. Availability of transportation;
7. Duration of the offered employment and benefits; and
8. Proximity to the adult county correctional facility.

(d) Inmates shall not be placed in Work Release Program assignments which will result in the displacement of workers employed in the community.

(e) Representatives of local union central bodies or similar labor union organizations shall be consulted about the placement of inmates with an employer, when appropriate.

(f) If suitable private outside employment cannot be found for an inmate, the inmate may be employed by the county at a fair wage and reasonable hours of work.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (b), added N.J.S.A. reference.

10A:31-25.9 Notice to inmate

Form CWR-2 Notification of Admission to Work Release with Specified Conditions shall be used by the County Work Release Administrator to notify the inmate of the court's decision on the inmate's application.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

10A:31-25.10 Work Release Plan

(a) The County Work Release Administrator and the inmate shall prepare a detailed Work Release Plan (Form CWR-3 Approved Work Release Plan). The plan shall include information concerning the job, transportation and a statement authorizing the County Work Release Administrator to make disbursements from earnings.

(b) The information concerning the job placement shall include, but is not limited to:

1. The name of employer;
2. The address of employer;
3. The telephone number of employer;
4. The location of work site;
5. The hourly or other rate of pay;
6. Work days and hours;
7. A plan for overtime or shift work, if necessary; and
8. An evaluation of the job offer by the County Work Release Administrator.

(c) Each Work Release Plan shall contain a written detailed Transportation Plan. The Transportation Plan shall include, but is not limited to:

1. The dates and times of leaving and returning to the adult county correctional facility;
2. The times of arrival and departure from the job;
3. The method of transportation (for example, facility vehicle, public, private conveyance);
4. The daily cost of transportation;
5. The routes of travel; and
6. A procedure to be used when there are unexpected changes in travel arrangements, such as extended work conditions, delays caused by breakdowns, etc.

(d) If the Transportation Plan calls for the use of a private conveyance as the method of transportation, the County Work Release Administrator should ensure that the appropriate licensing, vehicle registration and insurance coverage are provided. Copies of these documents shall be contained in the inmate's file.

(e) The Transportation Plan should be flexible so as to allow for normal problems anticipated in daily travel. Generally, travel time to and from a job should not exceed one hour each way.

(f) The final section of the Work Release Plan shall include information on the disbursement of wages.

(g) When the Work Release Plan is completed and reviewed by the County Work Release Administrator, the inmate shall be asked to read and indicate his or her acceptance of the provisions of the Work Release Plan by signing it.

(h) The employer shall receive a copy of the approved Work Release Plan by certified mail, return receipt requested, along with a copy of the court's order placing the inmate in outside employment. The inmate shall also receive a copy of the Work Release Plan.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

10A:31-25.11 Disbursement of wages

(a) An inmate participating in the Work Release Program shall submit his or her salary, wages or stipend, in the form that it is paid (cash or check), to the County Work Release Administrator who shall, in accordance with N.J.S.A. 30:4-91.4 and applicable provisions of related State statutes, make payments from these earnings for:

1. Money advances made to purchase or redeem work clothes, travel clothes and/or work tools;

2. The cost of work transportation and cash advanced for miscellaneous daily expenses while outside the adult county correctional facility;

3. Payment of cost for board which shall be charged for each day that the inmate is participating in the Work Release Program;

4. Court costs and fines;

5. Medical and dental fees;

6. Prescription or nonprescription drugs or medicine fees;

7. Legally ascertained support of dependents after written notice to the appropriate welfare board; and/or

8. Payment on debts and legal obligations acknowledged by the inmate in writing and filed with the County Work Release Administrator on such forms as the Administrator shall specify.

(b) Every effort shall be made to secure full payment of advances as soon as possible. Except in the most unusual situations, full repayment shall be obtained no later than the second full pay.

(c) Any balance of earnings remaining after payment of items in (a) above shall be retained as required by N.J.S.A. 30:8-49(4), and paid to the inmate when he or she is discharged.

(d) Staff from each county shall develop a written system whereby each inmate participating in the Work Release Program shall pay a fair percentage of his or her earnings for board. The daily per capita rate for the payment of board shall not include any part of the costs arising from the administration of the Work Release Program.

Amended by R.2000 d.332, effective August 7, 2000.
See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (a), inserted N.J.S.A. reference in the introductory paragraph, inserted 5 and 6, and recodified former 5 and 6 as 7 and 8.

Amended by R.2006 d.59, effective February 6, 2006.
See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

In introductory paragraph (a), added "and applicable provisions of related State statutes."

Amended by R.2011 d.059, effective February 22, 2011.
See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

In (d), substituted "Staff from each" for "Each".

10A:31-25.12 Statement of disbursements

(a) An inmate participating in the Work Release Program shall receive a statement on Form CWR-4, Statement of Disbursements, itemizing deductions made from each pay check within two weeks of the county's receipt of the paycheck.

(b) The statement shall report all income and expenses and accurately reflect the statement of the inmate's account for the period covered.

Amended by R.2000 d.332, effective August 7, 2000.
See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

10A:31-25.13 Vocational Training Release Plan

(a) If the inmate applies and is approved for a vocational training release program, a detailed Vocational Training Release Plan (Form CWR—5 Vocational Training Release Plan) shall be prepared by the County Work Release Administrator. A copy of the Vocational Training Release Plan shall be sent to the inmate and a copy shall be sent to the training agency by certified mail, return receipt requested. The plan shall include the following:

1. The name and address of the training agency;
2. The location where training will take place;
3. The dates and times of leaving and returning to the adult county correctional facility;
4. The times of arrival and departure from the training site;
5. The mode of transportation; and
6. Other pertinent data including responsibility for payment of costs, such as transportation, meals, etc.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Amended by R.2006 d.59, effective February 6, 2006.

See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

In introductory paragraph (a), added "applies and" following "inmate," added "a" preceding "vocational" and added "release program."

10A:31-25.14 Family Need Release Plan

(a) A detailed Family Need Release Plan (Form CWR-6 Family Need Release Plan) shall be prepared by the County Work Release Administrator with a copy to the inmate outlining the following:

1. The nature of need;
2. The location of where family need is to be served;
3. The dates and times of leaving and returning to the adult county correctional facility;
4. The times of arrival and departure from the family need site;
5. The mode of transportation; and
6. Other pertinent data including responsibility for paying costs, such as transportation, meals, etc.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

10A:31-25.15 Notification to local municipal police departments and/or law enforcement agencies

(a) N.J.S.A. 30:4-91.3 requires that the local municipal police departments be notified by the adult county correctional facility Administrator or designee when the county intends to

place an inmate in the respective municipality for the purpose of a visit, study, work or residence.

(b) The local municipal police departments and/or the law enforcement agency responsible for that jurisdiction shall be notified in writing whenever an inmate is being considered for placement into the work release, vocational training release or family care release phase of the Work Release Program.

Amended by R.2006 d.59, effective February 6, 2006.
See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

Section was "Notification of local police departments"; in (a), deleted "(a)" from N.J.S.A. reference and added "municipal" and "by the adult county correctional facility Administrator or designee"; in (b), added "municipal" and "and/or the law enforcement agency responsible for that jurisdiction."

10A:31-25.16 Custody status

Inmates approved for outside employment, family care or vocational training under a Work Release Program shall be classified as minimum custody and housed separately from other inmates serving terms in ordinary confinement, if possible.

10A:31-25.17 Orientation

(a) When the inmate has been accepted into the Work Release Program and the appropriate applications and plans have been completed, the County Work Release Administrator shall provide an orientation to the inmate.

(b) The orientation shall ensure that the inmate is made aware of and has a clear understanding of the rules, regulations and conditions governing the Work Release Program.

(c) The County Work Release Administrator or designee shall also ensure that the employer is made aware of the rules and regulations and of the employer's responsibilities concerning the Work Release Program.

(d) The County Work Release Administrator shall make periodic evaluations of the extent of family needs and of job and vocational training sites to ensure that the rules and regulations governing the Work Release Program are not being violated.

Amended by R.2000 d.332, effective August 7, 2000.
See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

10A:31-25.18 Review of status and termination

(a) The County Work Release Administrator may hold the inmate in confinement pending judicial review of the inmate's status, when there is cause to believe that the inmate has:

1. Violated the rules of the Work Release Program; or
2. Been charged with the commission of an offense.

(b) The County Work Release Administrator shall submit a written report to the court which will include the reason(s) for holding the inmate in confinement and a request that the court review the inmate's status in the Program.

(c) The County Work Release Administrator shall implement the court's decision.

(d) No inmate may be removed from the Work Release Program without an order from the court authorizing such a removal.

10A:31-25.19 Escape

(a) An inmate shall be deemed an escapee if the inmate:

1. Fails to return to the adult county correctional facility within the prescribed time or has not notified the facility within the one hour grace period that he or she is in the process of returning; or
2. Fails to notify the facility that he or she has been detained (that is, hospitalized, arrested, etc.); or
3. Fails to obtain authorization to leave his or her place of employment.

(b) If the inmate contacts the facility within the one hour grace period and is given a reasonable time limit within which to return to the facility but fails to do so, the inmate shall be declared an escapee if there are no extenuating circumstances or verified legitimate reasons for the inmate's failure to return within the time limit.

(c) In all cases of escape, the County Work Release Administrator shall arrange for immediate notice to the:

1. Adult county correctional facility Administrator;
2. Local police departments (and/or the law enforcement agencies responsible) in the municipality of the adult county correctional facility and in the municipality of the release site;
3. State police; and
4. Court that authorized the work release participation.

Amended by R.2000 d.332, effective August 7, 2000.
See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (c)1, substituted a reference to adult county correctional facility Administrators for a reference to County Jail Administrators.
Amended by R.2006 d.59, effective February 6, 2006.
See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

In (c)2, added "departments (and/or the law enforcement agencies responsible) in the municipality of the adult county correctional facility and in the municipality of the release site;"; in (c)4, added "that authorized the work release participation."

10A:31-25.20 Quarterly report

(a) The County Work Release Administrator shall be responsible for preparing a quarterly report (Form CWR-9 Quarterly Report of Work Release) which shall be submitted

to the County Board of Freeholders and the New Jersey Department of Corrections.

(b) The quarterly report shall contain a general summary of Work Release Program information, which includes, but is not limited to:

1. The total number of participants in the Program;
2. The total number of admissions to the Program;
3. The total number of terminations from the Program;
4. The total number of revocations for violations of conditions; and
5. The total number of removals because of illness or death.

(c) The quarterly report shall also contain other statistical information on the Work Release Program and facts as may be requested by the governing body of the county or the County Board of Freeholders and the New Jersey Department of Corrections.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Amended by R.2006 d.59, effective February 6, 2006.

See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

In (c), added "governing body of the county or the."

10A:31-25.21 Arrangements with other counties

(a) An inmate may be housed in another adult county correctional facility for the purposes of work release when the court, issuing the release placement order, authorizes the County Work Release Administrator to arrange with the County Work Release Administrator of another county for the employment of an inmate within that county.

(b) The inmate shall be in the custody of the other county and subject to the commitment and all applicable regulations while the inmate is participating in the Work Release Program.

(c) Agreements between cooperating counties shall include a statement of financial arrangements.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (a), substituted a reference to adult county correctional facilities for a reference to counties.

10A:31-25.22 Time credits

(a) Pursuant to N.J.S.A. 30:8-50, an inmate participant may be granted a reduction of not more than one-quarter of his or her term if the inmate's conduct, diligence and general attitude merit such reduction (see N.J.A.C. 10A:31-23.1).

(b) Form CWR-7 Diminution of Term shall be used to notify the appropriate person in the adult county correctional facility as to the number of days to be credited in reduction of an inmate's sentence.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (b), substituted a reference to adult county correctional facilities for a reference to county jails.

SUBCHAPTER 26. INMATE SERVICES AND PROGRAMS

10A:31-26.1 Social Services Program

(a) A Social Services Program shall be administered and supervised by a person with a Bachelor's degree or four years experience in the social and behavioral sciences.

(b) Counseling shall be provided by a qualified, trained counselor and shall include, but is not limited to:

1. Individual counseling;
2. Drug and alcohol addiction counseling;
3. Family counseling;
4. Crisis intervention;
5. Vocational counseling;
6. Discharge planning;
7. Release preparations; and
8. The referral of inmates to existing community resources.

(c) In the absence of qualified social service personnel, social services may be provided through contractual arrangements with community agencies.

(d) When community agencies are used to provide social services, a staff member of the adult county correctional facility shall be responsible for coordinating and documenting the use of these community agencies.

(e) Records shall be maintained documenting all counseling activities.

10A:31-26.2 Education Program

(a) An area suitable for conducting educational classes shall be designated for the Education Program.

(b) A certified teacher shall administer and supervise the Education Program.

(c) Inmates shall have access to educational programs and vocational training, when it is available within the adult county correctional facility.

(d) Educational courses available for inmates may include, but not be limited to:

1. Adult Basic Education;

2. General Education Diploma (G.E.D.); and

3. Correspondence courses for both high school and college credits.

(e) English as a second language (ESL) may be made available for inmates when deemed appropriate.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (b), substituted a reference to certified teachers for a reference to qualified teachers.

Amended by R.2011 d.059, effective February 22, 2011.

See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

In the introductory paragraph of (d), substituted "may" for "shall".

10A:31-26.3 Religious services

(a) All inmates shall be afforded full and equal opportunity to practice their religion, or refrain from involvement in religion, subject only to the limitations necessary to maintain order, safety and security.

(b) Staff at the adult county correctional facility shall provide for inmate participation in religious services on a voluntary basis.

(c) Representatives from the various recognized religions shall be contacted to provide counseling and religious services.

(d) Staff at the adult county correctional facility shall ensure that weekly religious services are conducted.

Amended by R.2006 d.59, effective February 6, 2006.

See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

In (a), added "safety."

Amended by R.2011 d.059, effective February 22, 2011.

See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

In (b), substituted "Staff at the" for "The"; and in (d), substituted "Staff at the adult county correctional" for "The".

10A:31-26.4 Recreation and Leisure Time Activities Program

(a) A staff member shall administer and supervise the Recreation and Leisure Time Activities Program.

(b) The adult county correctional facility shall provide for both indoor and outdoor recreation areas.

(c) All inmates, except those in disciplinary detention, shall be provided with the opportunity to participate in leisure time activities on a daily basis. Such leisure time activities may include, but are not limited to:

1. Watching television;
2. Listening to the radio;
3. Playing cards; and
4. Initiating and completing arts and crafts projects.

(d) The facility shall provide inmates access to recreational opportunities and equipment.

(e) Inmates shall be given the opportunity to participate in a minimum of one hour of physical exercise and recreation each day outside the living unit.

(f) Weather permitting, recreation activities should be scheduled for out-of-doors.

Amended by R.2006 d.59, effective February 6, 2006.

See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

In introductory paragraph (c), added "but are not limited to."

10A:31-26.5 Library Program

(a) An area accessible to inmates shall be designated as the library.

(b) The adult county correctional facility shall provide a staff member or a volunteer to coordinate and supervise the Library Program.

(c) Library services shall be made available to inmates daily, excluding weekends and holidays or during emergency incidents.

(d) Library services provided shall include, but are not limited to:

1. Materials responsive to the interests and educational needs of users; and
2. An information service to locate facts as needed.

(e) Library resources may be supplemented by local, regional, and State libraries.

(f) Foreign language materials, as well as materials for the blind and physically handicapped, shall be made accessible when appropriate.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (c), added a reference to emergency incidents; and in (e), substituted "may" for "shall" following "resources".

SUBCHAPTER 27. VOLUNTEER SERVICE PROGRAM

10A:31-27.1 Coordinator of Volunteer Service Program

A staff member shall be responsible for coordinating the Volunteer Service Program.

10A:31-27.2 Recruiting volunteers

In adult county correctional facilities where there is limited staff to provide the necessary programs and services, the adult county correctional facility Administrator shall attempt to secure the services of volunteers and/or county-based organizations.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Substituted a reference to adult county correctional facility Administrators for a reference to Jail Administrators.

10A:31-27.3 Credentials

Volunteers shall present their credentials or otherwise prove their professional competency at the time of submitting their initial volunteer application.

10A:31-27.4 Screening process

Any person desiring to become a volunteer shall be screened, and the appropriate State Bureau of Investigation (SBI) and Federal Bureau of Investigation (FBI) checks shall be completed.

10A:31-27.5 Orientation

Volunteers shall receive an orientation appropriate to the nature of their assignments within the adult county correctional facility.

10A:31-27.6 Volunteer photo identification and data files

(a) A system for maintaining a volunteer identification and data file shall be developed, which may include, but is not limited to:

1. A volunteer photo I.D. card;
2. A data file photograph of the volunteer;
3. The name and address of the volunteer;
4. The home and work telephone number of the volunteer;
5. The agency or group represented by the volunteer;
6. The volunteer service provided; and
7. The date of photo I.D. issuance and expiration.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Amended by R.2006 d.59, effective February 6, 2006.

See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

Section was "Volunteer identification"; rewrote (a).

10A:31-27.7 Volunteer agreement

Volunteers shall sign an agreement to abide by the adult county correctional facility policies, procedures and rules, particularly those relating to confidentiality of information (see N.J.A.C. 10A:31-6.6).

10A:31-27.8 Curtailing, suspending or discontinuing the services of a volunteer

(a) The adult county correctional facility Administrator may curtail, suspend or discontinue the services of a volunteer or volunteer organization for reasons which include, but are not limited to:

1. Any breach of confidentiality;

2. Unlawful conduct or breach of adult county correctional facility rules and regulations;

3. Physical or emotional illness;

4. Inability to cooperate with staff;

5. Erratic, unreliable attendance;

6. Violation(s) of the rules of the Volunteer Service Program; and

7. Any conduct which threatens the order or security of the facility or the safety of the volunteer or others.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

In (a), substituted a reference to adult county correctional facility Administrators for a reference to Jail Administrators.

Amended by R.2006 d.59, effective February 6, 2006.

See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

Section was "Curtailing, postponing or discontinuing the services of a volunteer"; rewrote (a).

SUBCHAPTER 28. JUVENILES**10A:31-28.1 Prohibition against placement in adult county correctional facilities**

Pursuant to N.J.S.A. 2A:4A-37, juveniles shall not be detained in an adult county correctional facility, except as set forth in N.J.S.A. 2A:4A-36.

SUBCHAPTER 29. FISCAL MANAGEMENT**10A:31-29.1 Commissary**

Pursuant to N.J.S.A. 30:4-15.1, every commissary in an adult county correctional facility operated for the sale of commodities shall collect a surcharge of 10 percent of the sale price of every item sold. These collected funds shall be forwarded to the State Treasurer for deposit into the Victims of Crime Compensation Office (VCCO) account.

Amended by R.2000 d.332, effective August 7, 2000.

See: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Substituted a reference to adult county correctional facilities for a reference to county correctional facilities.

Amended by R.2011 d.059, effective February 22, 2011.

See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

Substituted "Office (VCCO)" for "Board (VCCB)".

10A:31-29.2 Responsibility for inmate accounts

(a) The governing body or Administrator of the adult county correctional facility shall be responsible for maintaining inmate accounts and recordkeeping, and for establishing a mechanism for periodic audits of inmate accounts.

(b) The governing body or Administrator of the adult county correctional facility shall be responsible for:

1. Maintaining accurate records of each inmate's accounts and spendable balance;
2. Providing an inmate with a receipt for each financial transaction processed; and
3. The deduction of funds either earned or unearned from inmate accounts in accordance with State or Federal statutes and applicable provisions of N.J.A.C. 10A:2-2.2.

New Rule, R.2004 d.121, effective April 5, 2004.
 See: 35 N.J.R. 5477(a), 36 N.J.R. 1779(b).
 Amended by R.2006 d.59, effective February 6, 2006.
 See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).
 Rewrote (b).

10A:31-29.3 Sources of income for inmate welfare funds

(a) Money for inmate welfare funds shall be derived from the following sources:

1. Profits from sales at commissaries;
2. Interest on inmate welfare fund savings;
3. Gifts from individuals, corporations and charitable foundations; and
4. Income from inmate trust fund investments.

New Rule, R.2004 d.121, effective April 5, 2004.
 See: 35 N.J.R. 5477(a), 36 N.J.R. 1779(b).

10A:31-29.4 Accountability and expenditure of inmate welfare funds

(a) Staff at each adult county correctional facility shall maintain records for inmate welfare fund accounts.

(b) The governing body or Administrator of the adult county correctional facility shall be responsible to control and authorize all expenditures of inmate welfare funds.

(c) Inmate welfare funds shall be spent on amenities only for the use, benefit and general welfare of the inmate population as a whole. Such amenities include, but are not limited to: recreation and sports equipment; awards for academic, vocational and sporting achievements; library books, movies, magazines, and other subscriptions; annual licensing fees for a film blanket license; visit, recreation, holiday and inmate incentive program decorations and food; stipends for referees and guest speakers; and equipment to enhance the law library that is not otherwise required for legal access.

(d) Inmate welfare funds shall not be used for items the Department or county is required to provide, the payment of employee salaries, or for the purchase of any item or service, which is not intended for use by the inmate population, such as, but not limited to, security equipment or automobiles.

(e) Inquiries and issues regarding the use of inmate welfare funds shall be directed to the Assistant Commissioner or designee, Department of Corrections, Division of Programs

and Community Services. Further, staff at adult county correctional facilities should obtain legal advice regarding such inquiries and issues from their respective county counsel when deemed necessary.

(f) Gifts from individuals, corporations and charitable foundations shall be spent as designated by the donor when appropriate, or when undesignated, at the discretion of the governing body or Administrator of the adult county correctional facility. The monies from these gifts shall be identified separately in the inmate welfare fund so that expenditures can be directly related to the source of funds.

(g) Inmate welfare funds shall not be spent for any purpose which is not consistent with the rules outlined in this subchapter.

New Rule, R.2004 d.121, effective April 5, 2004.
 See: 35 N.J.R. 5477(a), 36 N.J.R. 1779(b).
 Amended by R.2008 d.177, effective July 7, 2008.
 See: 40 N.J.R. 1600(a), 40 N.J.R. 4219(b).

Rewrote (c) and (e); and in (d), inserted "items the Department is required to provide," and inserted a comma following "salaries" and "service".

Amended by R.2011 d.059, effective February 22, 2011.
 See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

In (a), substituted "Staff at each" for "Each"; in (d), inserted "or county"; and in (e), inserted "staff at".

SUBCHAPTER 30. INTERJURISDICTIONAL AGREEMENTS AND STATUTES

10A:31-30.1 Interstate Corrections Compact

(a) N.J.S.A. 30:7C-1 et seq. establishes the Interstate Corrections Compact which provides that the State of New Jersey may enter into a contract with any other signatory state of the United States whereby prisoners from contracting states may be transferred between such states and confined in correctional facilities outside the state of conviction on a reciprocal basis or as otherwise provided for by the contract or a rider.

(b) The Commissioner, New Jersey Department of Corrections, is the designated Administrator of the Interstate Corrections Compact. The Commissioner may delegate this authority to an appropriate designee who shall have full authority to act on all matters pertaining to the Interstate Corrections Compact.

(c) In the event such a transfer is requested or ordered for an adult county correctional facility inmate, the adult county correctional facility Administrator shall be responsible for contacting the Commissioner of the New Jersey Department of Corrections in writing and for compliance with applicable provisions of State law relative to the Interstate Corrections Compact. Applicable provisions of N.J.A.C. 10A:10-3, Interstate Corrections Compact, may be used as guidelines.

10A:31-30.2 Interstate Agreement on Detainers

(a) N.J.S.A. 2A:159A-1 et seq. sets forth the Interstate Agreement on Detainers (IAD) and is intended to:

1. Encourage the orderly, expeditious disposition of an untried indictment, information or complaint, which has been lodged against a prisoner by any other state that is a party to the Agreement; and
2. Provide cooperative procedures for securing the transfer of an inmate to or from a receiving state.

(b) The Commissioner, New Jersey Department of Corrections, is the designated Agreement Administrator for the IAD. The Commissioner may delegate the responsibility and authority to administer the IAD to a Deputy Agreement Administrator.

(c) In the event an IAD transfer of an adult county correctional facility inmate is requested or ordered, the Administrator of the adult county correctional facility shall be responsible for contacting the Commissioner of the New Jersey Department of Corrections in writing and for compliance with applicable provisions of State law relative to an IAD. Applicable provisions of N.J.A.C. 10A:10-4, Agreement on Detainers, may be used as guidelines.

10A:31-30.3 Extradition

(a) N.J.S.A. 2A:160-6 et seq. sets forth the Uniform Criminal Extradition Act. The Uniform Criminal Extradition Act provides for an agreement between the executive authorities of two or more cooperative states to provide for the transference of custody of an inmate from the sending state to a receiving state for purposes of disposing of outstanding indictments, informations and/or complaints or for sentencing. The agreement provides for return of an inmate to the sending jurisdiction from the receiving jurisdiction after the terms of the agreement are satisfied.

(b) In the event an extradition is requested or ordered for an adult county correctional facility inmate, the Administrator of the adult county correctional facility shall be responsible for contacting the Commissioner of the New Jersey Department

of Corrections in writing and for compliance with applicable provisions of State law relative to extradition proceedings. Applicable provisions of N.J.A.C. 10A:10-5 may be used as extradition guidelines.

10A:31-30.4 International transfer

(a) N.J.S.A. 30:7D-1 authorizes the Commissioner, Department of Corrections, to transfer inmates having foreign citizenship status to countries of citizenship, provided that a treaty exists between the United States and the foreign country.

(b) In the event the international transfer of an adult county correctional facility inmate is requested or ordered, the Administrator of the adult county correctional facility shall be responsible for contacting the Commissioner of the New Jersey Department of Corrections in writing and for compliance with applicable provisions of State and Federal law relative to international transfer proceedings. Applicable provisions of N.J.A.C. 10A:10-6 may be used as international transfer guidelines.

10A:31-30.5 Notification of foreign consuls when foreign nationals are imprisoned

(a) The Vienna Convention on Consular Relations of 1963, Art. 36, 37 and 42 establishes procedures for notifying a foreign consul in cases of arrest, imprisonment, appointment of a guardian, or death of a foreign national or a member of consulate staff.

(b) In the event a foreign national or a member of the consulate staff is imprisoned in an adult county correctional facility, the Administrator of the adult county correctional facility shall be responsible for contacting the Commissioner of the New Jersey Department of Corrections in writing and for compliance with applicable provisions of State and Federal law relative to the notification of foreign consuls when foreign nationals are imprisoned. Applicable provisions of N.J.A.C. 10A:10-7 may be used as notification guidelines.

INDEX

Citations are to Title, Chapter and Subchapter

A

ABUSE.

Correctional institutions.

Municipal detention facilities, protection of detainees from abuse, 10A:34-4.

ACCESS.

Adult county correctional facilities, courts, 10A:31-15.

Correctional institutions, inmates, courts, 10A:6.

ACCOUNTS AND ACCOUNTING.

Inmates, 10A:2-2.

Residential community programs, 10A:20-4.

ACTIONS AND PROCEEDINGS.

Correctional institutions, inmates, 10A:6-4.

ADJUSTMENT COMMITTEE.

Correctional institutions, discipline, 10A:4-8.

ADMINISTRATION.

Corrections department, 10A:1.

ADMINISTRATIVE SEGREGATION.

Adult county correctional facilities, 10A:31-1.3.

Correctional institutions, 10A:5-3.

ADOPTION OF CHILDREN.

Correctional institutions, inmates, placement, 10A:16-6.

Placement, correctional institutions, inmates, 10A:16-6.

ADULT COUNTY CORRECTIONAL FACILITIES.

Accounts and accounting, inmate welfare funds, 10A:31-29.

Admission, 10A:31-21.

Affirmative action program, 10A:31-4.

Appeal and review.

Attorneys, access, 10A:31-15.

Classification, 10A:31-22.

Disciplinary proceedings, 10A:31-16.

Attorneys, access, 10A:31-15.

Body imaging scanning equipment, use.

Searches and seizures, 10A:31-8.

Buildings, 10A:31-3.

Chemicals, 10A:31-8.

Storage, 10A:31-9.

Civil rights, 10A:31-14.

Classifications, 10A:31-22.

Clothing, 10A:31-12.

Commissaries, surcharge, 10A:31-29.

Confidential or privileged information.

Confidential records, 10A:31-6.

Constitutional rights, 10A:31-14.

Correction of violations, 10A:31-2.

Courts, access, 10A:31-15.

Definitions, 10A:31-1.

Dentists, 10A:31-13.

Detention, 10A:31-17.

Discipline, 10A:31-16.

Detention, 10A:31-17.

Discrimination, 10A:31-14.

Electronic communications devices.

Prohibited, 10A:31-21.

Emergencies, 10A:31-7.

Emergency medical and dental care, 10A:31-13.

Enforcement procedures, 10A:31-2.

ADULT COUNTY CORRECTIONAL FACILITIES —Cont'd

Equipment, 10A:31-3.

Escape, 10A:31-7.

Expenses and expenditures, inmate welfare funds, 10A:31-29.

Fines and penalties, 10A:31-16.

Firearms.

On-duty firearms, 10A:31-8.

Training, qualification, requalification, 10A:31-8.

Food, 10A:31-10.

Force, 10A:31-8.

Generally, 10A:31.

Grievances, 10A:31-14.

Health and sanitation, 10A:31-11.

Personal hygiene, 10A:31-12.

Housekeeping plan, 10A:31-11.

Identity theft prevention and reporting, 10A:31-6.

Inmate jobs and wages, 10A:13.

Absences from job assignments, 10A:13-4.

Central office inmate job and wage committee, 10A:13-2.

Definitions, 10A:13-1.

Inmate job assignments and compensation, 10A:13-3.

Job/wage variance requests, 10A:13-5.

Purpose and scope, 10A:13-1.

Inmate welfare funds, accounts and accounting, 10A:31-29.

Inspectors and inspection, 10A:31-2.

Health and sanitation, 10A:31-11.

Interjurisdictional agreements and statutes, 10A:31-30.

Juvenile delinquents and dependents, 10A:31-28.

Key control, 10A:31-9.

Legal correspondence, 10A:31-19.

Liquid and solid wastes, disposal, 10A:31-11.

Mail and mailing, 10A:31-19.

Medical care and treatment, 10A:31-13.

Medical screening, 10A:31-13.

Natural agents, 10A:31-8.

Storage, 10A:31-9.

Notice, rules and regulations, 10A:31-16.

Officers and employees, 10A:31-4.

Security, powers and duties, 10A:31-8.

Training, 10A:31-5.

Passive resistance by inmates, 10A:31-7.

Pat search.

Defined, 10A:31-1.

Description, 10A:31-8.

Grounds, 10A:31-8.

Personal hygiene, 10A:31-12.

Personal property of inmate.

Release of inmate from custody.

Disposition of personal property, 10A:31-21.

Pests and pest control, 10A:31-11.

Planning and design, 10A:31-3.

Pregnant inmates.

Care of pregnant inmates, 10A:31-13.

Restraining equipment, use on, 10A:31-8, 10A:31-13.

Pregnant inmates, care, 10A:31-13.

Protective custody, 10A:31-18.

Records and recordation, 10A:31-6.

Recreation, 10A:31-17.

Release of inmate from custody.

Personal property, disposition, 10A:31-21.

Release of inmates, 10A:31-21.

Religion, 10A:31-14.

INDEX

ADULT COUNTY CORRECTIONAL FACILITIES —Cont'd

Remission of time from sentence, 10A:31-23.
Rights, inmates, 10A:31-14.
Riots, 10A:31-7.
Rule exemption request, form, 10A:31-1.
Rule exemptions, 10A:31-1.
Rules and regulations, information, 10A:31-16.
Sales, commissaries, surcharge, 10A:31-29.
Searches and seizures, 10A:31-8.
Search of inmates and facilities, 10A:31-7.
Security, 10A:31-8.
 Equipment, 10A:31-3.
 Use and storage, 10A:31-9.
Standards, 10A:31-2.
Storage, chemicals, 10A:31-9.
Strip search.
 Manner of performing, 10A:31-8.
Towels, linens and bedding.
 Health and sanitation.
 Personal hygiene, 10A:31-12.
Training, officers and employees, 10A:31-5.
Transportation, 10A:31-8.
Victims of crime, compensation, commissaries, surcharge, 10A:31-29.
Visiting and interview areas, 10A:31-3.
Visitors, 10A:31-20.
Volunteers, 10A:31-27.
Work programs, 10A:31-24.
Work release, eligibility, 10A:31-25.
Work stoppage, 10A:31-7.

ADULT DIAGNOSTIC AND TREATMENT CENTER.

Lewdness and obscenity, sexually oriented materials, restrictions,
10A:18-9.
Sex offenders, parole, 10A:71-7.

ADVANCE DIRECTIVES.

Correctional institutions, inmates, 10A:16-7.

APPEAL AND REVIEW.

Inmate remedy system, 10A:1-4.
Parole, 10A:71-4.
Sex offender global positioning system (GPS) monitoring, 10A:72-11.

ATTORNEYS.

Adult county correctional facilities, 10A:31-15.

B

BLOOD BANKS.

Correctional institutions, inmates, donations, 10A:16-9.

BOARDS AND COMMISSIONS.

Correctional institutions.
 Departmental research review board, 10A:1-10.
 Special classification review board, 10A:9-8.
Parole board, 10A:71.
Special classification review board, correctional institutions, 10A:9-8.

BODY IMAGING SCANNING EQUIPMENT.

Adult county correctional facilities.
 Searches and seizures, 10A:31-8.
Correctional institutions, 10A:3-5.

C

CANINE SEARCHES.

Correctional institutions, 10A:3-5.
 Municipal detention facilities, 10A:34-3.

CERTIFICATES AND CERTIFICATION.

Parole, 10A:71-6.
 Good conduct certificate, 10A:71-8.
 Suspension of certain disabilities, forfeitures or bars to employment or professional licensure or certification, 10A:71-9.

CHEMICALLY DEPENDENT PERSONS.

Correctional institutions, treatment, 10A:24-1, 10A:24-2.

CHEMICALLY DEPENDENT PERSONS —Cont'd

Treatment.
 Correctional institutions, 10A:24-1, 10A:24-2.

CHILDREN AND MINORS.

Play areas, visits, correctional institutions, 10A:18-6.

CIGARETTES AND CIGARS.

Correctional institutions, 10A:14-2.

CIVIL UNIONS.

Inmates, 10A:17-7.

CLASSIFICATION.

Adult county correctional facilities, 10A:31-22.
Correctional institutions, 10A:9.

CLOSE CUSTODY UNIT.

Adult county correctional facilities, 10A:31-1.3.

CLOSE CUSTODY UNITS.

Correctional institutions, 10A:5.

CLOTHING.

Correctional institutions, 10A:14-1, 10A:14-5.

COMMITMENT AND ADMISSION TO INSTITUTIONS.

Correctional institutions, psychiatric treatment, 10A:16-13.

COMMITTEES.

Inmate liaison committee, 10A:12-1, 10A:12-3.

COMMUNITY CORRECTIONS CLASSIFICATION COMMITTEE.

Correctional institutions, 10A:9-9.

COMMUTATION.

Correctional institutions, 10A:9-5.

COMPACTS.

Interstate corrections compact, 10A:10-3.
 Forms, 10A:10-1.
 Inmates, transportation, interstate escort unit, 10A:3-9.

COMPUTERS.

Correctional institutions.
 Community emergency information systems, 10A:21-2.

CONDUCT.

Parole, certificate of good conduct, 10A:71-8.

CONFIDENTIAL OR PRIVILEGED INFORMATION.

Adult county correctional facilities.
 Confidential records, 10A:31-6.
Correctional institutions.
 Confidential records, 10A:22-2.
 Adult county correctional facilities, 10A:31-6.
 Municipal detention facilities, 10A:34-1.
Municipal detention facilities.
 Confidential records, 10A:34-1.
Parole, 10A:71-2.

CONSENT.

Correctional institutions.
 Medical, dental or surgical treatment, 10A:16-5.
 Research, 10A:1-10.

CONTRABAND.

Correctional institutions, 10A:3-6.
Parole.
 Officers and employees, 10A:72-7.

CONTRACTS.

News media, corrections department, information, 10A:19.
Parole contract agreements, 10A:71-3, 10A:72-13.
Residential community programs, 10A:20-4.

COORDINATORS.

Inmate remedy system.
 Responsibilities, 10A:1-4.

CORRECTIONAL INSTITUTIONS.

Abuse.
 Municipal detention facilities, protection of detainees from abuse,
 10A:34-4.
Access, inmates, courts, 10A:6.

INDEX

CORRECTIONAL INSTITUTIONS —Cont'd

Accounts and accounting, inmates, 10A:2-2.
Actions and proceedings, inmates, 10A:6-4.
Adjustment committees, discipline, 10A:4-8.
Administrative segregation, 10A:5-3.
Adoption of children, placement, pregnant inmates, 10A:16-6.
Advance directives, inmates, 10A:16-7.
Appeal and review.
 Discipline, 10A:4-11.
 On the spot correction, 10A:4-7.
 Inmate remedy system, 10A:1-4.
 Involuntary psychotropic medications, 10A:16-11.
 Legal services, 10A:6-2.
 Management control unit review committee decisions, 10A:5-2.
 Religious diets, disapproval, 10A:17-5.
 Security threat groups, placement, 10A:3-11.
Attorneys.
 Correspondence, 10A:18-3.
 Inmate legal services, 10A:6-2.
 Management control unit, confidential or privileged information, 10A:5-2.
 Security threat groups, 10A:3-11.
 Telephone calls, 10A:18-8.
 Visits, 10A:18-6.
Bedside visits, 10A:18-7.
 Civilian clothing permitted, 10A:14-5.
Blood donations, inmates, 10A:16-9.
Boards and commissions, special classification review, 10A:9-8.
Body cavity searches, 10A:3-5.
 Municipal detention facilities, 10A:34-3.
Canine searches, 10A:3-5.
Categories of offenses by inmates, 10A:4-4.
 Objective classification process, 10A:9-2.
 Schedule of sanctions, 10A:4-5.
Chaplains, 10A:17-5.
 Disciplinary housing, inmates in.
 Access to pastoral services, 10A:4-10.
 Institutional chaplaincy, 10A:17-6.
 Marriage, inmates, 10A:17-7.
Chemically dependent persons, treatment, 10A:24-1, 10A:24-2.
Cigarettes and cigars, 10A:14-2.
Civil unions, inmates, 10A:17-7.
Classification, inmates, 10A:9.
Clemency, medical condition, 10A:16-8.
Clergy.
 Management control unit, confidential or privileged information, 10A:5-2.
Close custody units, 10A:5.
 Definitions, 10A:5-1.
 Forms, 10A:5-1.
 Purpose, 10A:5-1.
Clothing, 10A:14-1, 10A:14-5.
Commitment, psychiatric treatment, 10A:16-13.
Committees.
 Adjustment, discipline, 10A:4-8.
 Community corrections classification committee (C-4), 10A:9-9.
 Inmate liaison, 10A:12-1, 10A:12-3.
 Institutional classification committee, 10A:9-3.
 Residential community programs, approval, review, 10A:20-4.
 Institutional classification reception committee, 10A:9-6.
 Residential community program notification committee, 10A:9-10.
Community based programs, transfers, 10A:3-10.
Community corrections classification committee (C-4), 10A:9-9.
Community emergency information systems, 10A:21-2.
Community programs.
 Release, reports, 10A:21-3.
Commutation, 10A:9-5.
 Forfeitures, 10A:6-4.
Compacts, interstate corrections compact, 10A:10-3.
 Forms, 10A:10-1.
Computers.
 Community emergency information systems, 10A:21-2.
Confidential or privileged information.
 Mental health services, 10A:16-4.

CORRECTIONAL INSTITUTIONS —Cont'd

Confidential or privileged information —Cont'd
 Parole, 10A:71-2.
 Public information, exceptions, 10A:19-2.
 Records, 10A:22-2.
 Adult county correctional facilities, 10A:31-6.
 Municipal detention facilities, 10A:34-1.
Consent.
 Medical, dental or surgical treatment, 10A:16-5.
 News media, interviews, 10A:19-3.
 Research, 10A:1-10.
Contraband, 10A:3-6.
 Searches and seizures, 10A:3-5.
 Urine tests, 10A:3-5.
Control, 10A:3.
Copies, legal services, 10A:6-2.
Corrections intelligence center.
 Security threat groups, duties, 10A:3-11.
Corrections ombudsperson.
 Telephone calls, legal, 10A:18-8.
Courts, inmate access, 10A:6.
Credits, commutation, 10A:9-5.
 Forfeitures, 10A:6-4.
Crimes and offenses, reports, 10A:21-8.
Critical illness, inmates, 10A:16-7.
Custody.
 Close custody units, 10A:5.
 Detainer, 10A:10-4.
 Reduced, eligibility, 10A:9-4.
Dead bodies, inmates, disposition, 10A:16-7.
Deadly force, 10A:3-3.
Death.
 Inmates, 10A:16-7.
 Reports, 10A:21-4.
Definitions.
 Close custody units, 10A:5-1.
 Security and control, 10A:3-1.
Dental services, 10A:16-3.
Descent and distribution, inmates, 10A:16-7.
Detainer, 10A:10-4.
Disciplinary housing, 10A:4-10.
Disciplinary infractions scale, objective classification, 10A:9-2.
Discipline, 10A:4.
 Records and recordation, expungement, 10A:22-4.
DNA, identity and identification, samples, 10A:14-3A.
Donations.
 Organ and tissue donations, inmates, 10A:16-9.
Donations, blood, inmates, 10A:16-9.
Drugs and medicine, residential community programs, 10A:20-4.
Education, 10A:31-26.
Eligibility, reduced custody, 10A:9-4.
Emergencies.
 Involuntary psychotropic medications, 10A:16-11.
 Public information, disclosure, 10A:19-2.
 Transfers, discipline, 10A:4-9.
 Transportation, inmates, 10A:3-9.
Evidence, discipline, 10A:4-9.
Examinations.
 Polygraph, 10A:3-7.
Experimentation generally, 10A:1-10.
Experiments involving use of inmates or department employees prohibited, 10A:16-1.
Expungement, records, 10A:22-4.
Extradition, interjurisdictional agreements, 10A:10-5.
Fines and penalties.
 Firearms, 10A:3-4.
 Residential community programs, 10A:20-4.
Firearms, 10A:3-4.
 On duty, use, 10A:3-4.
Fiscal management, 10A:2.
Food.
 Disciplinary housing, 10A:4-10.
 Religious diets, 10A:17-5.
 Security threat groups, 10A:3-11.

INDEX

CORRECTIONAL INSTITUTIONS —Cont'd

Force, use while on duty, 10A:3-3.
Foreign nationals, detention.
 Notification of foreign consuls when foreign nationals imprisoned, 10A:10-7.
Foreign states, detainee, 10A:10-4.
Forfeitures, commutation credits, 10A:6-4, 10A:9-5.
Forms.
 Close custody units, 10A:5-1.
 Records and recordation, requests, 10A:22-1.
 Residential community programs, 10A:20-4.
Foster care, placement, pregnant inmates, 10A:16-6.
Funds, inmates.
 Loss, reports, 10A:2-5.
 Welfare funds, 10A:2-3.
Funeral or private viewing visits, 10A:18-7.
 Civilian clothing permitted, 10A:14-5.
Furloughs, residential community programs, 10A:20-4.
Garbage and refuse, 10A:14-4.
Gifts, 10A:2-9.
 Blood donations, inmates, 10A:16-9.
 Visitors, 10A:18-6.
Grants, 10A:2-10.
Habeas corpus, transportation, inmates, 10A:3-9.
Hair styles of inmates, 10A:14-2.
Halfway houses, eligibility, 10A:20-4.
Handbook, inmates, 10A:8.
Health services generally, 10A:16-2.
Hearing officers, discipline, 10A:4-8.
Hearings.
 Discipline, 10A:4-9.
 Involuntary psychotropic medications, 10A:16-11.
 Placement of inmate, 10A:5-2.
Hygiene, 10A:14.
Identity and identification, 10A:14-3.
 DNA, samples, 10A:14-3A.
Identity theft prevention and reporting, 10A:22-1.
Illness, inmates, 10A:16-7.
 Medical and health services, 10A:16-2.
 Reports, 10A:21-4.
Indigent inmates, legal services, 10A:6-2.
 Actions and proceedings, 10A:6-4.
Informed consent, medical, dental or surgical treatment, 10A:16-5.
Inmates.
 Actions and proceedings, 10A:6-4.
 Breathalyzer tests, 10A:3-1, 10A:3-5.
 Consent, news media, interviews, 10A:19-3.
 Fiscal management, 10A:2.
 Inmate groups, 10A:12-1, 10A:12-2.
 Gifts, 10A:2-9.
 Inmate remedy system, 10A:1-4.
 Lawsuits, 10A:6-4.
 Liaison committee, 10A:12-1, 10A:12-3.
 News media, interviews, 10A:19-3.
 Objective classification, 10A:9-2.
 Paralegals, 10A:6-2.
 Release, reports, 10A:21-3.
Inspectors and inspections.
 Medical programs, dental clinics, addiction services and mental health programs, 10A:16-1.
 Packages, 10A:18-5.
 Sanitation, 10A:14-4.
 Security devices, 10A:3-5.
Institutional classification committee, 10A:9-3.
 Residential community programs, approval, review, 10A:20-4.
Institutional classification reception committee, 10A:9-6.
Inter-institutional transfer, 10A:9-7.
Interjurisdictional agreements, 10A:10.
Interjurisdictional agreements and statutes, 10A:31-30.
Interstate corrections compact, 10A:10-3, 10A:31-30.
 Forms, 10A:10-1.
 Notification of foreign consuls when foreign nationals imprisoned, 10A:10-7.
Interstate escort unit, 10A:3-9.

CORRECTIONAL INSTITUTIONS —Cont'd

Intestate succession, inmates, 10A:16-7.
Investigations.
 Discipline, 10A:4-9.
 Appeal and review, 10A:4-11.
 Unusual incidents or events, 10A:21-5.
Involuntary psychotropic medications, 10A:16-11.
Keep on person medications, 10A:16-15.
Keep separate status, 10A:3-2.
Labor and employment.
 Residential community programs, work credits, 10A:20-4.
 Work time, 10A:9-5.
Law libraries, 10A:6-2.
Lawsuits, inmates, 10A:6-4.
Leisure time activities, 10A:17-8.
Liaison committee, inmates, 10A:12-1, 10A:12-3.
Libraries, 10A:31-26.
 Law libraries, 10A:6-2.
Lie detector tests, 10A:3-7.
Locking devices, weapons, 10A:3-4.
Lost property, inmates.
 Funds, reports, 10A:2-5.
 Personal property, reimbursement, 10A:2-6.
Mail and mailing, 10A:18.
 Correspondence, 10A:18-2.
 Disciplinary housing, inmates in, 10A:4-10.
 General provisions, 10A:18-1.
 Legal correspondence, 10A:18-3.
 Security threat groups, 10A:3-11.
Maintenance fees, residential community programs, 10A:20-4.
Management control unit, 10A:5-2.
Marriage, inmates, 10A:17-7.
Mechanical restraints, 10A:3-3.
Medical and health services, 10A:16-2.
 Discharge.
 Medical discharge summary, 10A:22-2.
Medical information, inmates, access, 10A:22-2.
Medical parole, 10A:16-8.
Medical records, 10A:22-2.
Medical transfers, 10A:16-10.
Medication.
 Keep on person medications, 10A:16-15.
Mentally ill persons, commitment, psychiatric treatment, 10A:16-13.
Metal detector searches, 10A:3-5.
Monitoring, telephone calls, 10A:18-8.
Motor vehicles, gifts, 10A:2-9.
Municipal detention facilities, 10A:34-1 to 10A:34-4.
Mutual agreement programs, residential community programs, 10A:20-4.
Names, inmates, changes, 10A:6-3.
News media, information, dissemination, 10A:19.
Notice.
 Foreign consuls, notification when foreign nationals imprisoned, 10A:10-7.
 Residential community programs, 10A:20-4.
 Telephones, 10A:18-8.
 Unusual incidents or events, 10A:21-5.
 Visitors, 10A:18-6.
Objective classification, inmates, 10A:9-2.
Officers and employees.
 Firearms, 10A:3-4.
 On duty, use, 10A:3-4.
 Force while on duty, 10A:3-3.
 Security threat groups, 10A:3-11.
 Social workers, 10A:17-4.
On the spot correction, inmates, 10A:4-7.
Organ and tissue donations, inmates, 10A:16-9.
Orientation, inmates, 10A:8.
Outside law enforcement agencies, reports, 10A:21-5.
Packages, 10A:18-5.
 Security threat groups, 10A:3-11.
Paralegals, inmate paralegals, 10A:6-2.
Passes, residential community programs, 10A:20-4.

INDEX

CORRECTIONAL INSTITUTIONS —Cont'd

Pat searches, 10A:3-5.
Municipal detention facilities, 10A:34-3.
Periodicals, inmates, 10A:18-4.
Personal property, inmates, 10A:1-11.
Photocopies, legal services, 10A:6-2.
Photographs and photography, identification, 10A:14-3.
Placement of inmate, 10A:5-2.
Plans, searches, 10A:3-5.
Play areas, children, visits, 10A:18-6.
Polygraph examinations, 10A:3-7.
Post orders, 10A:3-4.
Pregnancy, inmates.
Medical care, attendance and treatment, 10A:16-6.
Prehearing disciplinary housing, inmates, 10A:4-10.
Privileges and immunities, discipline, 10A:4-9.
Procedures, discipline, 10A:4-9.
Prohibited acts, inmates, 10A:4-4.
Disciplinary procedures, 10A:4-9.
Inmate groups, prohibited groups, 10A:12-2.
Objective classification process, 10A:9-2.
Sanctions, 10A:4-5.
Protective custody, 10A:5-5.
Transitional protective custody, 10A:3-11.
Psychiatrists and psychiatry.
Commitment, 10A:16-13.
Involuntary psychotropic medications, 10A:16-11.
Psychiatric treatment, disciplinary housing, 10A:4-10.
Suicide, 10A:16-12.
Psychological services, 10A:16-4.
Suicide, 10A:16-12.
Publication, discipline rules, 10A:4-2.
Purpose of chapter.
Security and control, 10A:3-1.
Quality assurance program, health care, 10A:16-1.
Recall to court, transportation, inmates, 10A:3-9.
Records and recordation, 10A:22.
Confidential records, 10A:22-2.
Adult county correctional facilities, 10A:31-6.
Municipal detention facilities, 10A:34-1.
Disciplinary housing, 10A:4-10.
Discipline, 10A:4-9.
Identity theft prevention and reporting, 10A:22-1.
Mental health services, 10A:16-4.
Names, changes, inmates, 10A:6-3.
On the spot correction, inmates, 10A:4-7.
Personal property, inmates, 10A:1-11.
Religion, 10A:17-5.
Security threat groups, 10A:3-11.
Recreation and recreational facilities, 10A:17-8.
Disciplinary housing, 10A:4-10.
Security threat groups, 10A:3-11.
Release.
Records and recordation, parolees, 10A:22-2.
Reports, 10A:21-3.
Residential community programs, 10A:20-4.
Temporary inmate photograph ID for inmates being released, 10A:14-3.
Religion, 10A:17-5.
Marriage, inmates, 10A:17-7.
Religious issues committee, 10A:17-5, 10A:17-6.
Religious services, 10A:31-26.
Reports, 10A:21.
Body cavity or strip searches, municipal detention facilities, 10A:34-3.
Community emergency information systems, 10A:21-2.
Contraband, 10A:3-6.
Death, 10A:21-4.
Municipal detention facilities, 10A:34-4.
Discipline, 10A:4-9.
Escapes, 10A:21-5.
Firearms, 10A:3-4.
Force, use while on duty, 10A:3-3.
Gifts, 10A:2-9.
Grants, 10A:2-10.
Identity theft prevention and reporting, 10A:22-1.

CORRECTIONAL INSTITUTIONS —Cont'd

Reports —Cont'd
Inmates.
Lost property, funds, 10A:2-5.
Municipal detention facilities, deaths, 10A:34-3.
Religion, 10A:17-5.
Social workers, 10A:17-4.
Suicide, 10A:16-12.
Unusual incidents or events, 10A:21-5.
Research, 10A:1-10.
Residential community programs, 10A:20.
Notification committee, 10A:9-10.
Restitution.
Inmates, property, destruction, 10A:2-7.
Residential community programs, 10A:20-4.
Restraints, force, use while on duty, 10A:3-3.
Rights, inmates, 10A:4-3.
Samples, identity and identification, DNA, 10A:14-3A.
Sanitation, 10A:14.
Satellite units, transfers, 10A:3-10.
Scanning or testing devices, use.
Searches and seizures, 10A:3-5.
Sealing, records, 10A:22-4.
Searches and seizures, 10A:3-5.
Body cavity searches, municipal detention facilities, 10A:34-3.
Contraband, 10A:3-5.
Inmate groups, 10A:12-2.
Municipal detention facilities, 10A:34-3.
Pat searches, 10A:34-3.
Scanning or testing devices, use, 10A:3-5.
Security, 10A:3.
Equipment, 10A:31-9.
Transfers satellite units and community based programs, 10A:3-10.
Security threat groups, 10A:3-11.
Segregation, administrative segregation, 10A:5-3.
Severity of offense scale, objective classification, 10A:9-2.
Smoking, 10A:14-2.
Social services, 10A:17.
Social workers, 10A:17-4.
Solid waste, 10A:14-4.
Special administrative segregation review committee, 10A:5-3.
Special classification review board, 10A:9-8.
Special investigations division.
Corrections intelligence center.
Security threat groups, duties, 10A:3-11.
Standards, municipal detention facilities, 10A:34-2.
Strip searches, 10A:3-5.
Municipal detention facilities, 10A:34-3.
Substance abuse, residential community programs, 10A:20-4.
Substance abuse programming and addictions services.
Alternative substance use disorder program, 10A:24-2.
Mutual agreement program (MAP), 10A:24-2.
Therapeutic community liaison, role, 10A:24-2.
Treatment, 10A:24-1, 10A:24-2.
Suicide, 10A:16-12.
Superintendent, residential community programs, institutional classification committee approval, review, 10A:20-4.
Supervision and care of detainees, 10A:34-4.
Teachers and other certified professional educators.
General provisions, 10A:15-1.
Tenure, 10A:15-2.
Telecommunications, 10A:18-8.
Calls regarding legal matters, 10A:6-2.
Community emergency information systems, 10A:21-2.
Disciplinary housing, 10A:4-10.
General provisions, 10A:18-1.
Security threat groups, 10A:3-11.
Temporary close custody, 10A:5-7.
Temporary inmate photograph ID for inmates being released, 10A:14-3.
Tissue donations, inmates, 10A:16-9.
Tobacco, 10A:14-2.
Training.
Adult county correctional facilities, officers and employees, 10A:31-5.

INDEX

CORRECTIONAL INSTITUTIONS —Cont'd

Training —Cont'd

- Force, use while on duty, 10A:3-3.
- Searches, inmates and facilities, 10A:3-5.

Transfers.

- Detainer, 10A:10-4.
- Discipline, 10A:4-9.
- Forms, 10A:10-1.
- Inmate property, 10A:1-11, 10A:10-1.
- Inter-institutional transfer, 10A:9-7.
- International, 10A:10-6.
- Interstate corrections compact, 10A:10-3.
- Medical transfers, 10A:16-10.
- Satellite units and community based programs, 10A:3-10.

Transitional protective custody, 10A:3-11.

Transportation.

- Inmates, 10A:3-9.
- Psychiatric hospital, commitment, 10A:16-13.
- Treatment, chemically dependent persons, 10A:24-1, 10A:24-2.
- Trials, detainer, 10A:10-4.

Trigger locking devices, weapons, 10A:3-4.

Unusual incidents or events, reports, 10A:21-5.

Use immunity at investigative interviews.

- Notification of right, 10A:4-9.

Vegetarian meals.

- Religious diets, 10A:17-5.

Visits, 10A:18-6.

- Bedside, funeral or private viewing visits, 10A:18-7.
- Civilian clothing permitted, 10A:14-5.
- Disciplinary housing, 10A:4-10.
- General provisions, 10A:18-1.
- Gifts, 10A:18-6.
- Security threat groups, 10A:3-11.

Volunteer service program, 10A:17-2.

Weapons, firearms, 10A:3-4.

Work credits, residential community programs, 10A:20-4.

Work time, 10A:9-5.

Zero tolerance drug/alcohol policy, 10A:24-2.

CORRECTIONAL OFFICERS.

Adult county correctional facilities, 10A:31-4.

- Security, powers and duties, 10A:31-8.
- Training, 10A:31-5.

Firearms, 10A:3-4.

- On duty, use, 10A:3-4.

Force while on duty, 10A:3-3.

Security threat groups, 10A:3-11.

CORRECTIONS DEPARTMENT.

Administration, 10A:1.

Confidential or privileged information, public information, exceptions, 10A:19-2.

Disability discrimination grievance procedure, 10A:1-3.

Fiscal management, 10A:2.

Generally, 10A:1.

Human services department.

- Joint special treatment units for civilly committed sexually violent predators, 10A:35.

Indigent inmates, definitions, 10A:1-2.

Management, 10A:1.

News media, information, dissemination, 10A:19.

Organization, 10A:1.

Public information, dissemination, 10A:19.

Sexually violent predators.

- Joint special treatment units for civilly committed sexually violent predators, 10A:35.

- Jurisdiction over special treatment areas, 10A:1-2.

COURTS.

Adult county correctional facilities, 10A:31-15.

Correctional institutions, inmate access, 10A:6.

CREDITS.

Correctional institutions, commutation credits, 10A:9-5.

CRIMES AND OFFENSES.

Correctional institutions, reports, 10A:21-8.

CRIMES AND OFFENSES —Cont'd

Detainer, correctional institutions, 10A:10-4.

Extradition, interjurisdictional agreements, 10A:10-5.

Reports.

- Correctional institutions, 10A:21-8.

CRIME VICTIMS.

Adult county correctional facilities, commissaries, surcharge, 10A:31-29.

Parole release hearings, 10A:71-3.

CRITICAL ILLNESS.

Correctional institutions, inmates, 10A:16-7.

CURFEWS.

Parolees, 10A:72-10.

D

DEAD BODIES.

Correctional institutions, inmates, disposition, 10A:16-7.

DEADLY FORCE.

Adult county correctional facilities, 10A:31-8.

DEATH.

Municipal detention facilities, reports, 10A:34-3.

DENTISTS AND DENTISTRY.

Adult county correctional facilities, 10A:31-13.

Correctional institutions, 10A:16-3.

DESCENT AND DISTRIBUTION.

Correctional institutions, inmates, 10A:16-7.

DESTRUCTION.

Inmates.

- Personal property, reimbursement, 10A:2-6.
- Restitution, 10A:2-7.

DETENTION.

Adult county correctional facilities, 10A:31-17.

Municipal detention facilities, 10A:34-1 to 10A:34-4.

DISABILITY DISCRIMINATION GRIEVANCE PROCEDURE.

Corrections department, 10A:1-3.

DISCHARGE.

Parole, 10A:71-6.

DISCIPLINARY ACTIONS.

Adult county correctional facilities, 10A:31-16.

- Detention, 10A:31-17.

Correctional institutions, 10A:4.

DISCRIMINATION.

Adult county correctional facilities, 10A:31-14.

Corrections department, disability discrimination grievance procedure, 10A:1-3.

DNA.

Correctional institutions, identity and identification, samples, 10A:14-3A.

DONATIONS.

Correctional institutions, blood, inmates, 10A:16-9.

DRUGS AND MEDICINE.

Residential community programs, 10A:20-4.

E

EDUCATION.

Correctional institutions, 10A:31-26.

Residential community programs, 10A:20-4.

ELECTRONIC COMMUNICATION DEVICES.

Correctional institutions.

- Adult county correctional facilities.
- Prohibited, 10A:31-21.

ELECTRONIC MONITORING.

Parolees, 10A:72-10.

INDEX

ELECTRONIC MONITORING —Cont'd

Sex offender global positioning system (GPS) monitoring, 10A:72-11.

ELIGIBILITY.

Correctional institutions, reduced custody, 10A:9-4.

EMERGENCIES.

Correctional institutions.

Community emergency information systems, 10A:21-2.

Transfers, discipline, 10A:4-9.

ESCAPES.

Correctional institutions.

Adult county correctional facilities, 10A:31-7.

Community emergency information systems, 10A:21-2.

Detainer, 10A:10-4.

Interstate transfers, 10A:10-3.

Detainer, correctional institutions, 10A:10-4.

Notices, 10A:21-5.

Reports, 10A:21-5.

Residential community programs, 10A:20-4.

EVIDENCE.

Correctional institutions, discipline, 10A:4-9.

EXAMINATIONS AND EXAMINERS.

Correctional institutions, polygraph examinations, 10A:3-7.

Sex offenders, adult diagnostic and treatment center, parole, 10A:71-7.

EXPUNGEMENT.

Correctional institutions, records, 10A:22-4.

EXTRADITION.

Interjurisdictional agreements, 10A:10-5.

F

FEES.

Residential community programs, maintenance fees, 10A:20-4.

FINES AND PENALTIES.

Adult county correctional facilities, courts, 10A:31-16.

Correctional institutions.

Firearms, 10A:3-4.

Residential community programs, 10A:20-4.

FOOD.

Adult county correctional facilities, 10A:31-10.

Correctional institutions, disciplinary housing, 10A:4-10.

FORCE.

Adult county correctional facilities, 10A:31-8.

Correctional institutions, use while on duty, 10A:3-3.

FOREIGN COUNTRIES.

Correctional institutions.

Notification of foreign consuls when foreign nationals imprisoned, 10A:10-7.

FOREIGN NATIONALS.

Correctional institutions.

Notification of foreign consuls when foreign nationals imprisoned, 10A:10-7.

FOREIGN STATES.

Correctional institutions.

Detainer, 10A:10-4.

Notification of foreign consuls when foreign nationals imprisoned, 10A:10-7.

Crimes and offenses, detainer, correctional institutions, 10A:10-4.

Detainer, correctional institutions, 10A:10-4.

Extradition, interjurisdictional agreements, 10A:10-5.

Parole, transfer of supervision, 10A:71-6.

FORFEITURES.

Inmates, commutation credits, correctional institutions, 10A:6-4.
10A:9-5.

FORMS.

Correctional institutions, records and recordation, requests, 10A:22-1.

Inmate remedy system, 10A:1-4.

FORMS —Cont'd

Residential community programs, 10A:20-4.

FOSTER CARE.

Correctional institutions, inmates, placement, 10A:16-6.

Placement.

Correctional institutions, inmates, 10A:16-6.

FUNDS.

Inmates.

Loss, reports, 10A:2-5.

Welfare funds, 10A:2-3.

FUNERALS.

Correctional institutions, visits, 10A:18-7.

Civilian clothing permitted, 10A:14-5.

FURLOUGHS.

Residential community programs, 10A:20-4.

G

GANGS.

Correctional institutions.

Security threat groups, 10A:3-11.

GARBAGE AND REFUSE.

Correctional institutions, 10A:14-4.

GENERAL POPULATION.

Adult county correctional facilities, 10A:31-1.3.

State correctional facilities, 10A:1-2.2.

GLOBAL POSITIONING SYSTEM (GPS) MONITORING.

Parolees, 10A:72-10.

Sex offenders, 10A:72-11.

GOOD CONDUCT.

Parole, certificate of good conduct, 10A:71-8.

GRANTS.

Correctional institutions, 10A:2-10.

GRIEVANCES.

Adult county correctional facilities, 10A:31-14.

Corrections department, disability discrimination grievance procedure, 10A:1-3.

H

HABEAS CORPUS.

Correctional institutions, transportation, 10A:3-9.

HALFWAY HOUSES.

Eligibility, 10A:20-4.

HANDBOOKS.

Adult county correctional facilities, rules and regulations, 10A:31-16.

Inmates, correctional institutions, 10A:8.

Volunteers, correctional institutions, 10A:17-2.

HEALTH AND SANITATION.

Adult county correctional facilities, 10A:31-11.

Correctional institutions.

Hygiene, 10A:14.

HEARING OFFICERS.

Correctional institutions, discipline, 10A:4-8.

HEARINGS.

Parole, 10A:71-3.

Revocation, 10A:71-7.

HUMAN SERVICES DEPARTMENT.

Corrections department.

Joint special treatment units for civilly committed sexually violent predators, 10A:35.

Sexually violent predators.

Joint special treatment units for civilly committed sexually violent predators, 10A:35.

INDEX

I

IDENTIFICATION CARDS.

Correctional institutions.
Identification photographs, 10A:14-3.

IDENTITY AND IDENTIFICATION.

Adult county correctional facilities.
Identity theft prevention and reporting, 10A:31-6.
Correctional institutions, 10A:14-3.
DNA, samples, 10A:14-3A.
Identity theft prevention and reporting, 10A:22-1.

IDENTITY THEFT.

Adult county correctional facilities, 10A:31-6.
Correctional institutions, 10A:22-1.

ILLNESS.

Correctional institutions, critical illness, inmates, 10A:16-7.

INDIGENT PERSONS.

Correctional institutions, inmates, actions and proceedings, 10A:6-4.

INMATE GROUPS.

Generally, 10A:12-1, 10A:12-2.

INMATE LIAISON COMMITTEE.

Generally, 10A:12-1, 10A:12-3.

INSPECTION AND INSPECTORS.

Adult county correctional facilities, 10A:31-2.
Health and sanitation, 10A:31-11.
Municipal detention facilities, 10A:34-2.

INSTITUTIONAL CLASSIFICATION RECEPTION COMMITTEE.

Correctional institutions, 10A:9-6.

INTERJURISDICTIONAL AGREEMENTS.

Correctional institutions, 10A:10.

INTERNATIONAL TRANSFERS.

Correctional institutions, 10A:10-1, 10A:10-6.

INTERSTATE CORRECTIONS COMPACT, 10A:31-30.

Generally, 10A:10-3.
Inmates, transportation, interstate escort unit, 10A:3-9.
Notification of foreign consuls when foreign nationals imprisoned, 10A:10-7.

INTESTATE SUCCESSION.

Correctional institutions, inmates, 10A:16-7.

INVESTIGATIONS AND INVESTIGATORS.

Correctional institutions.
Interstate transfers, 10A:10-3.
Unusual incidents or events, 10A:21-5.

J

JUVENILE DELINQUENTS AND DEPENDENTS.

Adult county correctional facilities, 10A:31-28.
Juvenile records, 10A:22-2.
Parole and transitional services, 10A:71-3.
Parole contract agreements, juvenile inmates, 10A:71-3.
Records and recordation.
Confidential records, 10A:22-2.

K

KEEP SEPARATE STATUS.

Correctional institutions, 10A:3-2.

L

LABOR AND EMPLOYMENT.

Residential community programs, 10A:20-4.

LAW LIBRARIES.

Correctional institutions, 10A:6-2.

LETTERS AND OTHER CORRESPONDENCE.

Correctional institutions, inmates, 10A:18.

LEWDNESS AND OBSCENITY.

Adult diagnostic and treatment center, sexually oriented materials, restrictions, 10A:18-9.

LIAISON COMMITTEE.

Inmates, 10A:12-1, 10A:12-3.

LIBRARIES.

Correctional institutions, 10A:31-26.
Law libraries, 10A:6-2.
Law libraries, correctional institutions, 10A:6-2.

LIE DETECTOR TESTS.

Correctional institutions, 10A:3-7.
Sex offenders, polygraph examination, 10A:72-3.

LOST PROPERTY.

Inmates.
Funds, reports, 10A:2-5.
Personal property, reimbursement, 10A:2-6.

M

MACHINERY AND EQUIPMENT.

Adult county correctional facilities, 10A:31-3.

MAGAZINES.

Correctional institutions, inmates, 10A:18-4.

MAIL AND MAILING.

Adult county correctional facilities, 10A:31-19.
Correctional institutions, inmates, 10A:18.

MANAGEMENT CONTROL UNIT.

Correctional institutions, 10A:5-2.

MANAGERS AND MANAGEMENT.

Corrections department, 10A:1.

MARRIAGE.

Inmates, 10A:17-7.

MEDICAL CARE AND TREATMENT.

Adult county correctional facilities, 10A:31-13.
Correctional institutions, 10A:16.
Disciplinary housing, 10A:4-10.
Inmates, access to medical records, 10A:22-2.
Medical discharge summary, 10A:22-2.
Municipal detention facilities, 10A:34-2.
Security threat groups, 10A:3-11.
Residential community programs, 10A:20-4.

MEDICAL CLEMENCY.

Correctional institutions, 10A:16-8.

MEDICAL RECORDS.

Correctional institutions, 10A:22-2.

MENTALLY DEFICIENT AND MENTALLY ILL PERSONS.

Correctional institutions.
Commitment, psychiatric treatment, 10A:16-13.

METAL DETECTOR SEARCHES.

Correctional institutions, 10A:3-5.

MONITORING.

Correctional institutions, telephone calls, 10A:18-8.

MOTOR VEHICLES.

Correctional institutions, gifts, 10A:2-9.

MUNICIPAL DETENTION FACILITIES.

Generally, 10A:34-1.

N

NAMES.

Inmates, changes, 10A:6-3.

NEWS MEDIA.

Corrections department, information, dissemination, 10A:19.

INDEX

NOTICE.

Escapes, 10A:21-5.
Parole, 10A:71-3.
Revocation, 10A:71-7.
Suspension of certain disabilities, forfeitures or bars to employment or professional licensure or certification, 10A:71-9.
Residential community programs, 10A:20-4.

O

OFFICERS AND EMPLOYEES.

Parole, 10A:72.

ORGANIZATION.

Corrections department, 10A:1.
Parole board, 10A:71-1.

ORIENTATION.

Correctional institutions, inmates, 10A:8.

P

PACKAGES.

Correctional institutions, 10A:18-5.

PARALEGALS.

Inmate paralegals, 10A:6-2.

PAROLE.

Adult diagnostic and treatment center, sex offenders, 10A:71-7.
Appeal and review, 10A:71-4.
Boards and commissions, 10A:71.
Certificates and certification, 10A:71-6.
Good conduct, 10A:71-8.
Suspension of certain disabilities, forfeitures or bars to employment or professional licensure or certification, 10A:71-9.
Community supervision, 10A:72-2.
Community supervision for life, 10A:71-6.
Conditions, 10A:71-3, 10A:71-6.
Confidential or privileged information, 10A:71-2.
Contraband.
Officers and employees, 10A:72-7.
Contract agreements, 10A:71-3, 10A:72-13.
Crime victims, release hearings, 10A:71-3.
Curfews for parolees, 10A:72-10.
Date.
Eligibility, 10A:71-3.
Release, suspending or rescinding, 10A:71-5.
Deadly force.
Officers and employees, 10A:72-4, 10A:72-5.
Discharge, 10A:71-6.
Division, generally, 10A:72-1.
Electronic monitoring, 10A:72-10.
Sex offender global positioning system (GPS) monitoring, 10A:72-11.
Eligibility, accelerated date, 10A:71-3.
Firearms.
Officers and employees, 10A:72-4.
Force.
Officers and employees, 10A:72-4, 10A:72-5.
Foreign states, transfer, 10A:71-6.
Generally, 10A:71.
Global positioning system (GPS) monitoring, 10A:72-10.
Sex offenders, 10A:72-11.
Good conduct, certificate, 10A:71-8.
Handbooks.
Volunteers, 10A:72-9.
Hearings, 10A:71-3.
Revocation, 10A:71-7.
Juvenile delinquents and dependents, 10A:71-3.
Juvenile inmates, parole contract agreements, 10A:71-3.
Lifetime parole, supervision, 10A:71-6.
Mandatory supervision cases, 10A:71-3.
Medical parole, 10A:16-8, 10A:71-3.
Notice, 10A:71-3.
Revocation, 10A:71-7.

PAROLE —Cont'd

Off duty.
Force, officers and employees, use, 10A:72-5.
Officers and employees, 10A:72.
On duty.
Use of firearms and use of force while on duty, 10A:72-4.
Organization, parole board, 10A:71-1.
Plans and specifications.
Community supervision, 10A:72-2.
Records and recordation, 10A:71-2.
Revocation, 10A:71-7.
Rescinding release date, 10A:71-5.
Residential community programs, 10A:20-4.
Residing with minor child, 10A:72-2.
Restitution, 10A:71-6.
Searches and seizures, officers and employees, 10A:72-6.
Sex offenders.
Adult diagnostic and treatment center, 10A:71-7.
Global positioning system (GPS) monitoring of sex offenders, 10A:72-11.
Parole supervision for life, 10A:71-6.
Polygraph examination, 10A:72-3.
Travel permits, 10A:72-12.
Subpoenas, 10A:71-2.
Supervision, 10A:71-6.
Lifetime parole, 10A:71-6.
Mandatory release, 10A:71-3.
Suspension or revocation, 10A:71-7.
Good conduct certificate, revocation, 10A:71-8.
Suspending release date, 10A:71-5.
Training.
Volunteers, 10A:72-9.
Transportation, 10A:72-8.
Travel outside state or outside country, 10A:72-12.
Unsupervised contact with minor child, 10A:72-2.
Urine tests.
Officers and employees, 10A:72-6.
Victims of crime, release hearings, 10A:71-3.
Violators, correctional institutions, transportation, 10A:3-9.
Volunteers, 10A:72-9.
Warrant, revocation of parole, 10A:71-7.
Weapons.
Officers and employees, use, 10A:72-4, 10A:72-5.
PAROLE BOARD.
Generally, 10A:71.
PASSES.
Residential community programs, 10A:20-4.
PAT SEARCHES.
Adult county correctional facilities, 10A:31-1.3.
Correctional institutions, 10A:3-5.
PERIODICALS.
Correctional institutions, inmates, 10A:18-4.
PERSONAL PROPERTY.
Correctional institutions, inmates, 10A:1-11.
PERSONS WITH DISABILITIES.
Corrections department, disability discrimination grievance procedure, 10A:1-3.
PHOTOGRAPHY AND PICTURES.
Correctional institutions.
Identification photographs, 10A:14-3.
PLAY AREAS.
Correctional institutions, visits, children, 10A:18-6.
POLYGRAPH EXAMINATIONS.
Correctional institutions, 10A:3-7.
Parole supervision, offenders serving, 10A:71-6.
Sex offenders, 10A:72-3.
PREGNANCY.
Adult county correctional facilities.
Care of pregnant inmates, 10A:31-13.

INDEX

PREGNANCY —Cont'd

Correctional institutions, inmates.
Medical care, attendance and treatment, 10A:16-6.

PROTECTIVE CUSTODY.

Adult county correctional facilities, 10A:31-18.
Correctional institutions, 10A:5-5.

PSYCHIATRIC HOSPITALS.

Sex offenders.
Special treatment units for civilly committed sexually violent predators, 10A:35.

PSYCHOLOGISTS AND PSYCHOLOGY.

Correctional institutions, 10A:16-4.

PUBLICATION.

Correctional institutions, inmate discipline rules, 10A:4-2.
Inmate discipline rules, 10A:4-2.

R

RAPE.

Correctional institutions.
Municipal detention facilities, protection of detainees from abuse, 10A:34-4.

RECORDS AND RECORDATION.

Adult county correctional facilities, 10A:31-6.
Juvenile delinquents and dependents, juvenile records, 10A:22-2.
Juvenile records, 10A:22-2.
Municipal detention facilities.
Confidential records, 10A:34-1.

RECREATION AND RECREATIONAL FACILITIES.

Correctional institutions, 10A:17-8.
Disciplinary housing, 10A:4-10.

RELATIVES.

Correctional institutions.
Inmates, notification of next of kin, 10A:16-7.

RELIGION.

Adult county correctional facilities, 10A:31-14.

REPORTS.

Escapes, 10A:21-5.

RESEARCH.

Correctional institutions, 10A:1-10.

RESIDENTIAL COMMUNITY PROGRAMS.

Generally, 10A:20.
Notification committee, 10A:9-10.

RESTITUTION.

Inmates, property, destruction, 10A:2-7.
Parole, 10A:71-6.
Residential community programs, 10A:20-4.

RESTRAINTS.

Adult county correctional facilities, 10A:31-8.
Equipment, 10A:31-9.
Correctional institutions.
Adult county correctional facilities, equipment, 10A:31-9.
Force, use while on duty, 10A:3-3.

RIOT.

Adult county correctional facilities, 10A:31-7.

S

SANITATION.

Adult county correctional facilities, 10A:31-11.
Correctional institutions, 10A:14.

SEALS AND SEALING.

Correctional institutions, records, 10A:22-4.

SEARCHES AND SEIZURES.

Adult county correctional facilities, 10A:31-8.

SEARCHES AND SEIZURES —Cont'd

Body cavity searches, municipal detention facilities, 10A:34-3.
Canine searches, correctional institutions, 10A:3-5.
Contraband, correctional institutions, 10A:3-5.
Municipal detention facilities, 10A:34-3.
Parole officers, 10A:72-6.
Urine tests.
Correctional institutions, 10A:3-5.

SEGREGATION.

Correctional institutions, administrative segregation, 10A:5-3.

SEX OFFENDERS.

Adult diagnostic and treatment center, parole, 10A:71-7.
Global positioning system (GPS) monitoring of sex offenders, 10A:72-11.

Human services department and Corrections department.

Joint special treatment units for civilly committed sexually violent predators, 10A:35.

Parole supervision for life, 10A:71-6.

Polygraph examination, 10A:72-3.

Special treatment units for civilly committed sexually violent predators, 10A:35.

Authority, 10A:35-1.

Definitions, 10A:35-1.

Funds.

Resident welfare funds, 10A:35-10.

Personal property of residents, 10A:35-3.

Purpose, 10A:35-1.

Resident's guide to special treatment unit, 10A:35-1.

Resident welfare funds, 10A:35-10.

Rights of residents, 10A:35-2.

Searches of residents and facilities, 10A:35-4.

Substance testing, restrictions, 10A:35-4.

SEXUAL ASSAULT.

Correctional institutions.

Municipal detention facilities, protection of detainees from abuse, 10A:34-4.

SEXUALLY VIOLENT PREDATORS.

Corrections department.

Jurisdiction over special treatment areas, 10A:1-2.

SMOKING.

Correctional institutions, 10A:14-2.

SOCIAL SERVICES.

Correctional institutions, 10A:17.

SOCIAL WORKERS.

Correctional institutions, 10A:17-4.

SOLID WASTE.

Correctional institutions, 10A:14-4.

STANDARDS.

Adult county correctional facilities, 10A:31-2.
Municipal detention facilities, 10A:34-2.

SUBPOENAS.

Parole, 10A:71-2.

SUBSTANCE USE DISORDERS.

Correctional institutions, treatment, 10A:24-1, 10A:24-2.

Residential community programs, 10A:20-4.

Treatment.

Correctional institutions, 10A:24-1, 10A:24-2.

SUICIDE.

Correctional institutions, 10A:16-12.

T

TEACHERS.

Correctional institutions.

General provisions, 10A:15-1.

Tenure, 10A:15-2.

Tenure.

Correctional institutions, 10A:15-2.

INDEX

TELECOMMUNICATIONS.

Correctional institutions, 10A:18-8.
Calls regarding legal matters, 10A:6-2.
Disciplinary housing, 10A:4-10.
Security threat groups, 10A:3-11.
Telephone calls, 10A:18-8.
Inmate legal services, 10A:6-2.

Reports.

Department of corrections, 10A:21-5.

TEMPORARY CLOSE CUSTODY.

Adult county correctional facilities, 10A:31-1.3.
Correctional institutions, 10A:5-7.

TOBACCO.

Correctional institutions, 10A:14-2.

TRANSPORTATION.

Adult county correctional facilities, 10A:31-8.
Correctional institutions.
Inmates, 10A:3-9.
Psychiatric hospital, commitment, 10A:16-13.

TREATMENT.

Chemically dependent persons, correctional institutions, 10A:24-1.
10A:24-2.
Correctional institutions, chemically dependent persons, 10A:24-1.
10A:24-2.

TRIALS.

Correctional institutions, detainer, 10A:10-4.

U

URINE TESTS.

Correctional institutions, 10A:3-5.
Residential community programs, 10A:20-4.

V

VISITS.

Correctional institutions, 10A:18-6.
Bedside, funeral or private viewing visits, 10A:18-7.
Civilian clothing permitted, 10A:14-5.

VOLUNTEERS.

Adult county correctional facilities, 10A:31-27.
Correctional institutions, 10A:17-2.
Parole, 10A:72-9.

W

WARRANTS.

Parole, revocation, 10A:71-7.

WEAPONS.

Adult county correctional facilities.
On-duty firearms, 10A:31-8.
Training, qualification, requalification, 10A:31-8.
Correctional institutions, firearms, 10A:3-4.
Parole officers, 10A:72-4, 10A:72-5.

WORK RELEASE PROGRAM.

Adult county correctional facilities, eligibility, 10A:31-25.

WORK TIME.

Adult county correctional facilities, 10A:31-24.
Correctional institutions, 10A:9-5.

Z

ZERO TOLERANCE DRUG/ALCOHOL POLICY.

Correctional institutions, 10A:24-2.

DEFINITION TABLE

Citations are to Title, Chapter and Subchapter

A

Access.
Parole, confidentiality of records, 10A:71-2.1.

Actual eligibility date, parole release hearings, 10A:71-3.1.

ADA.
Corrections, department of, disability discrimination grievances, 10A:1-3.1.

Addiction severity index, correctional institutions, chemically dependent persons, treatment, 10A:24-1.3.

Adjustment committees, corrections, department of.
Close custody units, 10A:5-1.3.
Inmate discipline, 10A:4-1.3.

Administrative close supervision units, corrections, department of, inmate discipline, 10A:4-1.3.

Administrative segregation.
Adult county correctional facilities, 10A:31-1.3.
Corrections, department of.
State correctional facilities, 10A:1-2.2.

Administrative segregation level program.
Corrections, department of.
Close custody units, 10A:5-1.3.

Administrator of the Interstate Corrections Compact, 10A:10-3.2.

Administrators.
Adult county correctional facilities, 10A:31-1.3.
State correctional facilities, 10A:1-2.2.

A.D.T.C.
State correctional facilities, 10A:1-2.2.

Adult county correctional facility.
Corrections, department of, 10A:31-1.3.
State correctional facilities, 10A:1-2.2.

Adult county correctional facility administrator, adult county correctional facilities, 10A:31-1.3.

Adult inmate, parole board, 10A:71-1.1.

Advance directive.
Correctional institutions, medical and health services, 10A:16-1.3.

Alternative substance use disorder program.
Correctional institutions, chemically dependent persons, treatment, 10A:24-1.3.

Ancillary services.
Correctional institutions, chemically dependent persons, treatment, 10A:24-1.3.

Anonymous.
Parole, confidentiality of records, 10A:71-2.1.

ASI.
Correctional institutions, chemically dependent persons, treatment, 10A:24-1.3.

Assaultive offense, correctional institutions, 10A:9-1.3.

Assessment and treatment center.
Correctional institutions, chemically dependent persons, treatment, 10A:24-1.3.
Residential community programs, 10A:20-1.3.

Assessment scale, correctional institutions, 10A:9-1.3.

Assistant commissioner.
State correctional facilities, 10A:1-2.2.

Associate administrator, state correctional facilities, 10A:1-2.2.

Associated anatomical area, adult diagnostic and treatment center, sexually oriented materials, restrictions, 10A:18-9.1.

Assurances, department of corrections, international transfers, 10A:10-6.1.

Asterisk offenses.
State correctional facilities, 10A:1-2.2.

B

Basic clothing issue.
Correctional institutions, 10A:14-1.3.

Bodily fluid.
Correctional institutions, inmates, discipline, 10A:4-1.3.

Bodily injury.
Correctional institutions, inmates, discipline, 10A:4-1.3.

Body cavity searches.
Adult county correctional facilities, 10A:31-1.3.
Municipal detention facilities, 10A:34-1.3.
State correctional facilities, 10A:1-2.2.

Body imaging scanning equipment.
Adult county correctional facilities, 10A:31-1.3.
State correctional facilities, 10A:1-2.2.

Book eligibility date, parole release hearings, 10A:71-3.1.

Break in service.
Tenure for teachers and other professional educators, 10A:15-1.3.

Business day.
Adult county correctional facilities, 10A:31-1.3.
State correctional facilities, 10A:1-2.2.

C

C-4.
State correctional facilities, 10A:1-2.2.

Calendar day.
Adult county correctional facilities, 10A:31-1.3.
State correctional facilities, 10A:1-2.2.

Canine searches.
Municipal detention facilities, 10A:34-1.3.
Special treatment units for civilly committed sexually violent predators, 10A:35-1.4.
State correctional facilities, 10A:1-2.2.

Capital sentence unit (C.S.U.).
State correctional facilities, 10A:1-2.2.

Case management.
Correctional institutions, chemically dependent persons, treatment, 10A:24-1.3.

Central communications unit.
Parole, officers and employees, 10A:72-1.1.
State correctional facilities, 10A:1-2.2.

Central control.
Adult county correctional facilities, 10A:31-1.3.

DEFINITIONS

- Central control —Cont'd**
State correctional facilities, 10A:1-2.2.
- Central medical/transportation unit.**
State correctional facilities, 10A:1-2.2.
- Central office LJWC.**
Inmate jobs and wages, 10A:13-1.3.
- Central office inmate job and wage committee.**
Inmate jobs and wages, 10A:13-1.3.
- Central office revenue unit, corrections department, fiscal management,**
10A:2-1.3.
- Central reception and assignment facility (CRAF), state correctional facilities,** 10A:1-2.2.
- Certificate of good conduct, corrections, department of, community employment,** 10A:71-8.1.
- Chemical agent.**
Parole, officers and employees, 10A:72-1.1.
State correctional facilities, 10A:1-2.2.
- Chief executive officers.**
Parole board, 10A:71-1.1.
- Civil union.**
State correctional facilities, 10A:1-2.2.
- Civil union couple.**
State correctional facilities, 10A:1-2.2.
- Classification committees.**
Adult county correctional facilities, 10A:31-1.3.
Corrections, department of, classification process, 10A:9-1.3.
- Classification materials, corrections, department of, classification process,** 10A:9-1.3.
- Clinical staff.**
Special treatment units for civilly committed sexually violent predators, 10A:35-1.4.
- Close custody unit.**
Adult county correctional facilities, 10A:31-1.3.
Corrections, department of, 10A:5-1.3.
State correctional facilities, 10A:1-2.2.
- Close observation.**
State correctional facilities, 10A:1-2.2.
- Commissary purchased clothing.**
Correctional institutions, 10A:14-1.3.
- Commissioners.**
Corrections, department of.
Parole board, 10A:71-1.1.
Municipal detention facilities, 10A:34-1.3.
State correctional facilities, 10A:1-2.2.
- Community corrections classification committee.**
State correctional facilities, 10A:1-2.2.
- Community emergency information systems.**
Correctional institutions, reports, 10A:21-1.3.
- Community supervision for life.**
Parole, officers and employees, 10A:72-1.1.
- Consensual interstate transfer, interstate Corrections Compact,** 10A:10-3.2.
- Constant observation.**
State correctional facilities, 10A:1-2.2.
- Constructive authority.**
Adult county correctional facilities, 10A:31-8.17.
Corrections, use of force, 10A:3-3.1.
- Consulting with, parole board,** 10A:71-1.1.
- Contact visits.**
Adult county correctional facilities, 10A:31-1.3.
State correctional facilities, 10A:1-2.2.
- Continuum of care.**
Correctional institutions, chemically dependent persons, treatment, 10A:24-1.3.
- Continuum of care —Cont'd**
Department of corrections, social services, 10A:17-1.3.
- Contraband.**
Adult county correctional facilities, 10A:31-1.3.
Municipal detention facilities, 10A:34-1.3.
Parole, officers and employees, 10A:72-1.1.
Special treatment units for civilly committed sexually violent predators, 10A:35-1.4.
State correctional facilities, 10A:1-2.2.
- Contract agency.**
Residential community programs, 10A:20-1.3.
- Coordinator.**
Inmate remedy system, 10A:1-4.2.
- Coordinator of the inmate remedy system.**
Inmate remedy system, 10A:1-4.2.
- Copayments.**
Correctional institutions, medical and health services, 10A:16-1.3.
- Correspondence.**
Corrections, department of, outside communications, 10A:18-1.3.
- Counsel substitutes.**
State correctional facilities, 10A:1-2.2.
- County correctional facilities, parole board,** 10A:71-1.1.
- County inmate, parole board,** 10A:71-1.1.
- County penitentiary/workhouse, parole board,** 10A:71-1.1.
- County work release, adult county correctional facilities,** 10A:31-1.3.
- Crimes.**
Municipal detention facilities, 10A:34-1.3.
- Criminogenic.**
Department of corrections, social services, 10A:17-1.3.
- Custodian of a government record.**
Adult county correctional facilities, 10A:31-1.3.
- Custodian of records.**
Parole, confidentiality of records, 10A:71-2.1.
- Custodians.**
Correctional institutions, records and recordation, 10A:22-1.3.
Department of corrections, records and recordation, 10A:22-1.3.
Parole, confidentiality of records, 10A:71-2.1.
- Custody staff.**
Adult county correctional facilities, 10A:31-1.3.
Special treatment units for civilly committed sexually violent predators, 10A:35-1.4.
State correctional facilities, 10A:1-2.2.
- Custody staff member in charge, municipal detention facilities,** 10A:34-1.3.
- Custody status.**
Correctional institutions classification process, 10A:9-1.3.
State correctional facilities, 10A:1-2.2.

D

- Data file, department of corrections, records and recordation,** 10A:22-1.3.
- Deadly force.**
Adult county correctional facilities, 10A:31-1.3.
Parole, officers and employees, 10A:72-1.1.
State correctional facilities, 10A:1-2.2.
- Departmental research review board (DRRB).**
State correctional facilities, 10A:1-2.2.
- Department of corrections.**
Special treatment units for civilly committed sexually violent predators, 10A:35-1.4.
- Department of human services.**
Correctional institutions, medical and health services, 10A:16-1.3.

DEFINITIONS

Department of human services —Cont'd

Special treatment units for civilly committed sexually violent predators.
10A:35-1.4.

Deputy commissioner, state correctional facilities, 10A:1-2.2.

Designated decision maker.

Corrections, disability discrimination grievances, 10A:1-3.1.

Detainer.

Adult county correctional facilities, 10A:31-1.3.

Correctional institutions, 10A:10-4.2.

Correctional institutions classification process, 10A:9-1.3.

Parole, officers and employees, 10A:72-1.1.

State correctional facilities, 10A:1-2.2.

DHS.

Special treatment units for civilly committed sexually violent predators.
10A:35-1.4.

Directly observed therapy (DOT).

Correctional institutions, medical and health services, 10A:16-1.3.

Discharge plan.

Department of corrections, social services, 10A:17-1.3.

Disciplinary board, adult county correctional facilities, 10A:31-1.3.

Disciplinary detention.

Corrections, department of.

Adult county correctional facilities, 10A:31-1.3.

Disciplinary hearing officer.

State correctional facilities, 10A:1-2.2.

Disciplinary report.

State correctional facilities, 10A:1-2.2.

Disciplinary sanctions.

State correctional facilities, 10A:1-2.2.

District parole supervisor, 10A:71-1.1.

Division of Mental Health and Addiction Services (DMHAS).

Special treatment units for civilly committed sexually violent predators,
10A:35-1.4.

Division of operation, state correctional facilities, 10A:1-2.2.

Division of parole.

Parole, officers and employees, 10A:72-1.1.

Parole board, 10A:71-1.1.

Division of programs and community services, state correctional facilities, 10A:1-2.2.

DMHAS.

Special treatment units for civilly committed sexually violent predators,
10A:35-1.4.

DMHAS clinical director.

Special treatment units for civilly committed sexually violent predators,
10A:35-1.4.

DNA.

State correctional facilities, 10A:1-2.2.

DNA sample, state correctional facilities, 10A:1-2.2.

DOC.

Special treatment units for civilly committed sexually violent predators,
10A:35-1.4.

DOC administrator.

Special treatment units for civilly committed sexually violent predators,
10A:35-1.4.

Domestic partner.

State correctional facilities, 10A:1-2.2.

E

Electronic communication device.

Adult county correctional facilities, 10A:31-1.3.

Municipal detention facilities, 10A:34-1.3.

State correctional facilities, 10A:1-2.2.

Electronic healthcare record.

Correctional institutions, medical and health services, 10A:16-1.3.

Electronic monitoring program (EMP).

State correctional facilities, 10A:1-2.2.

EMR.

Correctional institutions, medical and health services, 10A:16-1.3.

Executive clemency, correctional institutions, medical and health services, 10A:16-1.3.

Exigent circumstances, municipal detention facilities, 10A:34-1.3.

Experimentation.

Correctional institutions, medical and health services, 10A:16-1.3.

State correctional facilities, 10A:1-2.2.

Extra duty, department of corrections, inmate discipline, 10A:4-1.3.

F

Facility.

Adult county correctional facilities, 10A:31-1.3.

Fact witnesses, correctional institutions, disciplinary proceedings,
10A:4-1.3.

Family.

State correctional facilities, 10A:1-2.2.

Family member.

State correctional facilities, 10A:1-2.2.

Fee.

Parole, confidentiality of records, 10A:71-2.1.

File review assessment.

Correctional institutions, chemically dependent persons, treatment,
10A:24-1.3.

Firearm.

Adult county correctional facilities, 10A:31-1.3.

State correctional facilities, 10A:1-2.2.

Firearms.

Parole, officers and employees, 10A:72-1.1.

Flat eligibility date, parole release hearings, 10A:71-3.1.

Foreign nationals.

Adult county correctional facilities, 10A:31-1.3.

Forensic psychiatric hospital.

Correctional institutions, medical and health services, 10A:16-1.3.

Freelancer, corrections department, public information, 10A:19-1.3.

Furlough plan.

Health care provider, 10A:20-1.3.

Further deliberation.

Inmate remedy system, 10A:1-4.2.

G

Gap time credits, corrections, department of, classification process,
10A:9-1.3.

General population.

Adult county correctional facilities, 10A:31-1.3.

State correctional facilities, 10A:1-2.2.

General population, state correctional facilities, 10A:1-2.2.

Gift.

Corrections department, fiscal management, 10A:2-1.3.

Government records.

Adult county correctional facilities, 10A:31-1.3.

Correctional institutions, 10A:22-1.3.

Parole, confidentiality of records, 10A:71-2.1.

Grants.

Corrections department, fiscal management, 10A:2-1.3.

DEFINITIONS

Group.
Inmate groups, 10A:12-1.3.

H

Halfway house.
Residential community programs, 10A:20-1.3.

Handbook on discipline.
Adult county correctional facilities, 10A:31-1.3.
State correctional facilities, 10A:1-2.2.

Health care provider.
Correctional institutions, medical and health services, 10A:16-1.3.

Health services unit, correctional institutions, medical and health services, 10A:16-1.3.

Hearing officer.
Adult county correctional facilities, 10A:31-1.3.
Corrections, department of, close custody units, 10A:5-1.3.

Housing units.
State correctional facilities, 10A:1-2.2.

I

IAD, correctional institutions, detainer, 10A:10-4.2.

Imminent danger.
Adult county correctional facilities, 10A:31-1.3.
Corrections, department of, security, 10A:3-1.3.

Increased custody.
Corrections, department of, classification process, 10A:9-1.3.
State correctional facilities, 10A:1-2.2.

Indeterminate sentences.
State correctional facilities, 10A:1-2.2.

Indigent inmate.
Adult county correctional facilities, 10A:31-1.3.
State correctional facilities, 10A:1-2.2.

Initial classification, correctional institutions, 10A:9-1.3.

Initial instrument, correctional institutions, 10A:9-1.3.

Initial placement hearing.
Corrections, department of, close custody units, 10A:5-1.3.

Inmate handbooks.
Corrections, department of, rules and procedures, 10A:8-1.3.
State correctional facilities, 10A:1-2.2.

Inmate law library, department of corrections, access to courts, 10A:6-1.3.

Inmate liaison committee.
State correctional facilities, 10A:1-2.2.

Inmate paralegals, department of corrections, access to courts, 10A:6-1.3.

Inmate personal property.
State correctional facilities, 10A:1-2.2.

Inmate remedy system.
State correctional facilities, 10A:1-2.2.

Institutional classification committee (ICC).
Department of corrections, state correctional facilities, 10A:1-2.2.

Institutional classification reception committee, state correctional facilities, 10A:1-2.2.

Intensive supervision program, corrections, department of, classification process, 10A:9-1.3.

Interagency oversight board.
Special treatment units for civilly committed sexually violent predators, 10A:35-1.4.

Internal affairs unit.
Adult county correctional facilities, 10A:31-1.3.

Internal management procedures, state correctional facilities, 10A:1-2.2.

Internal management procedures and policies.
Special treatment units for civilly committed sexually violent predators, 10A:35-1.4.

Interoffice correspondence, corrections, department of, outside communications, 10A:18-1.3.

Investigating officer.
Correctional institutions, inmate discipline, 10A:4-9.5.

Involuntary protective custody, adult county correctional facilities, 10A:31-1.3.

J

Jones farm, corrections, department of, classification process, 10A:9-1.3.

Juvenile facilities.
Parole board, 10A:71-1.1.

Juvenile inmate.
Parole board, 10A:71-1.1.

K

Keep on person (KOP).
Correctional institutions, medical and health services, 10A:16-1.3.

Keep separate status.
State correctional facilities, 10A:1-2.2.

L

Lawfully confined.
Adult county correctional facilities, 10A:31-1.3.
Municipal detention facilities, 10A:34-1.3.
Parole, officers and employees, 10A:72-1.1.
State correctional facilities, 10A:1-2.2.

Legal correspondence.
Adult county correctional facilities, 10A:31-1.3.
State correctional facilities, 10A:1-2.2.

Legal material.
State correctional facilities, 10A:1-2.2.

Legal rights, interjurisdictional agreements and statutes, 10A:10-1.3.

Legal services coordinators, department of corrections, access to courts, 10A:6-1.3.

Legitimate public officials.
Adult county correctional facilities, 10A:31-1.3.

Legitimate public officials, corrections, department of, outside communications, 10A:18-1.3.

LIB program.
Correctional institutions, chemically dependent persons, treatment, 10A:24-1.3.

Licensed medical professional.
Municipal detention facilities, 10A:34-1.3.

Living in balance program.
Correctional institutions, chemically dependent persons, treatment, 10A:24-1.3.

Locking device, corrections department, 10A:3-1.3.

Loss of funds.
Corrections department, fiscal management, 10A:2-1.3.

M

Management control unit, corrections, department of, close custody units, 10A:5-1.3.

DEFINITIONS

Management control unit review committee, corrections, department of, close custody units, 10A:5-1.3.

Mandatory minimum term.

Correctional institutions classification process, 10A:9-1.3.

MAP.

Correctional institutions, chemically dependent persons, treatment, 10A:24-1.3.

Special treatment units for civilly committed sexually violent predators, 10A:35-1.4.

Maximum date, parole release hearings, 10A:71-3.1.

MCU, corrections, department of, close custody units, 10A:5-1.3.

M.C.U. hearing officer.

Corrections, department of, close custody units, 10A:5-1.3.

MCURC, corrections, department of, close custody units, 10A:5-1.3.

Mechanical force.

Adult county correctional facilities, 10A:31-8.18.

Corrections, use of force, 10A:3-3.3.

Mechanical restraints.

Adult county correctional facilities, 10A:31-1.3.

Parole, officers and employees, 10A:72-1.1.

State correctional facilities, 10A:1-2.2.

Medical reference file.

Correctional institutions, medical and health services, 10A:16-1.3.

Medium.

Parole, confidentiality of records, 10A:71-2.1.

Minimum standards, corrections, department of, municipal detention facilities, 10A:34-1.3.

Modified activities program (MAP).

Special treatment units for civilly committed sexually violent predators, 10A:35-1.4.

MRF.

Correctional institutions, medical and health services, 10A:16-1.3.

Multiple occupancy sleeping unit, adult county correctional facilities, 10A:31-1.3.

Municipal detention facilities, corrections, department of, 10A:34-1.3.

Mutual agreement program, correctional institutions, chemically dependent persons, treatment, 10A:24-1.3.

Mutual agreement program (MAP), residential community programs, 10A:20-1.3.

N

Nearest relative of a murder/manslaughter victim.

Parole release hearings, 10A:71-3.48.

New Jersey State Board of Examiners.

Tenure for teachers and other professional educators, 10A:15-1.3.

News media representatives.

Corrections department, public information, 10A:19-1.3.

State correctional facilities, 10A:1-2.2.

Next of kin.

Correctional institutions, medical and health services, 10A:16-7.1.

No Early Release Act (NERA), parole, 10A:9-1.3.

Non-asterisk offense, state correctional facilities, 10A:1-2.2.

Nonconsensual interstate transfer, Interstate Corrections Compact, 10A:10-3.2.

Non-contact visits.

Adult county correctional facilities, 10A:31-1.3.

State correctional facilities, 10A:1-2.2.

Nondeadly force.

Adult county correctional facilities, 10A:31-1.3.

Non-permissible.

Correctional institutions classification process, 10A:9-1.3.

Non-permissible property.

State correctional facilities, 10A:1-2.2.

Notary services, department of corrections, access to courts, 10A:6-1.3.

O

Objective classification.

Adult county correctional facilities, 10A:31-1.3.

Correctional institutions classification process, 10A:9-1.3.

State correctional facilities, 10A:1-2.2.

Offenders, department of corrections, international transfers, 10A:10-6.1.

Offense other than a crime.

Municipal detention facilities, 10A:34-1.3.

Office of community programs.

State correctional facilities, 10A:1-2.2.

Office of community programs and outreach services.

Department of corrections, social services, 10A:17-1.3.

Office of educational services.

Tenure for teachers and other professional educators, 10A:15-1.3.

Office of interstate services, parole board, 10A:71-1.1.

Office of substance abuse programming and addictions services.

Correctional institutions, chemically dependent persons, treatment, 10A:24-1.3.

Office of transitional services.

Department of corrections, social services, 10A:17-1.3.

Officer-in-charge.

Municipal detention facilities, 10A:34-1.3.

On-the-spot corrections.

Corrections, department of.

Adult county correctional facilities, 10A:31-1.3.

On the spot corrections.

State correctional facilities, 10A:1-2.2.

Open charge, correctional institutions, 10A:9-1.3.

Open Public Records Act.

Adult county correctional facilities, 10A:31-1.3.

Open Public Records Act, department of corrections, 10A:22-1.3.

OPRA.

Adult county correctional facilities, 10A:31-1.3.

Correctional institutions, records and recordation, 10A:22-1.3.

Orientation.

Corrections, department of, rules and procedures, 10A:8-1.3.

Override code reference index, correctional institutions, 10A:9-1.3.

P

Parolee.

Board, 10A:71-1.1.

Parole, officers and employees, 10A:72-1.1.

Parole officer.

Parole, officers and employees, 10A:72-1.1.

Parole board, 10A:71-1.1.

Parole supervision for life, 10A:72-1.1.

PARTNER.

State correctional facilities, 10A:1-2.2.

Partners.

State correctional facilities, 10A:1-2.2.

Passive canine search, state correctional facilities, 10A:1-2.2.

Pat search.

Adult county correctional facilities, 10A:31-1.3.

Municipal detention facilities, 10A:34-1.3.

State correctional facilities, 10A:1-2.2.

DEFINITIONS

Permissible.

Correctional institutions classification process, 10A:9-1.3.

Personal information.

Adult county correctional facilities, 10A:31-1.3.

State correctional facilities, 10A:1-2.2.

Physical contact.

Adult county correctional facilities, 10A:31-8.17.

Physical contact, corrections, use of force, 10A:3-3.1.

Physical force.

Adult county correctional facilities, 10A:31-8.18.

Physical force, corrections, use of force, 10A:3-3.3.

Prehearing detention.

Corrections, department of.

Adult county correctional facilities, 10A:31-1.3.

Prehearing disciplinary housing.

Close custody units, 10A:5-1.3.

State correctional facilities, 10A:1-2.2.

Prehearing protective custody.

State correctional facilities, 10A:1-2.2.

Pre-sentence investigation report (PSI).

Correctional institutions classification process, 10A:9-1.3.

Primary eligibility date, parole release hearings, 10A:71-3.1.

Prison complex.

Department of corrections, state correctional facilities, 10A:1-2.2.

Prison rape elimination act (PREA).

Correctional institutions classification process, 10A:9-1.3.

Probable cause.

Municipal detention facilities, 10A:34-1.3.

Parole, officers and employees, 10A:72-1.1.

State correctional facilities, 10A:1-2.2.

Productive occupation.

Adult county correctional facilities, 10A:31-1.3.

Prohibited acts.

Department of corrections, state correctional facilities, 10A:1-2.2.

Projected eligibility date, parole release hearings, 10A:71-3.1.

Prosecutor, parole board, 10A:71-1.1.

Protective custody.

Adult county correctional facilities, 10A:31-1.3.

State correctional facilities, 10A:1-2.2.

Publication.

Adult county correctional facilities, 10A:31-1.3.

Corrections, department of, outside communications, 10A:18-1.3.

Public employment.

Certificate suspending certain employment, occupational disabilities or forfeitures, 10A:71-9.2.

Public information officer, reports, correctional institutions, 10A:21-1.3.

Q

Qualified offender.

Certificate suspending certain employment, occupational disabilities or forfeitures, 10A:71-9.2.

R

Rahway camp.

Correctional institutions, 10A:9-1.3.

Reasonable belief.

Adult county correctional facilities, 10A:31-1.3.

Reasonable belief, corrections, department of, security, 10A:3-1.3.

Reasonable suspicion.

Adult county correctional facilities, 10A:31-1.3.

Reasonable suspicion —Cont'd

Parole, officers and employees, 10A:72-1.1.

State correctional facilities, 10A:1-2.2.

Receiving state.

Correctional institutions, detainer, 10A:10-4.2.

Department of corrections, international transfers, 10A:10-6.1.

Interjurisdictional agreements and statutes, 10A:10-1.3.

Reclassification, correctional institutions, 10A:9-1.3.

Reclassification instrument, correctional institutions, 10A:9-1.3.

Record custodian.

Adult county correctional facilities, 10A:31-1.3.

Records.

Adult county correctional facilities, 10A:31-1.3.

Department of corrections, 10A:22-1.3.

Parole, confidentiality of records, 10A:71-2.1.

Reduced custody status.

Correctional institutions classification process, 10A:9-1.3.

Regional institutions.

State correctional facilities, 10A:1-2.2.

Relative, 10A:1-2.2.

State correctional facilities, 10A:1-2.2.

Religious issues committee.

Department of corrections, social services, 10A:17-1.3.

Repetitive witnesses, correctional institutions, disciplinary proceedings, 10A:4-1.3.

Request.

Records and recordation, department of corrections, 10A:22-1.3.

Research.

Correctional institutions, medical and health services, 10A:16-1.3.

State correctional facilities, 10A:1-2.2.

Resident.

Special treatment units for civilly committed sexually violent predators, 10A:35-1.4.

Residential community program, 10A:20-1.3.

Residential community program notification committee.

Residential community programs, 10A:20-1.3.

Residential community release program (RCRP).

Residential community programs, 10A:20-1.3.

Responsible health authority.

Correctional institutions, medical and health services, 10A:16-1.3.

State correctional facilities, 10A:1-2.2.

Restitution.

Corrections department, fiscal management, 10A:2-1.3.

Risks/needs assessment.

Department of corrections, social services, 10A:17-1.3.

Roving patrol.

Adult county correctional facilities, 10A:31-1.3.

Correctional institutions, security, 10A:3-1.3.

S

St. Francis unit, department of corrections, medical and health services, 10A:16-1.3.

SASRC, corrections, department of, close custody units, 10A:5-1.3.

Scanning/testing device.

Municipal detention facilities, 10A:34-1.3.

Special treatment units for civilly committed sexually violent predators, 10A:35-1.4.

State correctional facilities, 10A:1-2.2.

Scanning/testing device operator.

Special treatment units for civilly committed sexually violent predators, 10A:35-1.4.

State correctional facilities, 10A:1-2.2.

DEFINITIONS

- Scanning/testing device search.**
Municipal detention facilities, 10A:34-1.3.
- Special treatment units for civilly committed sexually violent predators,** 10A:35-1.4.
State correctional facilities, 10A:1-2.2.
- Screening service, correctional institutions, medical and health services,** 10A:16-1.3.
- Security level, correctional institutions, classification process,** 10A:9-1.3.
- Security threat group.**
State correctional facilities, 10A:1-2.2.
- Security threat group activities.**
Corrections, department of, close custody units, 10A:5-1.3.
- Security threat group member.**
Corrections, department of, close custody units, 10A:5-1.3.
- Sending state.**
Correctional institutions, detainee, 10A:10-4.2.
Department of corrections, international transfers, 10A:10-6.1.
Interjurisdictional agreements and statutes, 10A:10-1.3.
- Serious bodily harm.**
Parole, officers and employees, 10A:72-1.1.
- Serious bodily injury, correctional institutions, inmates, discipline,** 10A:4-1.3.
- Severity of offense disciplinary infractions scale, correctional institutions,** 10A:9-1.3.
- Severity of offense scale, correctional institutions,** 10A:9-1.3.
- Sexual activity, adult diagnostic and treatment center, sexually oriented materials, restrictions,** 10A:18-9.1.
- Sexually oriented material, adult diagnostic and treatment center, restrictions,** 10A:18-9.1.
- Sexually violent offense.**
Special treatment units for civilly committed sexually violent predators, 10A:35-1.4.
- Sexually violent predator.**
Special treatment units for civilly committed sexually violent predators, 10A:35-1.4.
- Sexually violent predator act (SVPA).**
Special treatment units for civilly committed sexually violent predators, 10A:35-1.4.
- Shift commander.**
Adult county correctional facilities, 10A:31-1.3.
- Shift commander, state correctional facilities,** 10A:1-2.2.
- Smoking.**
Correctional institutions, 10A:14-1.3.
- Special administrative segregation review committee, corrections, department of, close custody units,** 10A:5-1.3.
- Special charge.**
Parole, confidentiality of records, 10A:71-2.1.
- Special classification committee, corrections, department of.**
Close custody units, 10A:5-1.3.
- Special clothing issue.**
Correctional institutions, 10A:14-1.3.
- Special investigations division, state correctional facilities,** 10A:1-2.2.
- Special needs inmate, state correctional facilities,** 10A:1-2.2.
- Special service charge.**
Parole, confidentiality of records, 10A:71-2.1.
- Special treatment unit (STU).**
Special treatment units for civilly committed sexually violent predators, 10A:35-1.4.
- Staff.**
State correctional facilities, 10A:1-2.2.
- State.**
Correctional facilities, 10A:1-2.2.
- State clothing issue.**
Correctional institutions, 10A:14-1.3.
- State compact members, interstate corrections compact,** 10A:10-3.2.
- State correctional facilities, parole board,** 10A:71-1.1.
- State DNA databank, state correctional facilities,** 10A:1-2.2.
- Strip searches.**
Adult county correctional facilities, 10A:31-1.3.
Municipal detention facilities, 10A:34-1.3.
State correctional facilities, 10A:1-2.2.
- STU.**
Special treatment units for civilly committed sexually violent predators, 10A:35-1.4.
- Substance use disorder, correctional institutions, chemically dependent persons, treatment,** 10A:24-1.3.
- Substance use disorder treatment.**
Correctional institutions, chemically dependent persons, treatment, 10A:24-1.3.
- Substance use disorder treatment program, residential community programs,** 10A:20-1.3.
- Substantial risk.**
Adult county correctional facilities, 10A:31-1.3.
- Substantial risk, corrections, department of, security,** 10A:3-1.3.
- Suicide watch.**
State correctional facilities, 10A:1-2.2.
- SVPA.**
Special treatment units for civilly committed sexually violent predators, 10A:35-1.4.

T

- TAS.**
Correctional institutions, reports, 10A:21-1.3.
- T.C., correctional institutions, chemically dependent persons, treatment,** 10A:24-1.3.
- TCC.**
Special treatment units for civilly committed sexually violent predators, 10A:35-1.4.
- Teachers and/or other certified professional educators.**
Tenure for teachers and other professional educators, 10A:15-1.3.
- Telephone-based alert system.**
Correctional institutions, reports, 10A:21-1.3.
- Temporary close custody.**
Adult county correctional facilities, 10A:31-1.3.
Corrections, department of, close custody units, 10A:5-1.3.
Special treatment units for civilly committed sexually violent predators, 10A:35-1.4.
- Therapeutic community, correctional institutions, chemically dependent persons, treatment,** 10A:24-1.3.
- Therapeutic community liaison.**
Correctional institutions, chemically dependent persons, treatment, 10A:24-1.3.
- Therapeutic community program eligibility list.**
Correctional institutions, chemically dependent persons, treatment, 10A:24-1.3.
- Tobacco paraphernalia.**
Correctional institutions, 10A:14-1.3.
- Tobacco product.**
Correctional institutions, 10A:14-1.3.
- Treatment dosage.**
Correctional institutions, chemically dependent persons, 10A:24-1.3.
- Trigger locking device, corrections department,** 10A:3-1.3.
- Truck mail, corrections, department of, outside communications,** 10A:18-1.3.

DEFINITIONS

U

Unavailable witnesses, correctional institutions, disciplinary proceedings, 10A:4-1.3.
Unencumbered space, adult county correctional facilities, 10A:31-1.3.
Unlawful force.
Parole, officers and employees, 10A:72-1.1.
Urgent request.
Inmate remedy system, 10A:1-4.2.

V

Victim.
Parole Release hearings, 10A:71-3.48.
Voluntary protective custody, adult county correctional facilities, 10A:31-1.3.
Volunteer.
Department of corrections, social services, 10A:17-1.3.
Volunteer services site coordinator, department of corrections, social services, 10A:17-1.3.

W

Warrant.
Parole, officers and employees, 10A:72-1.1.

Weapon.

Adult county correctional facilities, 10A:31-1.3.
Correctional institutions, inmates, discipline, 10A:4-1.3.
Corrections, department of.
State correctional facilities, 10A:1-2.2.
Parole, officers and employees, 10A:72-1.1.
Web-based emergency alert system.
Correctional institutions, reports, 10A:21-1.3.

Y

Young adult inmate, parole board, 10A:71-1.1.
Youth complex.
State correctional facilities, 10A:1-2.2.

Z

Zero Tolerance Drug/Alcohol Policy, correctional institutions, 10A:1-2.2.
Chemically dependent persons, treatment, 10A:24-1.3.
Zero tolerance for misuse or possession of an electronic communication device policy.
State correctional facilities, 10A:1-2.2.
Zero tolerance of the incidence of sexual assault.
Corrections, department of.
State correctional facilities, 10A:1-2.2.