

CHAPTER 3
SECURITY AND CONTROL

Authority

N.J.S.A. 30:1B-6 and 30:1B-10.

Source and Effective Date

R.1991 d.503, effective September 16, 1991.
See: 23 N.J.R. 1259(a), 23 N.J.R. 3031(b).

Executive Order No. 66(1978) Expiration Date

Chapter 3, Security and Control, expires on September 16, 1996.

Chapter Historical Note

The following correctional facilities in this chapter were redesignated pursuant to N.J.S.A. 30:7-1, effective November 30, 1988:

Trenton State Prison to the New Jersey State Prison;

Rahway State Prison to the East Jersey State Prison;

Leesburg State Prison to the Bayside State Prison;

Correctional Institution for Women, Clinton to the Edna Mahan Correctional Facility for Women;

Youth Reception and Correction Center Yardville to the Garden State Reception and Youth Correctional Facility;

State Prison, Riverfront to the Riverfront State Prison;

Youth Correctional Institution, Bordentown to the Albert C. Wagner Youth Correctional Facility;

Youth Correctional Institution, Annandale to the Mountainview Youth Correctional Facility;

Training School for Boys, Jamesburg to the New Jersey Training School for Boys;

Training School for Boys, Skillman to the Lloyd McCorkle Training School for Boys and Girls.

See: 21 N.J.R. 558(a).

Chapter 3, Security and Control, was originally adopted as R.1986 d.410 and d.409, effective October 6, 1986. See: 18 N.J.R. 1057(b), 18 N.J.R. 1067(a), 18 N.J.R. 2016(a). Subchapter 2, Keep Separate Status, was adopted as R.1991 d.250, effective May 20, 1991. See: 23 N.J.R. 383(a), 23 N.J.R. 1672(b). Pursuant to Executive Order No. 66(1978), Chapter 3, Security and Control, was readopted as R.1991 d.503, effective September 16, 1991. See: Source and Effective Date.

See section level annotations for specific rulemaking activity.

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SUBCHAPTER 1. INTRODUCTION**10A:3-1.1 Purpose**

(a) The purpose of this chapter is to:

1. Establish policies and procedures regarding the use of force by correction officers, both on duty and off-duty;
2. Establish policies and procedures for searching inmates and facilities in order to control and deter contraband;
3. Define contraband and establish procedures for its seizure and disposal;
4. Establish procedures for breathalyzer testing in order to control and deter the use of alcohol by inmates;
5. Establish procedures for the use of polygraph examinations to insure that they are used only under limited and appropriate circumstances;
6. Establish procedures for fingerprinting and photographing juvenile inmates;

7. Establish policies and procedures regarding the transportation of inmates outside the correctional facility and from one jurisdiction to another; and

8. Establish procedures for placing inmates in and removing inmates from keep separate status.

Amended by R.1991 d. 250, effective May 20, 1991.

See: 23 N.J.R. 383(a), 23 N.J.R. 1672(b).

Added reference to keep separate status.

Amended by R.1996 d.209, effective May 6, 1996 (operative August 19, 1996).

See: 28 N.J.R. 763(a), 28 N.J.R. 2387(b).

Added breathalyzer provision.

10A:3-1.2 Scope

(a) Subchapters 2, 3, 5, 6 and 7 shall be applicable to the Division of Adult Institutions and the Division of Juvenile Services.

(b) Subchapter 4 shall be applicable to the Department of Corrections.

(c) Subchapter 8 shall be applicable to inmates with Juvenile Delinquency Commitments and the Division of Juvenile Services.

(d) Subchapter 9 shall be applicable to all Department of Corrections facilities and the Office of Interstate Services.

Amended by R.1991 d. 250, effective May 20, 1991.

See: 23 N.J.R. 383(a), 23 N.J.R. 1672(b).

Added reference to Subchapter 2 at (a).

10A:3-1.3 Definitions

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

“Central Control” means the unit which coordinates the security and communication functions within a correctional facility.

“Commissioner” means the Commissioner of the New Jersey Department of Corrections.

“Contact visit” means a visit between an inmate and a visitor where there is no barrier (that is, window, wall) between them.

“Deadly force” means force which an officer uses with the purpose of or which he or she knows will create a substantial risk of causing death or serious harm.

“Department” means the Department of Corrections.

“Housing unit” means a cell, dormitory or other type of sleeping area within a correctional facility.

“Internal Affairs Unit” means the unit responsible for conducting investigations at the direction of the Commissioner.

“Keep separate status” means the intentional assignment of certain inmates to different correctional facilities or different units within a correctional facility so as to maintain a separation between these inmates in order to prevent the possibility of retaliation because of a previous act or occurrence.

“Non-deadly force” means actions or conduct, with or without weapons or chemical agents, which is not likely to cause death or serious injury.

“Pat frisk” is synonymous with “frisk search” and means a thorough search of a fully-clothed inmate, including the clothing and personal property in the inmate’s possession.

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

“Shift supervisor” means the correction officer responsible for the maintenance of security during a tour of duty in a correctional facility.

“Strip frisk” is synonymous with “strip search” and means a thorough search of an unclothed inmate’s body and orifices, including visual inspection of external genital and anal areas, as well as the inmate’s clothing and personal possessions.

“Superintendent” means the chief executive officer of any State correctional facility in the Department of Corrections.

Amended by R.1991 d. 250, effective May 20, 1991.
See: 23 N.J.R. 383(a), 23 N.J.R. 1672(b).
Added definition of “keep separate status”.

10A:3-1.4 Forms

(a) The following forms related to Security and Control shall be reproduced by each facility from originals that are available by contacting the Standards Development Unit:

1. 156-I Oath of Office
2. 172-I Continuity of Evidence—Urine Specimen
3. 171-I Seizure of Contraband Report
4. 171-II Inmate Receipt, Contraband Seizure
5. 171-III Notice of Decision on Appeal, Contraband Seizure (Non-Disciplinary)
6. 173-I Placement In Keep Separate Status
7. 173-II Removal From Keep Separate Status
8. 285-I Request for Polygraph Examination
9. 285-II Breathalyzer Request Summary
10. 285-III Alcohol Influence Report.

Amended by R.1991 d. 250, effective May 20, 1991.
See: 23 N.J.R. 383(a), 23 N.J.R. 1672(b).
Added forms regarding keep separate status.

Amended by R.1993 d. 679, effective December 20, 1993.

See: 25 N.J.R. 4702(a), 25 N.J.R. 5929(a).

Amended by R.1996 d.209, effective May 6, 1996 (operative August 19, 1996).

See: 28 N.J.R. 763(a), 28 N.J.R. 2387(b).

Added breathalyzer request summary and alcohol influence report.

SUBCHAPTER 2. KEEP SEPARATE STATUS

10A:3-2.1 Recommending placement of an inmate in keep separate status

(a) Any staff person may recommend that an inmate be placed in keep separate status.

(b) The staff person recommending that an inmate be placed in keep separate status shall complete the recommendation section of Form 173-I, PLACEMENT IN KEEP SEPARATE STATUS, and submit Form 173-I to the Superintendent giving the reason(s) for the recommendation.

(c) The Superintendent may order an immediate Internal Affairs investigation and written report to determine whether the information received is accurate and placement of the inmate in keep separate status is warranted.

10A:3-2.2 Authorization of placement of inmate in keep separate status

(a) The Superintendent shall authorize the placement of an inmate in keep separate status in instances when the Superintendent determines that such placement is warranted for the maintenance of security and the orderly operation of the correctional facility.

(b) If the Superintendent authorizes that an inmate be placed in keep separate status, the completed Form 173-I, along with the supporting documents shall be forwarded to:

1. The Senior Classification Officer to be filed in the inmate’s classification folder; and
2. The correctional facility housing the other inmate(s) involved in this assignment of keep separate status.

(c) A “Keep Separate” notation should be prominently placed on the outside cover of the inmate’s institutional classification folder and in the appropriate files within the computerized inmate information record keeping system.

10A:3-2.3 Procedures for tracking transfers of inmates in keep separate status

(a) The Inter-Institutional Classification Committee (I.I.C.C.) or Special Classification Committee (S.C.C.) shall authorize the transfer of an inmate in keep separate status to another correctional facility when such transfer is warranted and appropriate. Emergency transfer procedures

shall be followed in accordance with N.J.A.C. 10A:9-6.5 or 7.5.

(b) Prior to the transfer of any inmate in keep separate status, the Senior Classification Officer shall:

1. Confirm the current location via the Department of Corrections' computerized Offender Based Correctional Information System (O.B.C.I.S.) of the other correlated keep separate status inmate(s);
2. Complete Form 173-III Transfer of Keep Separate Status Inmate who is to be transferred;
3. Advise by telephone and FAX a copy of Form 173-III to each correctional facility(s) housing the other correlated keep separate status inmate(s); and
4. Forward, within three days, a hard copy of Form 173-III to each correctional facility(s) housing the other correlated keep separate status inmate(s).

(c) The original Form 173-III, along with supporting documentation shall be filed in the chronological section of the transferred inmate's classification folder and shall be attached to Form 173-I. A copy of Form 173-III shall be added to the chronological section of each correlated inmate's classification folder, and shall be attached to Form 173-I.

(d) The Computerized Inmate Progress Notes shall be updated with the information recorded on Form 173-III.

New Rule, R.1993 d.679, effective December 20, 1993.
See: 25 N.J.R. 4702(a), 25 N.J.R. 5929(a).

10A:3-2.4 Recommending removal from keep separate status

(a) Any staff person may recommend that an inmate be removed from keep separate status.

(b) Any staff person recommending that an inmate be removed from keep separate status shall complete the removal recommendation section of Form 173-II REMOVAL FROM KEEP SEPARATE STATUS and submit Form 173-II to the Superintendent, giving the reason(s) for the recommendation.

(c) The Superintendent may order an Internal Affairs investigation and written report to determine whether the information received is accurate and removal of the inmate from keep separate status is warranted.

Recodified from 10A:3-2.3 by R.1993 d.679, effective December 20, 1993.
See: 25 N.J.R. 4702(a), 25 N.J.R. 5929(a).

10A:3-2.5 Authorization for removal from keep separate status

(a) The Superintendent may authorize the removal of an inmate from keep separate status when a review of the factors in the inmate's case indicates that the keep separate status is no longer appropriate.

(b) Whenever a decision is made to remove an inmate from keep separate status, the original Form 173-II along with the supporting documents shall be forwarded to the Senior Classification Officer to be filed in the inmate's classification folder.

(c) A copy of the removal notice Form 173-II shall be sent to the Classification Department of the correctional facility at which the other inmate(s) involved in the keep separate status is housed.

Recodified from 10A:3-2.4 by R.1993 d.679, effective December 20, 1993.
See: 25 N.J.R. 4702(a), 25 N.J.R. 5929(a).

SUBCHAPTER 3. USE OF FORCE WHILE ON-DUTY

10A:3-3.1 Use of force; minimum force possible required

In any case when a correction officer uses force to control inmates while on-duty, the minimum force possible under the circumstances shall be used, consistent with correctional facility objectives.

10A:3-3.2 Non-deadly force; when authorized

(a) Non-deadly force may be used only under the following circumstances:

1. To defend one's self or others against any physical assault;
2. To prevent serious damage to property;
3. To prevent escape;
4. To prevent or quell a riot or disturbance;
5. To prevent a suicide or attempted suicide; or
6. To enforce correctional facility regulations where expressly permitted by Department of Corrections regulations or in situations where an officer with the rank of Sergeant or above believes that the inmate's failure to comply constitutes an immediate threat to correctional facility security or personal safety.

(b) Non-deadly force may include the use of slapsticks, chemical agents (mace), batons, stun guns and other weapons which are not likely to cause death or serious injury.

10A:3-3.3 Deadly force; when authorized

(a) Deadly force shall be used only on order of the following:

1. Commissioner;
2. Deputy Commissioner;
3. Assistant Commissioner, Division of Adult Institutions;
4. Deputy Director, Division of Adult Institutions;
5. Administrator (Superintendent);
6. Associate Administrator (Assistant Superintendent).

(b) Deadly force may be ordered only in the following situations:

1. To prevent escape, where the staff member, by reason of his or her experience and best judgment, believes that a lesser degree of force will be ineffective; or,
2. In those situations where an inmate or inmates have created or present an immediate threat of death or serious bodily harm, and the staff member, by reason of his or her experience and best judgment, believes that a lesser degree of force will be ineffective.

(c) Deadly force includes, but is not limited to, the use of shotguns, handguns, rifles, and other lethal weapons.

(d) Whenever firearms are used, the officer must first sound a verbal warning and then shoot to stop the inmate. Warning shots shall not be authorized by the Department of Corrections.

(e) Written post orders shall govern the use of deadly force by correction officers.

10A:3-3.4 Use of force against persons other than inmates; duties outside security perimeter

(a) While engaged in roving patrol or other duty outside the correctional facility's security perimeter, appropriate force may be used against persons other than prison inmates when a correction officer observes what appears to be a violation of the law and there is also imminent peril of bodily harm to any individual or destruction of property.

(b) Whenever possible, the correction officer should contact his or her Central Control to request assistance before engaging in any degree of force.

(c) In situations where a violation of law is suspected, but no imminent danger is present, the officer should immediately contact the local police and his or her Central Control.

Case Notes

Senior corrections officer's criminal conviction for harassing his immediate superior was one "involving or touching" his employment as

a senior corrections officer, and, therefore, he was properly removed from his employment pursuant to forfeiture statute. *Moore v. Youth Correctional Institute of Annandale*, 230 N.J.Super. 374 553 A.2d 830 (App.Div.1989) affirmed 119 N.J. 256, 574 A.2d 583.

10A:3-3.5 Reports

(a) Immediately following any incident in which force has been used, each staff member who participated in or witnessed the event shall write a special report to the Shift Supervisor. The report shall contain:

1. A description of the events leading up to the use of force;
2. A description of the incident, type of force used and reasons for employing force;
3. A list of all participants and witnesses to the incident;
4. A description of the injuries suffered, if any, and medical treatment given; and
5. Other relevant facts or comments about the incident or conduct of employees or inmates.

(b) The Shift Supervisor shall forward all special reports to the Internal Affairs Unit of the correctional facility and the Director of Custody Operations for review. The Director of Custody Operations shall forward all reports to the Superintendent. The Superintendent shall then report the incident in accordance with N.J.A.C. 10A:21, Reports.

10A:3-3.6 Use of mechanical restraints

(a) On authorization of the Shift Supervisor, mechanical restraints may be used in the following instances:

1. When transporting an inmate from place to place;
2. When the inmate's history, disciplinary record, behavior or present emotional state creates the likelihood that bodily injury to any person, damage to property or escape by the inmate will occur; or
3. On medical advice, to prevent the inmate from attempting suicide or inflicting serious physical injury upon himself or herself.

(b) Mechanical 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 the inmate.

(c) Mechanical restraints shall be removed promptly when the reason for their initial use has ceased to exist or has sufficiently abated.

10A:3-3.7 Use of chemical agents; storage

(a) Tear gas, mace and related chemical agents shall be used in accordance with N.J.A.C. 10A:3-3.2.

(b) Whenever chemical agents are used as a means of control, staff members shall comply with the reporting procedure in N.J.A.C. 10A:3-3.5.

(c) No member of the custodial staff may carry or use chemical agents unless he or she has received appropriate training in its use and effects.

(d) After each instance of use, all individuals who have been exposed to chemical agents shall receive prompt medical examination and treatment.

(e) Chemical agents shall be safely stored and proper inventory kept, to insure security and adequate supply.

Amended by R.1993 d.219, effective May 17, 1993.

See: 25 N.J.R. 1044(b), 25 N.J.R. 1971(b).

Revised (a).

10A:3-3.8 Training

All security and custodial personnel shall receive training in proper methods and techniques of using force to effectively control inmates. Such training shall be provided as part of the State Basic Correction Training at the Correctional Officers Training Academy (COTA) and, in addition, shall be repeated at periodic intervals by each correctional facility.

10A:3-3.9 Correctional facility procedures

(a) Each correctional facility shall prepare suitable written post orders and procedures to govern the use of force and storage of chemical agents, consistent with these rules.

(b) Those correctional facilities which house juvenile commitments may promulgate written post orders and procedures which are more restrictive than these rules regarding use of chemical agents, mechanical restraints or force.

(c) All written post orders and procedures shall be forwarded to the Office of the Deputy Commissioner for review and approval on or before February 15 of each year.

SUBCHAPTER 4. USE OF PERSONAL FIREARMS AND USE OF FORCE WHILE OFF-DUTY

10A:3-4.1 Who may carry firearms while off-duty

(a) Firearms may be carried off-duty only by Department personnel holding the rank of Senior Correction Officer and higher who also meet the following requirements:

1. Have passed the firearms training course approved by the New Jersey State Police Training Commission, as set forth in N.J.S.A. 2C:39-6j;
2. Have qualified in the use and handling of approved off-duty firearms; and

3. Have been sworn as a peace officer by taking the Oath of Office and completing Form 156-I (Oath of Office).

(b) Persons with the following Department of Correction titles may be sworn as peace officers:

1. Central office:
 - Commissioner
 - Deputy Commissioner
 - Assistant Commissioner—Division of Adult Institutions
 - Deputy Director—Division of Adult Institutions
 - Assistant Commissioner—Division of Juvenile Services
2. New Jersey State Prison:
 - Administrator Prison Complex
 - Associate Administrator Prison Complex
 - Assistant Superintendent 1, Corrections
3. East Jersey State Prison:
 - Administrator Prison Complex
 - Associate Administrator Prison Complex
 - Assistant Superintendent 3, Corrections
4. Bayside State Prison:
 - Administrator Prison Complex
 - Associate Administrator Prison Complex
 - Assistant Superintendent 1, Corrections
5. Mid-State Correctional Facility:
 - Superintendent 1, Corrections
 - Assistant Superintendent 2, Corrections
6. Edna Mahan Correctional Facility for Women:
 - Superintendent 1, Corrections
 - Assistant Superintendent 2, Corrections
7. Riverfront State Prison:
 - Superintendent 1, Corrections
 - Assistant Superintendent 2, Corrections
8. Garden State Reception and Youth Correctional Facility:
 - Administrator, Prison Complex
 - Associate Administrator, Prison Complex
 - Assistant Superintendent 1, Corrections
9. Albert C. Wagner Youth Correctional Facility:
 - Administrator, Corrections
 - Assistant Superintendent 1, Corrections
10. Mountainview Youth Correctional Facility:
 - Administrator, Corrections
 - Assistant Superintendent 1, Corrections
11. Adult Diagnostic and Treatment Center (A.D.T.C.):
 - Superintendent 1, Corrections
 - Assistant Superintendent 2, Corrections
12. Southern State Correctional Facility:
 - Administrator, Corrections
 - Assistant Superintendent 1, Corrections
13. Northern State Prison:
 - Superintendent 1, Corrections
 - Assistant Superintendent 1, Corrections
14. Juvenile Medium Security Unit:
 - Superintendent 3, Corrections
 - Assistant Superintendent 3, Corrections
15. New Jersey Training School for Boys:
 - Superintendent 1, Corrections
 - Assistant Superintendent 2, Corrections
16. Lloyd McCorkle Training School for Boys and Girls:
 - Superintendent 3, Corrections

17. Assistant Superintendent 3, Corrections
Newark House:
Superintendent, Residential Group Center
Assistant Superintendent, Residential Group Center
18. Essex Community Service Center:
Superintendent, Residential Group Center
Assistant Superintendent, Residential Group Center
19. Vroom Readjustment Unit:
Superintendent III
20. Office of Interstate Services:
Interstate Transportation Officer
21. Other Titles within any Facility or Unit:
Director of Custody Operations, New Jersey State Prison
Director of Custody Operations I
Director of Custody Operations II
Director of Custody Operations III
Correction Captain
Correction Lieutenant
Correction Sergeant
Senior Correction Officer
Chief Investigator
Assistant Chief Investigator
Principal Investigator
Senior Investigator
Investigator

(c) Correction Officer Recruits are excluded from (a) and (b) above and may not carry firearms while off-duty.

Amended by R.1987 d.515, effective December 7, 1987.

See: 19 N.J.R. 1717(a), 19 N.J.R. 2302(a).

Added Superintendents and Assistant Superintendents.

New Rule, R.1988 d.107, effective March 7, 1988.

See: 20 N.J.R. 42(a), 20 N.J.R. 532(a).

Repealed text from old rule and inserted new.

Administrative correction, effective January 27, 1989.

See: 21 N.J.R. 558(a).

Institutional name change.

Amended by R.1991 d.503, effective October 7, 1991.

See: 23 N.J.R. 1259(a), 23 N.J.R. 3031(b).

Administrative title changes made and correction of an internal N.J.S.A. citation.

10A:3-4.2 Authorized off-duty firearms, ammunition and holsters

(a) Eligible employees who are trained and meet qualification specifications shall be permitted only one firearm authorized for off-duty use.

(b) A firearm intended for use as an off-duty weapon must have been obtained and registered pursuant to State and local laws of the State in which the employee lives. Employees may not loan or improperly transfer personal firearms.

(c) Authorized weapons to be carried off-duty are Smith and Wesson, Colt or Ruger, .38 or .357 caliber with a minimum barrel length of two inches and a maximum barrel length of four inches.

(d) Authorized ammunition for the four inch barrel firearm is the Winchester, Remington, Federal or Speer 125

grain Semi-Jacketed Hollow Point Plus P .38 caliber round. The 158 grain, round, lead nosed .38 caliber round or the 110 grain, Semi-Jacketed Hollow Point .38 caliber round may be used for the two inch barrel firearm only if manufactured by Winchester, Remington, Federal or Speer.

(e) Speed loaders are approved equipment for off-duty weapons qualifications.

(f) Only shoulder, waist and ankle holsters shall be used for off-duty use. The waist holster is the only holster approved for use while qualifying with the weapon. Holsters must hold the weapon firmly when inverted and have no internal clips. Off-duty firearms shall be carried in the approved holsters on the body. No purse holsters or holstered firearms in purses are approved.

(g) The employee shall be responsible for assuming the cost of weapons, ammunition, holsters and for maintaining his or her firearm in a safe and serviceable condition.

10A:3-4.3 Firearm instructors

Only those persons who have successfully completed the Police Training Commission Approved Training School's firearm instruction course and are certified as Firearms Instructors shall instruct in the Department of Corrections Firearms Training Program.

10A:3-4.4 Annual weapons training and re-qualification

(a) All correction officers and custody supervisors must be initially trained and qualify in the use and handling of approved off-duty firearms as provided in N.J.A.C. 10A:3.4-1(a). On an annual basis these employees must re-qualify in the same training course. Only those persons who achieve and maintain the required level of proficiency shall be authorized to use personal firearms while off-duty.

(b) Once an individual has qualified on his or her approved personal firearm, he or she shall receive the official Department off-duty weapons card. The off-duty firearm he or she carries must be the same one identified on the off-duty weapons card. Authorized personnel shall be required to carry their off-duty weapons card and the official Department identification card at all times while carrying their off-duty firearm.

(c) Should a personal firearm become unusable, stolen or unserviceable and the employee selects a personal firearm different from the one originally qualified for use, he or she must re-qualify on the different firearm before it can be used. This qualification may be completed prior to the next annual qualification period. If an employee merely wishes to change his or her authorized personal firearm as a matter of preference, he or she must wait until the next annual qualification period.

10A:3-4.5 Storage of personal firearms while on-duty

(a) An employee entering a correctional facility grounds while armed with an off-duty firearm must proceed directly to the facility's weapons collection station. The off-duty firearm shall be turned in fully loaded, in its holster, attached to the off-duty weapons identification card. No loose or additional ammunition shall be brought into the correctional facility or carried onto Department property.

(b) The employee must present his or her official Department identification card when checking the firearm out of the weapons collection station.

(c) Employees are prohibited from storing off-duty weapons or ammunition in their personal vehicles while on Department property.

(d) Employees assigned to satellite units or other Department residential facilities must store their firearms at the main correctional facility or an approved authorized weapons storage unit.

(e) Personal firearms shall be checked in and out on the employee's own time. It is the employee's responsibility to allow sufficient time for this procedure so that he or she will be on time to work.

(f) Under no circumstances may an employee carry a personally owned firearm into the correctional facility beyond the weapons collection station. Personally owned firearms shall not be carried or used while on-duty except when authorized by the Superintendent and approved by the Assistant Commissioner. In those instances, only Department-approved firearms may be used by qualified officers.

(g) Each correctional facility shall be responsible for preparing and maintaining a current master list of each employee authorized to carry an off-duty firearm.

1. The master list shall be maintained by the weapons collector to indicate qualification dates (new or expired), model numbers and serial numbers of authorized off-duty firearms.

2. Each time the employee registers his or her firearm, the weapons collector is responsible for comparing the qualification date, model and serial number contained on the master list against the weapons qualifications card accompanying the personal firearm.

10A:3-4.6 Use of force while off-duty

(a) Although N.J.S.A. 2A:154-4 authorizes peace officers to exercise law enforcement powers, no correction officer is required to exercise those powers or to carry arms during off-duty hours.

(b) Corrections officers, while off-duty, should not become involved with routine law enforcement duties as they apply to local police departments and the State Police. When an officer observes what he or she believes to be a violation of the law, he or she should take note of vehicle description, license plate numbers, identifying characteristics of persons involved and other relevant information. Such violations should, whenever possible, be reported to the local law enforcement agency having jurisdiction or to Central Control. Officers should avoid stopping or detaining vehicles or persons, or becoming involved in high speed chases whenever possible.

(c) In cases where officers have passed the qualifying examination and do elect to carry a weapon off-duty, the utmost discretion must be exercised by the officer 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 force exists, the officer may take the action which is calculated to be least dangerous or harmful to persons or property.

(d) Any use of force while off-duty shall be in accordance with the requirements of this Subchapter.

(e) A correctional employee shall be deemed to have acted within the scope of his or her employment or in the law and enforcement interest of the State of New Jersey if he or she exercises police powers in accordance with the provisions of this Subchapter and post orders promulgated in connection therewith.

10A:3-4.7 Use of non-deadly force

(a) Whenever non-deadly force is used off-duty, the minimum force possible under the circumstances shall be used.

(b) Non-deadly force may be used off-duty by authorized persons when it is believed to be immediately necessary to:

1. Defend one's self or others against any physical assault;
2. Prevent a suicide or the infliction of serious bodily harm;
3. Thwart the commission of a crime involving or threatening bodily harm, damage to or loss of property or a breach of the peace;
4. Prevent an escape; or,
5. Effect an arrest for any offense or crime under the laws of the State of New Jersey subject to (c) below.

(c) The use of non-deadly force to effect an arrest is only justifiable if:

1. The officer makes known his or her identity and the purpose of the arrest or reasonably believes that his or her identity and purpose are otherwise known by or cannot reasonably be made known to the person to be arrested; and,

2. The arrest is made under a warrant and the warrant is valid or reasonably believed by the officer to be valid.

10A:3-4.8 Use of deadly force

(a) Whenever firearms are used, the officer must first sound a verbal warning and then shoot to stop the subject. Warning shot shall not be authorized by the Department of Corrections.

(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. **Self-Defense:** When the officer reasonably believes that deadly force is immediately necessary to protect himself or herself against the use of unlawful force which he or she believes may result in death or serious bodily harm.

2. **Defense of a Third Person:** When the officer reasonably believes that deadly force is immediately necessary to protect another against the use of unlawful force which he or she believes may result in death or serious bodily harm. However, deadly force is not justifiable in the following situations:

i. If the officer can otherwise secure the complete safety of the protected person; or

ii. Where it reasonably appears that the person sought to be protected has unlawfully, with the purpose of causing death or serious bodily harm, provoked the use of deadly force against himself or herself in the same encounter.

3. **Prevention of Crime:** When the following conditions are met.

i. The officer reasonably believes that deadly force is necessary to prevent the commission of the following crimes:

Criminal homicide (2C:11-2)

Kidnapping (2C:13-1)

Aggravated sexual assault and sexual assault (2C:14-2)

Aggravated criminal sexual contact (2C:14-3a)

Robbery (2C:15-1)

Arson and related offenses (2C:17-1)

Burglary (2C:18-2)

ii. The person who the officer is seeking to prevent from committing a crime will endanger human life or

inflict serious physical injury upon another unless the commission or the consummation of the crime is prevented.

iii. The use of deadly force presents no substantial risk of injury to innocent persons.

iv. Deadly force may not be used to prevent the following crimes:

Death by auto (2C:11-5)

Criminal sexual contact (2C:14-3b)

4. **Arrest and Escape from Custody:** When the following conditions are met.

i. The officer reasonably believes that deadly force is necessary to effect an arrest or prevent the escape of a person who has committed or has attempted to commit the following crimes:

Criminal homicide (2C:11-2)

Kidnapping (2C:13-1)

Aggravated sexual assault and sexual assault (2C:14-2)

Aggravated criminal sexual contact (2C:14-3a)

Robbery (2C:15-1)

Arson and related offenses (2C:17-1)

Burglary (2C:18-2)

ii. The use of deadly force presents no substantial risk of injury to innocent persons.

iii. There is probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others.

iv. The use of deadly force is necessary to thwart the commission of a crime as set forth in i. above or the use of deadly force is necessary to prevent an escape or flight from arrest for a crime as set forth in i. above, provided that the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others.

v. Deadly force may not be used to effect an arrest or to prevent an escape from custody for the crimes or attempts to commit the crimes of:

Death by auto (2C:11-5)

Criminal sexual contact (2C:14-3b)

5. **Escape from Detention:** Where the officer reasonably believes that deadly force is necessary to prevent the escape of a person committed to a correctional facility for the detention of persons charged with or convicted of an offense, provided that the officer believes that the force employed creates no substantial risk of injury to innocent persons.

10A:3-4.9 Unauthorized use of personal weapons while off-duty

(a) An employee shall not be authorized to carry an off-duty firearm in the following instances:

1. Where N.J.S.A. 2C:39-7 (Persons Convicted of Certain Crimes) is applicable;
2. Where 18 U.S.C. 1202 Appx.—Appendix to the United States Code (Persons Convicted of Certain Crimes) is applicable;
3. When an employee has been suspended from duty for any violation by the Superintendent or a higher official of the Department;
4. Pending charges or during investigations of alleged incidents involving the misuse of a weapon; or
5. Any other situation where the Superintendent may exercise his or her authority to withdraw off-duty weapons privileges, subject to the review of the appropriate Assistant Commissioner.

(b) In any of the above instances, the off-duty weapons card must be turned in to the Superintendent or his or her designee.

10A:3-4.10 Carrying weapons in casinos prohibited

Pursuant to N.J.A.C. 19:45-1.13, an employee shall not carry a firearm within a casino.

10A:3-4.11 Reporting incidents

(a) When an authorized off-duty firearm is believed to have been lost or stolen, the employee must report this fact to the local police jurisdiction and his or her correctional facility within three hours from the time he or she is aware that the firearm is missing. When an off-duty weapons card, I.D. card or badge is believed to have been lost or stolen, the employee must notify the Superintendent or his or her designee within 24 hours.

(b) A correction officer shall immediately and without exception report to the local police jurisdiction and his or her correctional facility any incident where he or she has displayed, drawn or fired his or her off-duty firearm, or any incident or injury which occurred from the use of any firearm he or she was involved with.

(c) On the next working day after any incident as described in (a) or (b) above, the officer must report in writing to the Superintendent the fact of the incident and identifying particulars of the incident. The Superintendent shall then forward the report to the Central Office Internal Affairs Unit for appropriate action.

(d) The employee shall, within three days, report to the correctional facility in writing whenever a registered authorized off-duty firearm has been sold or is no longer in use.

10A:3-4.12 Penalties for violation

(a) Actions which do not conform to the provisions of this subchapter and any post orders implemented in connection with this subchapter may result in the following:

1. Disciplinary action;
2. Personal, civil or criminal liability;
3. Denial of indemnification;
4. Refusal by the Office of the Attorney General to represent the officer.

(b) Decisions regarding (a)3 and 4 above will be made by the Attorney General after reviewing the facts of the case.

(c) Indemnification and representation may be denied whenever the officer has used force maliciously or criminally, as well as when the use of force violates the provisions of this subchapter.

10A:3-4.13 Post orders and procedures

(a) Each correctional facility shall be responsible for developing written post orders and procedures consistent with this subchapter.

(b) All written post orders and procedures shall be forwarded to the Office of the Deputy Commissioner for review and approval on or before February 15 of each year.

SUBCHAPTER 5. SEARCH OF INMATES AND FACILITIES
10A:3-5.1 Purpose

Facilities and inmates may be searched as provided by this subchapter for the purpose of controlling and deterring the introduction and concealment of contraband. The definition of contraband and all procedures for disposition of contraband set forth in N.J.A.C. 10A:3-6, CONTRABAND AND DISPOSITION OF CONTRABAND are fully applicable to this subchapter.

10A:3-5.2 Search plan

(a) Each correctional facility shall develop and implement a comprehensive written plan governing searches of facilities and inmates. Each plan shall be submitted to the Office of the Deputy Commissioner for legal review and approval on or before February 15 of each year.

(b) Each adult institution shall appoint an officer, at a rank no less than captain, as Institutional Search Plan Coordinator.

(c) The Institutional Search Plan Coordinator shall submit a monthly written report, on the appropriate implementation of the Institutional Search Plan, to the Superintendent.

(d) The Superintendent of each adult institution shall submit, in the first calendar week of January and July, a written report on the appropriate implementation of the Institutional Search Plan to the Assistant Commissioner, Division of Adult Institutions.

Amended by R.1988 d.582, effective December 19, 1988.
See: 20 N.J.R. 2441(a), 20 N.J.R. 3155(a).
Added (b)-(d).

10A:3-5.3 Searches of facilities

(a) All inmate residential, work, training areas 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 may be limited to a specific building or area.

(b) Procedures to be utilized in conducting searches shall be as set forth by each correctional facility's Standard Operating Procedures, to be promulgated pursuant to the search plan required by N.J.A.C. 10A:3-5.2. 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.

10A:3-5.4 Inspection of security devices

(a) All bars and sashes, locks, windows, doors, lock boxes and other security devices shall be inspected daily to detect any tampering or defect.

(b) Emergency keys shall be checked at least quarterly to determine that they work properly.

(c) Inspections of security devices shall be conducted continuously and systematically but scheduled to avoid an observable or predictable routine. The results of all inspections shall be submitted in writing to the shift supervisor for review by the Director of Custody Operations.

10A:3-5.5 Metal detector searches

(a) Searches of inmates by the use of metal detectors may be done routinely where necessary for security purposes. This may be a walk-through device or a handheld device which is passed over the fully clothed body of the inmate. The metal detector may also be utilized in conjunction with a strip search, as, for example, to pass the detector over the inmate's anal area.

(b) Metal detector searches may be conducted by male or female officers.

10A:3-5.6 Pat search

(a) A pat search or pat-frisk shall be conducted while the inmate is fully clothed. A pat search or pat-frisk 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 of the inmate from any area where the inmate has had access to dangerous or valuable items;
2. Prior to entering the visiting room; or
3. Under any other circumstances where conditions indicate a need for such searches, as, for example, 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 reasonably clear indication that the inmate is carrying contraband. This search may be conducted only with prior approval of a supervisory level officer or staff member. Factors which may form the basis for such search may include:

1. Personal observations of activities or conditions which may be interpreted in light of the correction officer'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 officers regardless of the sex of the inmate.

Amended by R.1988 d.406, effective September 6, 1988.
See: 20 N.J.R. 1331(a), 20 N.J.R. 2294(a).
Changed frisk to pat.

10A:3-5.7 Strip searches

(a) A strip search or strip frisk shall be conducted while the inmate is unclothed. A strip search includes a thorough and systematic examination of the inmate's body and orifices, including visual inspection of external genital and anal areas, as well as the inmate's clothing and all personal possessions.

(b) Strip searches may be conducted in the following circumstances:

1. After a contact visit;
2. Before an inmate enters or leaves the facility's main building, whether to go to a destination in the outside community or to a minimum security camp or farm area;

3. Prior to the departure of the inmate from any area where the inmate has had access to dangerous or valuable items;

4. Upon entering or leaving any close custody unit; or
5. During housing unit/wing searches.

(c) Strip searches may also be conducted before placement in administrative segregation, prehearing detention, disciplinary detention, protective custody, the Management Control Units, South Hall and all other close custody units, except that no visual examination of anal or genital parts shall be conducted in connection with these placements.

(d) In addition, an inmate may be strip searched when an officer with a rank of Sergeant or above is satisfied that there is a clear indication that an inmate is carrying contraband on his or her person or in his or her anal or vaginal cavity.

1. In the event an officer of the rank of Sergeant or above is reasonably satisfied that an inmate has secreted or inserted contraband into his or her anal or vaginal cavity, the inmate shall be escorted immediately to the facility's hospital or medical department.

2. The following procedures shall be followed for examination of the inmate and removal of contraband:

i. The inmate may remove the object in the presence of a medical staff person of either sex, and a correction officer of the same sex as the inmate.

ii. A medical doctor or registered nurse may examine the inmate and remove the object, without the use of force, in the presence of a correction officer of the same sex as the inmate.

iii. In the event a correction officer of the rank of Sergeant or above determines, by the use of a metal detector, that a foreign object which contains metal is present in the inmate's anal or vaginal cavity, such object may be removed by a medical doctor only, with or without the use of force, in the presence of such correction officers of the same sex as the inmate as are necessary to insure security.

iv. In the event the supervisory officer or medical staff person has determined that an inmate is concealing non-metal contraband in his or her anal or vaginal cavity, and the inmate refuses to permit its 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 may be kept under visual surveillance to detect removal or elimination of the contraband. N.J.A.C. 10A:4, INMATE DISCIPLINE, shall apply to all such placements.

(e) All pat searches, strip searches and body cavity searches shall be conducted in a professional and dignified manner, with maximum courtesy and respect for the inmate's person. The number of officers present shall be only that number reasonably necessary to provide security. No member of the opposite sex shall be present during strip searches and body cavity searches except medical staff persons as set forth in (d) above, and as set forth in (g) below.

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

(g) Strip searches of inmates may be conducted by officers of the opposite sex under emergent conditions as ordered by the Superintendent. Under no circumstances shall invasive body cavity searches be conducted by anyone other than a medical doctor or registered nurse (R.N.).

Amended by R.1988 d.406, effective September 6, 1988.

See: 20 N.J.R. 1331(a), 20 N.J.R. 2294(a).

Changed frisk to pat and added (g).

Amended by R.1994 d.374, effective July 18, 1994.

See: 26 N.J.R. 1937(b), 26 N.J.R. 2903(a).

10A:3-5.8 Canine searches

(a) All correctional facilities and properties under the jurisdiction of the Department of Corrections are subject to random searches by canine teams, trained to discover narcotics.

(b) Before any canine search is conducted, inmates and/or visitors shall be removed from the immediate area to be searched.

(c) There shall be no canine searches of persons.

New Rule, R.1987 d.397 effective October 5, 1987.

See: 19 N.J.R. 1175(a), 19 N.J.R. 1813(a).

10A:3-5.9 Urine monitoring

(a) Urine monitoring may be conducted for the purpose of deterring and controlling the introduction of contraband or to detect the presence of opiates, methadone, barbiturates, amphetamines, cocaine, tranquilizers, darvon, marijuana, alcohol or any other drug not authorized for possession or use by the correctional facility medical staff.

(b) Inmates may be required to submit urine for analysis when:

1. A correction officer of the rank of Sergeant or above or an Internal Affairs Officer believes, based upon his or her education and experience, that there is a reasonable factual basis to suspect the inmate of using or possessing drugs or alcohol;

2. A supervising staff member or a licensed medical staff person in residential contract facilities and/or other community residential facilities utilizing non-custody staff believes based upon his or her education and experience that there is a reasonable factual basis to suspect the inmate of using or possessing drugs or alcohol;

3. The Superintendent, Assistant Superintendent or the Director of Custody Operations orders all inmates of a particular housing unit, work detail or other functional unit to submit urine samples. Such orders shall be in writing and this authority may not be delegated;

4. A correction officer of the rank of Sergeant or above orders urine samples to be taken upon any inmate's return from furlough or other unsupervised temporary release from custody; or,

5. A Disciplinary Hearing Officer/Adjustment Committee orders a urine sample to be taken as part of a sanction for a drug or alcohol related infraction.

Recodification: this section was recodified from N.J.A.C. 10A:3-5.8.
See: 19 N.J.R. 1175(a), 19 N.J.R. 1813(a).

Case Notes

Evidence of chain of custody of inmate's urine sample met constitutional requirements. *Elkin v. Fauver*, C.A.3 (N.J.)1992, 969 F.2d 48, rehearing denied, certiorari denied 113 S.Ct. 473, 506 U.S. 977, 121 L.Ed.2d 379.

Sanctions against prison officials for violation of court ordered chain-of-custody requirements unwarranted. *Elkin v. Fauver*, C.A.3 (N.J.)1992, 969 F.2d 48, rehearing denied, certiorari denied 113 S.Ct. 473, 506 U.S. 977, 121 L.Ed.2d 379.

Inmate not entitled to compensation for prison's failure to comply with court-ordered chain-of-custody requirements. *Elkin v. Fauver*, C.A.3 (N.J.)1992, 969 F.2d 48, rehearing denied, certiorari denied 113 S.Ct. 473, 506 U.S. 977, 121 L.Ed.2d 379.

Random urinalysis program did not violate due process. *Laird v. McBride*, N.D.Ind.1993, 858 F.Supp. 822.

Failure to follow chain of custody procedures set forth on random urinalysis program form did not violate due process. *Laird v. McBride*, N.D.Ind.1993, 858 F.Supp. 822.

10A:3-5.10 Collection, storage and analysis of urine samples

(a) Each time a urine specimen is collected for the reasons stated in N.J.A.C. 10A:3-5.9(b), Form 172-I (Continuity of Evidence—Urine Specimen) shall be completed and submitted to the Internal Affairs Officer or the staff member responsible for maintaining custody of evidence.

(b) Urine samples taken from inmates shall be voided directly into an approved specimen bottle in the presence of at least one correction officer or staff member of the same sex as the inmate.

1. A minimum of 50 milliliters (two ounces) must be voided in order to provide an adequate sample.

2. The specimen bottle shall immediately be closed, labeled and sealed in the presence of the inmate by the correction officer or staff member.

3. The label shall indicate the inmate's name and number, the correctional facility to which the inmate is assigned, the name of the correction officer or staff member who witnessed the voiding of the sample, the date and time of the sample, and the prescription medication that the inmate is currently taking.

(c) The correction officer or staff member who signs the label as witness shall, as soon as reasonably practicable, deliver the urine sample to the Internal Affairs Officer or other officer responsible for maintaining custody over evidence.

1. The urine sample shall be placed in a locked and secure refrigerator or freezer by the officer for maintaining custody over evidence as soon as reasonably practical, but in no event later than eight hours after the sample was voided.

2. The officer who receives custody of the urine sample shall make a written record of the date and time he or she received the sample, the officer from whom it was received, and the date and time of its placement into the evidence locker and/or locked refrigerator.

(d) Inmate urine samples transported out of the correctional facility for drug testing shall be transported, where reasonably practical, in an iced cooler or similar device. The date and time of the removal of the sample from the correctional facility as well as the date and time of its receipt by the testing facility shall be noted in writing by the persons performing these functions.

(e) The Department of Corrections shall not proceed with testing any urine sample for drugs or alcohol unless the sample arrives at the laboratory in a sealed approved specimen bottle.

(f) Inmates charged with use of drugs or intoxicants not prescribed by the medical staff based upon the results of urine analysis shall be advised of the results of any tests at least 24 hours prior to any hearing ordered because of those charges.

(g) All urine monitoring shall be accomplished in a professional and dignified manner with maximum courtesy and respect for the inmate's person.

(h) Urine monitoring shall not be conducted as a means of punishment or discipline, except as ordered by a Disciplinary Hearing Officer/Adjustment Committee as permitted by Chapter 4, INMATE DISCIPLINE.

(i) No inmate shall be disciplined for refusing to provide a urine sample unless that inmate has been given a reasonable physical opportunity to comply with such order.

1. For the purposes of this rule, a reasonable physical opportunity shall constitute a two-hour period from the time of the initial order. The inmate may be required to remain in isolation during this two-hour period.

2. The inmate shall not be deemed to have complied with the order to submit a urine sample unless he or she voids the sample in the presence of a correction officer or staff member.

Recodification: This section was recodified from N.J.A.C. 10A:3-5.9.

See: 19 N.J.R. 1175(a), 19 N.J.R. 1813(a).

Amended by R.1989 d.140 effective March 20, 1989.

See: 21 N.J.R. 10(a), 21 N.J.R. 765(c).

At (b)1. . . . "in the presence of the inmate" . . . , added.

Amended by R.1991 d.503, effective October 7, 1991.

See: 23 N.J.R. 1259(a), 23 N.J.R. 3031(b).

Established minimum amount of urine necessary to provide an adequate sample for analysis.

Case Notes

Evidence of chain of custody of inmate's urine sample met constitutional requirements. *Elkin v. Fauver*, C.A.3 (N.J.)1992, 969 F.2d 48, rehearing denied, certiorari denied 113 S.Ct. 473, 506 U.S. 977, 121 L.Ed.2d 379.

Sanctions against prison officials for violation of court-ordered chain-of-custody requirements unwarranted. *Elkin v. Fauver*, C.A.3 (N.J.)1992, 969 F.2d 48, rehearing denied, certiorari denied 113 S.Ct. 473, 506 U.S. 977, 121 L.Ed.2d 379.

Inmate not entitled to compensation for prison's failure to comply with court-ordered chain-of-custody requirements. *Elkin v. Fauver*, C.A.3 (N.J.)1992, 969 F.2d 48, rehearing denied, certiorari denied 113 S.Ct. 473, 506 U.S. 977, 121 L.Ed.2d 379.

Random urinalysis program did not violate due process. *Laird v. McBride*, N.D.Ind.1993, 858 F.Supp. 822.

Failure to follow chain of custody procedures set forth on random urinalysis program form did not violate due process. *Laird v. McBride*, N.D.Ind.1993, 858 F.Supp. 822.

10A:3-5.11 Breathalyzer testing of inmates

(a) The Internal Affairs Unit shall be responsible for the operation of the breathalyzer.

(b) Inmates shall be required to submit to breathalyzer testing when:

1. A correction officer of the rank of Sergeant or above or an Internal Affairs Investigator has reasonable grounds to believe that an inmate has been using alcohol;

2. A supervising staff member or a licensed medical staff member in a residential contract facility and/or other community residential facility utilizing non-custody staff, has reasonable grounds to believe that an inmate has been using alcohol;

3. The Superintendent, Assistant Superintendent or the Director of Custody Operations orders all inmates of a particular housing unit, work detail or other functional unit to submit to breathalyzer testing. Such orders shall be in writing and this authority may not be delegated; or

4. A correction officer of the rank of Sergeant or above or an Internal Affairs Investigator orders breathalyzer testing on an inmate who has returned from furlough or any other unsupervised temporary release from custody.

(c) Whenever there is reasonable grounds to believe that an inmate is under the influence of alcohol and a breathalyzer test is to be conducted, Form 285-II BREATHALYZER REQUEST SUMMARY shall be completed by the authorizing staff member as set forth in (b) above.

(d) All breathalyzer testing shall be conducted and performed by an operator from the Internal Affairs Unit who is certified by the Department of Law and Public Safety in chemical breath analysis and Form 285-III ALCOHOL INFLUENCE REPORT shall be completed by the certified individual who conducts the breath analysis testing.

(e) Inmates with a blood alcohol concentration of 0.02 or more will be considered to have used and/or be under the influence of alcohol.

New Rule, R.1996 d.209, effective May 6, 1996 (operative August 19, 1996).

See: 28 N.J.R. 763(a), 28 N.J.R. 2387(b).

10A:3-5.12 Orientation and training

(a) Each Superintendent shall be responsible for ensuring that the requirements and guidelines set forth in this subchapter are followed.

(b) Post orders developed in accordance with this subchapter shall be made available to all correction officers and support staff. All personnel shall receive training in the interpretation and applicability of post orders, so as to insure effective and safe search techniques.

Amended by R.1987 d.397, effective October 5, 1987.

See: 19 N.J.R. 1175(a), 19 N.J.R. 1813(a).

Section divided into (a) and (b) subsections; recodified from 5.10.

Recodified from 10A:3-5.11 by R.1996 d.209, effective May 6, 1996 (operative August 19, 1996).

See: 28 N.J.R. 763(a), 28 N.J.R. 2387(b).

SUBCHAPTER 6. CONTRABAND AND DISPOSITION OF CONTRABAND

Cross References

Religious materials, see N.J.A.C. 10A:17-5.12.

10A:3-6.1 Contraband defined

(a) Contraband means:

1. Any item, article or material found in the possession of or under the control of an inmate which is not authorized for retention or receipt;

2. Any item, article or material found within the facility or on its grounds which has not been issued by the

correctional 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 facility or on its grounds which is not authorized for receipt, retention or importation; or,

4. Any item, article or material which is authorized for receipt, retention or importation by inmates, staff or visitors but which is found in an excessive amount or which has been altered from its original form. An amount shall be considered excessive if it exceeds stated correctional facility limits or exceeds reasonable safety, security, sanitary or space considerations.

(b) Any article which may be harmful or presents a threat to the security and orderly operation of the correctional facility shall be considered contraband. Items of contraband shall include, but shall not be limited to: guns and firearms of any type; ammunition; explosives; knives, tools and other implements not provided in accordance with correctional facility regulations; hazardous or poisonous chemicals and gases; unauthorized drugs and medications; medicines dispensed or approved by the correctional facility but not consumed or utilized in the manner prescribed; intoxicants, including but not limited to liquor or alcoholic beverages; and, where prohibited, currency and stamps.

(c) Correspondence and publications which meet any of the foregoing definitions of "contraband" shall be handled in accordance with N.J.A.C. 10A:18, MAIL, VISITS, AND TELEPHONE, unauthorized money or currency found in correspondence or publications shall be handled in accordance with N.J.A.C. 10A:3-6.7.

10A:3-6.2 Procedures for handling contraband upon discovery

(a) Whenever an item, article or material is determined to be contraband pursuant to N.J.A.C. 10A:3-6.1, it shall be immediately seized.

1. The correction officer or staff member making the seizure shall submit the contraband to the unit supervisor who shall submit it to the Internal Affairs or Central Control Unit of the correctional facility, together with a fully completed report form (Form 171-I, Seizure of Contraband Report). The contraband report must be submitted no later than the end of the shift during which it is seized.

2. Care should be taken at all times to carefully record the chain of possession of the contraband.

3. The correction officer or staff member shall also give an inmate from whose control or possession contraband is taken, an itemized, signed and dated receipt (Form 171-II, Inmate Receipt, Contraband Seizure), a copy of which shall also go to the Internal Affairs or Central Control Unit or the Cottage Life Office at the New Jersey Training School for Boys and the Lloyd McCorkle Training School for Boys and Girls. The

contents of this form shall be either read or explained to the inmate or resident as needed.

4. When contraband is removed from mail (that is, letters, packages, etc.) as defined by N.J.A.C. 10A:18, MAIL, VISITS AND TELEPHONE, the correction officer or staff member making the seizure shall send the inmate to whom the mail was addressed a completed copy of Form 171-II indicating that the specified items were removed.

5. The inmate shall have three days to appeal the seizure to the Superintendent or his or her designee.

(b) The Internal Affairs or Central Control Unit shall maintain a log of all Seizure of Contraband and Inmate Receipt forms (Forms 171-I and 171-II). It shall be the responsibility of these units to record the disposition of the contraband on the Seizure of Contraband Report (Form 171-I).

(c) All contraband seized shall be clearly and appropriately marked and securely stored by the Internal Affairs or Central Control Unit.

(d) If disciplinary charges are issued in connection with the seizure of contraband, the Internal Affairs or Central Control Unit shall present the contraband at the disciplinary hearing unless the contraband was seized pursuant to N.J.A.C. 10A:3-6.6. If the contraband was seized pursuant to N.J.A.C. 10A:3-6.6, the Disciplinary Hearing Officer/Adjustment Committee or Cottage Treatment Team at the Lloyd McCorkle Training School for Boys and Girls shall arrange to view the contraband outside the inmate's presence.

(e) Contraband shall be disposed of by the Internal Affairs or Central Control Unit in accordance with this Subchapter.

Administrative Correction, effective January 27, 1989.
See: 21 N.J.R. 558(a).

Institutional name change.

10A:3-6.3 Disposal of contraband personal property seized in reception units

(a) When an inmate is delivered to the Prison Reception Unit, Youth Reception Unit, Juvenile Reception Unit, Reception Unit at the Adult Diagnostic and Treatment Center or the Reception Unit at the Edna Mahan Correctional Facility for Women with items of personal property not authorized for retention or possession, the items shall be seized.

(b) The staff member making the seizure shall give the inmate an itemized, signed and dated receipt for the property seized, and shall notify the inmate that such items are contraband, and that he or she has three working days, from the date of the seizure of the contraband, to appeal the

classification of any or all items as contraband to the Superintendent.

1. If the Superintendent or his or her designee shall determine that any or all of the items are not contraband, they shall be returned to the inmate.

2. If the Superintendent shall determine that any item is contraband, the inmate shall be given two working days to indicate which of the following means of disposal should be used with respect to the property. The contraband shall either be:

- i. Mailed to a designated relative or friend of the inmate at the inmate's expense;
- ii. Given to a visitor for disposal;
- iii. Donated by the inmate to a charitable organization at the inmate's expense; or
- iv. Destroyed at the inmate's request.

3. If the inmate fails to indicate the desired disposition, the property shall be disposed of at the option of the Superintendent of the correctional facility in which the reception unit is located.

(c) Disciplinary reports shall not be issued to an inmate entering a reception unit for possession of unauthorized or excessive personal property.

Administrative Correction, effective January 27, 1989.

See: 21 N.J.R. 5589a.

Institutional name change.

10A:3-6.4 Disposal of contraband personal property seized within a correctional facility

(a) When contraband is seized within a correctional facility, appropriate disciplinary reports shall be written and issued pursuant to N.J.A.C. 10A:3-6.8.

(b) The staff member making the seizure shall give the inmate an itemized, signed and dated receipt (Form 171-II) for the property seized and shall notify the inmate that such items are contraband and that he or she has the right to appeal the classification of any or all items as contraband through the disciplinary process.

1. If the Disciplinary Hearing Officer/Adjustment Committee or Cottage Treatment Team at the Lloyd McCorkle Training School for Boys and Girls determines that any or all items are not contraband or if the Superintendent, on appeal, determines that an item is not contraband it shall be returned to the inmate.

2. If the Disciplinary Hearing Officer/Adjustment Committee or Cottage Treatment Team at the Training School for Boys, Skillman shall determine that any or all items are contraband, the inmate shall be given two working days following receipt of the Disciplinary Hearing Officer/Adjustment Committee or Cottage Treatment Team's decision or the decision of the Superintendent if the disciplinary decision is appealed to indicate to the Internal Affairs or Central Control Unit which of the following means shall be used to dispose of the contraband. The contraband shall either be:

i. Mailed to a designated relative or friend of the inmate at the inmate's expense;

ii. Donated by the inmate to a charitable organization at the inmate's expense; or

iii. Destroyed at the inmate's request.

3. Where the inmate fails to indicate the desired disposition, the property shall be disposed of at the option of the Superintendent.

4. For verifiable cases of inmates who have no family and no visitors, special arrangements to store property at the facility in which the inmate is housed may be approved on a case by case basis by the Superintendent and in accordance with N.J.A.C. 10A:1 ADMINISTRATION, ORGANIZATION AND MANAGEMENT.

Administrative Correction, effective January 27, 1989.

See: 21 N.J.R. 558(a).

Institutional name change.

10A:3-6.5 Disposal of contraband, State issued property

Where State issued personal property is confiscated as contraband pursuant to N.J.A.C. 10A:3-6.2, the inmate shall not have any option with respect to its disposition. It shall be returned to the source for redistribution or subsequent disposal. Commissary items seized as contraband may be distributed among needy inmates as determined by the Superintendent.

10A:3-6.6 Disposal of contraband threatening to security or disruptive of operations

(a) All contraband determined to pose a threat to security or to be disruptive of the orderly running of a correctional facility shall be taken into the custody of the correctional facility and under no circumstances shall be returned to the inmate.

1. The staff member making the seizure shall immediately turn the contraband over to the Internal Affairs or Central Control Unit of the facility, together with the completed Seizure of Contraband Report form and Inmate Receipt form in accordance with N.J.A.C. 10A:3-6.2.

2. Appropriate disciplinary reports shall be written and issued, pursuant to N.J.A.C. 10A:3-6.8.

(b) Suspected contraband narcotics or dangerous drugs may be forwarded to an approved laboratory for chemical analysis or, where appropriate, field tested at the correctional facility. All weapons, ammunition, explosives, chemicals, liquor or items altered from original status may be sent to the laboratory for analysis. After analysis, the contraband shall be claimed at the laboratory and secured at the facility.

(c) Precautions shall be taken to assure the continuity of possession of contraband that will be used as evidence in accordance with accepted legal procedures. Unauthorized items determined to pose a threat to or to be disruptive of the operations of a facility may be destroyed or properly disposed of by the facility only under the following circumstances:

1. With the permission of the Superintendent;
2. Upon completion of all disciplinary action; and
3. With the prior approval of the appropriate county prosecutor's office.

10A:3-6.7 Confiscation and disposal of unauthorized currency or money

(a) All unauthorized money or currency found in an inmate's possession shall be immediately seized and turned over to the Central Control, Internal Affairs Unit together with reports required by N.J.A.C. 10A:3-6.2.

1. Any inmate found to be in possession or to have control over such money or currency shall receive a disciplinary report.

2. A determination as to the manner in which the money or currency has been acquired shall be made by the Disciplinary Hearing Officer/Adjustment Committee at the disciplinary hearing from the reports against the inmate.

3. If the Disciplinary Hearing Officer/Adjustment Committee concludes that the money or currency is unauthorized or has been acquired through improper means, the Disciplinary Hearing Officer/Adjustment Committee shall recommend to the administration that the money or currency shall be forfeited by the inmate, deposited in the General Treasury Fund and recorded in the Law Enforcement Dedicated Account of the Department of Corrections.

4. Subsequent to the Disciplinary Hearing Officer/Adjustment Committee conclusion, the money or currency shall be turned over to the correctional facility Business Manager with a copy of the adjudicated disciplinary report. The Business Manager will be responsible for depositing and recording the funds to the appropriate account.

5. Money or currency forfeited by the inmate which is not the subject of disciplinary action as determined by the Disciplinary Hearing Officer/Adjustment Committee or the Superintendent shall be deposited in the inmate's account in accordance with N.J.A.C. 10A:2.

(b) Money orders and checks other than personal shall be the only approved form of money received through the mail which can be accepted by the correctional facility for deposit in inmates' accounts.

(c) All personal checks, whether received in the mail or brought in by visitors, shall be deemed contraband and shall not be accepted by the facility for deposit in inmates' accounts.

(d) All cash received through the mail shall be deemed contraband and shall not be accepted by the facility for deposit in inmates' accounts.

(e) Cash brought to the facility by visitors, for deposit in inmates' accounts, shall not be deemed contraband and shall be accepted by the facility provided appropriate records are maintained of cash received, and provided signed receipts are issued to the visitors with copies maintained by the facility.

(f) Facilities desiring to do so shall be permitted to place an upper limit on the total amount of cash which an inmate is permitted to receive, per day, from one visitor or a combination of visitors.

(g) The following procedures shall be utilized for disposing of the items defined as contraband:

1. All personal checks shall be refused if brought in by a visitor. Personal checks received through the mail shall be returned to the sender, at the correctional facility's expense. Personal checks returned via the mail shall include a note to the sender indicating that Department policy prohibits acceptance. In addition, Form 171-I (Seizure of Contraband Report) shall be filled out and a copy sent to the inmate.

2. All cash received through the mail shall be sent to the facility's Business Office whereupon a check, for each amount of cash received, shall be issued to the sender and mailed to the sender at the facility's expense. Accompanying the check shall be a note to the sender indicating that Department policy prohibits the acceptance of cash through the mail and explaining that the money is being returned in check form to protect against theft. In addition, Form 171-I (Seizure of Contraband Report) shall be filled out and a copy sent to the inmate.

Administrative Correction, effective January 27, 1989.

See: 21 N.J.R. 558(a).

Institutional name change.

Amended by R.1995 d.402, effective July 17, 1995.

See: 27 N.J.R. 1945(a), 27 N.J.R. 2692(a).

Cross References

Cash and personal checks as contraband, see N.J.A.C. 10A:18-2.13.

10A:3-6.8 Disciplinary reports

(a) When disciplinary reports are issued resulting from application of this Subchapter, such reports shall be issued and adjudicated in accordance with Chapter 4, INMATE DISCIPLINE.

(b) Specific prohibited acts which involve contraband and which apply to all facilities except the Lloyd McCorkle Training School for Boys and Girls are numerated in N.J.A.C. 10A:4-4.1 and in the Prison Complex Handbook on Discipline, the Youth Complex Handbook on Discipline and the Juvenile Handbook on Discipline.

(c) Specific prohibited acts which may involve contraband for residents of Lloyd McCorkle Training School for Boys and Girls are listed in N.J.A.C. 10A:4-13.5 and in that facility's Handbook for Residents.

Administrative Correction, effective January 27, 1989.
See: 21 N.J.R. 558(a).

Institutional name change.

10A:3-6.9 Introduction or discharge of contraband into or from a facility by a visitor

(a) Any visitor present within the correctional facility or on its grounds shall surrender any item, article, or material which the Superintendent or his or her designee shall determine to be contraband.

1. The correction officer or staff member seizing any item, article or material determined to be contraband, possession of which does not appear to violate any Federal or State statute, shall give the visitor an itemized, dated and signed receipt. When the visitor exits the facility, the employee shall, in return for the receipt, return the item to the visitor.

2. If there shall be reason to believe that possession of the contraband violates a Federal or State statute, the employee shall detain such visitor and notify the appropriate police agency.

(b) If there shall be reason to believe that a visitor has willfully introduced or was attempting to introduce contraband into the facility, such person shall be detained in the facility and the appropriate police agency shall be notified.

(c) Visitors may be subject to denial of future visits as specified by the Superintendent because of the presence of contraband in their possession or under their control. Where warranted, the case may be referred for criminal prosecution.

10A:3-6.10 Introduction or discharge of contraband into or from a facility by the mail

(a) Incoming correspondence and publications shall always be inspected for contraband. Any discovery of contraband in correspondence or publications shall be handled in accordance with N.J.A.C. 10A:18, MAIL, VISITS AND TELEPHONE.

(b) Unauthorized money or currency found in correspondence or publications shall be handled in accordance with N.J.A.C. 10A:3-6.7.

SUBCHAPTER 7. POLYGRAPH EXAMINATIONS

10A:3-7.1 Use of polygraph examinations with inmates

(a) A polygraph examination may be requested by the Superintendent:

1. When there are issues of credibility regarding serious incidents or allegations which may result in a disciplinary charge; or
2. As part of a reinvestigation of a disciplinary charge, when the Superintendent is presented with new evidence or finds serious issues of credibility.

(b) The polygraph shall not be used in place of a thorough investigation, but to assist an investigation when appropriate.

(c) Agreement by the inmate to take a polygraph examination shall not be a pre-condition for ordering a reinvestigation. An inmate's request for a polygraph examination shall not be sufficient cause for granting the request.

10A:3-7.2 Use of polygraph examinations with staff

Pursuant to N.J.S.A. 2A:170-90.1, no employee may be forced to consent to a polygraph examination as a prerequisite to employment or as a condition of retaining employment.

10A:3-7.3 Requesting a polygraph examination

The Superintendent shall request all polygraph examinations from the Department's Internal Affairs Unit, Polygraph Section, using Form 285-1 (Request for Polygraph Examinations). The Internal Affairs Unit, Polygraph Section, must approve all requests. If the polygraph involves a case in litigation, the request must be approved by the Commissioner or Deputy Commissioner prior to being referred to the Polygraph Section.

10A:3-7.4 Scheduling polygraph examinations

(a) Polygraph examinations shall be scheduled by the Department's Internal Affairs Unit, Polygraph Section. If the Department's polygraphists are not available, the Internal Affairs Unit shall make arrangements to obtain the services of a State Police polygraphist.

(b) The only polygraph examinations acceptable to the Department shall be those performed by the Department's polygraphists or those assigned to the State Police Polygraph Unit. No action of any kind shall be taken based on the results of independently performed polygraph examinations.

(c) Because polygraph examinations may be inappropriate under certain circumstances, the final decision on whether a polygraph examination will be given at a particular time shall be made by the polygraphist assigned to each individual case.

10A:3-7.5 Procedural limitations

(a) The inmate must be advised that the test is being administered as part of an official investigation.

(b) No examination shall be conducted unless the inmate has knowingly and without duress signed a written consent form. Under no circumstances shall any inmate be threatened or coerced into taking a polygraph examination. No inmate shall receive a disciplinary charge for refusal to take a polygraph examination.

(c) Whenever possible, the examination shall be conducted at the correctional facility where the inmate resides. However, the polygraphist may choose any other competent testing facility.

10A:3-7.6 Use of polygraph examinations with juveniles

(a) A juvenile under the age of 18 who consents to take a polygraph examination shall take the examination only with the express written consent of his or her parent or guardian, or if there is an appropriately executed court order.

(b) All other factors relating to administering polygraph examinations to juveniles shall be handled in the same manner as to an adult inmate.

SUBCHAPTER 8. FINGERPRINTING AND PHOTOGRAPHING JUVENILE INMATES
10A:3-8.1 Fingerprints of juvenile inmates

Pursuant to N.J.S.A. 2A:4A-61, a correctional facility may fingerprint any inmate detained in or committed to the facility as the result of an adjudication of delinquency. Such records may be retained by the facility to be used for purposes of identification.

10A:3-8.2 Photographs of juvenile inmates

Inmates 14 years of age or older may be photographed for purpose of identification. Inmates under the age of 14 shall not be photographed unless both the juvenile and his or her parent or guardian expressly consent in writing or there is an appropriately executed court order.

10A:3-8.3 Confidentiality

(a) All fingerprint and photograph records of juvenile inmates shall be plainly marked "confidential". These records shall not be released except to the following:

1. Law enforcement agencies of this State for law enforcement purposes;
2. Any court or probation department;
3. The Attorney General or County Prosecutor;
4. The parents or guardian;

5. The attorney of the juvenile, provided the attorney has secured permission from the parents or guardian;

6. The Division of Youth and Family Services, if DYFS is providing care or custody of the juvenile; or

7. As directed by court order, as permitted by N.J.A.C. 10A:22, RECORDS.

10A:3-8.4 Written policy and procedures

Each facility which houses inmates with juvenile commitments shall prepare written policy and procedures consistent with this Subchapter. These shall be submitted to the Special Assistant for Legal Affairs in the Office of the Deputy Commissioner for legal review and approval.

SUBCHAPTER 9. TRANSPORTATION OF INMATES
10A:3-9.1 Use of State-owned and privately-owned vehicles

(a) Transporting of inmates shall be done only in State-owned vehicles, except when emergencies or other unusual circumstances require the use of privately-owned vehicles.

(b) If it is necessary for an inmate to ride in an employee's private vehicle, the employee must secure approval from the Superintendent or his or her designee of the facility responsible for the inmate prior to such transportation.

1. If approval is granted, the employee shall be made aware of Departmental policy regarding the use of private vehicles and the liability provisions currently applicable as established by the Department of the Treasury, Division of Budget and Accounting.

2. In all cases, the employee shall furnish proof that the vehicle is properly licensed, registered and insured.

3. The use of an employee's vehicle may be authorized, but not required, by the correctional facility.

(c) Employees escorting inmates shall carry in their possession a valid drivers license.

10A:3-9.2 Transporting inmates by aircraft

The transporting of inmates by aircraft shall be in accordance with written guidelines formulated by the Office of Interstate Services, pursuant to N.J.A.C. 10A:3-9.11.

10A:3-9.3 Transport of maximum custody inmates

(a) State-owned vehicles used to escort maximum custody inmates shall be equipped with protective screening devices to separate inmates from the driver. Opening devices on the inner rear doors and windows of passenger sedans shall be made inoperable for inmates. The rear door locking

mechanism shall be modified so that is redirected, making it accessible to the officer only when the front door is open.

(b) The standard passenger sedan or van shall be used only in lieu of more secure but unavailable vehicles. Use of such vehicles to transport maximum custody inmates shall be in accordance with written institutional procedures.

(c) Vans or buses shall be used to transport groups of inmates. Those vehicles used to transport groups of maximum custody inmates shall comply with the following:

1. Windows or small ports must be protected by security screens or metal bars;
2. Security screen barricades with gates and locks must be located between driver and inmates;
3. A section of the rear of the bus must be screened off for baggage storage;
4. Transportation officer(s) must be seated with a clear view of the bus compartment; and
5. The vehicle must be equipped with one ten pound fire extinguisher (ABC Class).

(d) Vehicles used to transport maximum custody inmates shall be thoroughly searched for contraband by the transportation officer(s) before being used.

(e) Officers escorting inmates shall be provided by the correctional facility, or the Office of Interstate Services as appropriate, with necessary mechanical restraints.

1. The use of mechanical restraints shall be governed by N.J.A.C. 10A:3-3.6.
2. FAA regulations and individual airline rules govern the use of mechanical restraints while in aircraft flight.

(f) Upon arrival at a courthouse, any leg restraints shall be removed. Restraint belts and handcuffs shall not be removed until arraignment unless otherwise ordered by the court. Immediately at the conclusion of the hearing, handcuffs and restraint belts shall be replaced on the inmate.

(g) Officers escorting maximum custody inmates (except Training School inmates) shall always be armed with State issued weapons and ammunition. Any use of deadly force shall be governed by N.J.A.C. 10A:3-3.3.

(h) When escorting maximum custody inmates, the ratio of escorting officers to inmates shall be two officers for one inmate, two officers for two inmates, three officers for three inmates. Written procedures shall be developed by each correctional facility regarding the security and staffing arrangements required when transporting four or more inmates.

(i) When transporting inmates outside of a correctional facility, at least one correction officer shall be of the same sex as the inmate(s) being escorted. Additional correction officers may be assigned regardless of gender.

(j) Only properly trained officers may transport maximum custody inmates. Such officers shall have been fully trained in the following areas:

1. Use of weapons and restraint equipment;
2. Effective search for contraband of inmates, their personal property and transportation vehicles, and
3. Any other activities required to successfully complete a transportation assignment.

(k) An inmate shall be strip searched by the escorting officer(s) prior to the trip and at any time after the inmate has been out of their sight. Strip searching upon return to the unit or delivery to the receiving unit is the responsibility of the unit's officers. See, N.J.A.C. 10A:3-5.

(l) The strip search of an inmate(s), as part of the transportation process, shall be conducted in compliance with the provisions of N.J.A.C. 10A:3-5.7.

Amended by R.1990 d.536, effective November 5, 1990.
See: 22 N.J.R. 2223(a), 22 N.J.R. 3379(a).

Specified at least one same sex officer must be present for transportation and new (l) specified strip search rule compliance.

10A:3-9.4 Transporting reduced custody inmates

(a) The Superintendent or his or her designee shall make a determination with respect to the specific staffing and security arrangements required when transporting a reduced custody inmate. In these cases, a careful review shall be made of the individual case to determine the most appropriate staffing and security arrangements for each trip.

(b) Transportation of minimum custody inmates in work/study release, furlough program and other such programs shall be done in accordance with appropriate Department rules.

(c) The searching of inmates shall be in accordance with the requirements of N.J.A.C. 10A:3-5 SEARCH OF INMATES AND FACILITIES.

10A:3-9.5 Transportation documents

(a) Prior to accepting escort responsibility for any inmate, officers shall be informed of the following: inmate's name and number, destination, degree of custody, unusual medical, emotional, or mental peculiarities. Officers shall also be provided appropriate medical information setting forth any prescribed medication or instructions for special handling when transporting medical or psychiatric cases.

(b) Prior to escort to court and on inter-facility transfers, the officer shall ensure that he or she has all documents necessary to obtain custody and/or to effect delivery of the inmate being escorted.

(c) Officers escorting court trips shall be provided a form on which to indicate detainers filed against the inmate for use by the judge in case the sentence giving the unit jurisdiction is vacated. This form shall also have space for the officer to enter the following: name of judge, sentence passed, plea, other pertinent information.

(d) All officers shall carry the official Department identification card approved by the Commissioner and issued by the correctional facility.

10A:3-9.6 Recall to court

(a) An inmate shall only be produced in court by a writ of habeas corpus, writ of habeas corpus ad testificandum, post conviction relief order, or other order to produce which is to be at the correctional facility 48 hours prior to the scheduled court appearance.

1. It shall be improper to produce an inmate in court on a subpoena only.
2. Writs of habeas corpus must be signed by either a New Jersey State Superior Court judge or a Federal court judge. No other writs to produce shall be honored.
3. Questions concerning the validity of any writ shall be referred to the office of the Deputy Commissioner, Department of Corrections.
4. Any requests for exception to this policy shall be referred to the office of the Deputy Commissioner.

(b) A county may send its own officers to pick up an inmate at any time provided they have an appropriate writ with them.

Amended by R.1993 d.435, effective September 7, 1993.
See: 25 N.J.R. 2820(a), 25 N.J.R. 4105(b).

10A:3-9.7 Inmate supervision

(a) During escort, inmates shall be carefully guarded to prevent escape and receipt of contraband.

(b) No communication between inmate and public shall be permitted at any time during escort.

(c) An inmate's special requests during escort not related to the purpose of the trip shall not be honored. The inmate shall be immediately returned to the correctional facility upon completion of the trip's purpose.

(d) If, while at court, the judge approves an interview of the inmate with the attorney, the officer shall be present during the interview. The officer shall not monitor the attorney-client conversation.

(e) An inmate shall be taken directly to the destination of a sickbed or funeral visit. Side trips for any purpose shall not be permitted. An inmate on such a trip shall not be allowed out of sight of the officer.

10A:3-9.8 Emergencies

Officers shall immediately notify the Superintendent or the next person in line of authority if an emergency arises during the transportation of an inmate. If time or other considerations make it impossible to contact the Superintendent, the State Police and/or local police may be notified by the officer without prior clearance by the Superintendent.

10A:3-9.9 Transporting parole violators and escapees with physical injuries

(a) Prior to accepting responsibility for an injured parole violator or escapee to be escorted, the escort officer shall make every effort to obtain written information on how the injury occurred and whether medical aid was administered. A copy of a medical report shall be obtained to aid medical authorities at the receiving correctional facility.

(b) If a medical report is not available, the escort officer shall request the supervisor on duty at the sending correctional facility to provide a brief written statement that the injury was received prior to turning over the custody of the parole violator or escapee.

(c) Upon arrival at the receiving correctional facility, Central Control shall be notified so that the parole violator or escapee may be promptly seen by the facility's medical department.

(d) The physical condition of the injured parole violator or escapee shall be recorded photographically by the receiving correctional facility. A full and accurate description of the injury shall be recorded.

(e) A brief written report of the injury shall be submitted pursuant to N.J.A.C. 10A:22, REPORTS.

10A:3-9.10 Clothing

(a) Escorting officers going out-of-state, to any Federal court or on sickbed or funeral visits shall wear civilian clothing. All other escorting officers shall wear uniforms.

(b) Inmates shall wear civilian clothing on court trips.

10A:3-9.11 Office of Interstate Services

(a) The Interstate Escort Unit within the Office of Interstate Services of the Division of Policy and Planning shall be responsible for the return of parole violators and escapees from out-of-state and the transfer of inmates under the Interstate Corrections Compact. The Unit shall also assist, on an emergency basis, correctional facility officers in escorting inmates on writ to the courts, trips to out-side

medical facilities or other movements within State boundaries.

(b) Unless otherwise specified, the Senior Interstate Escort Officer shall be in charge in all matters relating to the interstate transportation of New Jersey escapees, parole violators and/or corrections compact transfers. Whenever correctional facility employees are assigned to assist the Interstate Escort Unit for such trips, they shall be responsible to the Senior Interstate Escort Officer for the duration of the assignment.

(c) The Office of Interstate Services shall develop specific guidelines governing the transporting of inmates by aircraft. These guidelines shall be approved by the Assistant Commissioner, Division of Adult Institutions, prior to implementation. Current Federal Aviation Administration rules applicable to any phase of aircraft use in transporting inmates shall be maintained by the Office of Interstate Services.

Administrative Correction to (c).
See: 24 N.J.R. 3093(a).

10A:3-9.12 Medical transportation

(a) In emergency situations when a non-ambulatory maximum custody inmate is in need of hospitalization or treatment outside of the correctional facility, he or she shall be transported by ambulance, or by a State-owned vehicle if an ambulance is unavailable. A State-owned vehicle shall be used to transport an ambulatory inmate who is in need of hospitalization or treatment outside of the facility.

(b) When an inmate is transported by ambulance, an officer shall accompany him or her in the ambulance and another officer shall follow the ambulance in a back-up car. When an inmate is transported by a State-owned vehicle, the ratio of escorting officers to inmates shall be governed by N.J.A.C. 10A:3-9.3(h) TRANSPORTATION OF INMATES.

(c) The use of mechanical restraints and equipment when transporting an inmate for hospitalization or treatment shall be governed by N.J.A.C. 10A:3-3.6 and the nature of the illness or injury.

(d) When a reduced custody inmate requires medical transport, the Superintendent or his or her designee shall make a determination with respect to the specific staffing and security arrangements required. In these cases, a careful review shall be made of the individual case to determine the appropriate vehicle, staffing and security arrangements for each trip.

Amended by R.1991 d.503, effective October 7, 1991.
See: 23 N.J.R. 1259(a), 23 N.J.R. 3031(b).
Corrected N.J.A.C. cite in (c).

10A:3-9.13 Transportation costs in a civil action

(a) The costs of transporting an inmate to court for civil action will be paid by the Department of Corrections when:

1. The cause of action is related to the inmate's confinement;
2. The cause of action is a Family Court matter such as, but not limited to, matrimonial and child custody; or
3. The inmate is a defendant and the plaintiff is a governmental entity.

(b) The cost of transporting an inmate to court for a civil action other than those listed in (a) above shall be paid in advance of the transportation by:

1. The inmate;
2. The inmate's attorney or representative; and/or
3. The person bringing the civil action against the inmate or that person's representative.

(c) The correctional facility Business Office shall prepare a detailed written statement of expenses using the following criteria to determine the cost of transportation due:

1. The number of correction officers and/or supervisor required for the inmate's custody classification handled in accordance with this subchapter;
2. The fee per correction officer/supervisor which is the maximum salary of each representative title at time and a half;
3. The State vehicle mileage cost which is established by the Director, Division of Budget and Accounting, Department of Treasury. The overall State vehicle cost shall be based on the mileage rate times the sum of the number of miles to and from the destination;
4. The cost of meals;
 - i. The projected number of meals for inmates and correction officers which shall be established in accordance with the State of New Jersey Travel Regulations, Department of Treasury.
 - ii. The fee charged for each meal (breakfast, lunch and/or dinner) which shall be based on the rate in the current State of New Jersey Travel Regulations, Department of Treasury.
 - iii. The cost of meals which shall be the projected number of meals times the per meal fee established by the State of New Jersey Travel Regulations, Department of Treasury; and

5. All tolls and parking expenses.

(d) The total costs of transporting an inmate to court for civil actions must be received in the form of a certified check made payable to the "Treasurer, State of New Jersey" and submitted for processing to the correctional facility Business Office.

New Rule, R.1996 d.62, effective February 5, 1996.
See: 27 N.J.R. 3273(a), 28 N.J.R. 853(a).

10A:3-9.14 Written procedures

Each correctional facility and the Office of Interstate Services shall prepare written procedures governing the transportation of inmates outside of the correctional facility and from one jurisdiction to another, consistent with the requirements of this Subchapter. These procedures shall be made available to all personnel involved in transporting inmates and shall be reviewed at least annually and updated as necessary.

Recodified from 10A:3-9.13 by R.1996 d.62, effective February 5, 1996.
See: 27 N.J.R. 3273(a), 28 N.J.R. 853(a).

SUBCHAPTER 10. SECURITY PROCEDURES FOR ADMINISTRATIVE TRANSFERS OF INMATES FROM SATELLITE UNITS AND COMMUNITY BASED PROGRAMS

10A:3-10.1 Use of mechanical restraints

(a) Inmates assigned to satellite units and community based facilities may be transferred to medical or dental appointments, approved interviews, Parole Board Hearings and other similar destinations without the use of mechanical restraints (that is, handcuffs, security belts, etc.).

(b) When an inmate is to be returned to a correctional facility for any reason that creates an increased likelihood of

an escape attempt, staff members of the satellite unit or community based program shall put into effect the security measures necessary to prevent an escape.

(c) Satellite units and community based programs shall notify the appropriate correctional facility when a decision has been made to remove an inmate from the program. The correctional facility shall assign transporting officers to make the transfer. The transporting officers shall routinely carry restraint equipment in order that the transfer will be made in a safe and secure manner.

(d) The inmate shall not be informed of his or her impending removal from the program prior to the arrival of transporting officers from the correctional facility responsible for making the transfer. Upon arrival of the transporting officers, the inmate to be transferred shall be identified and he or she shall immediately be secured with mechanical restraints.

10A:3-10.2 Inmate's personal property

(a) All of the handcuffed inmate's personal property shall be packed in his or her presence to ensure an accurate inventory.

(b) In instances when the inmate's behavior, while his or her personal property is being packed, becomes disruptive to the extent that it poses a threat to the orderly operation of the unit, the inmate shall be removed from the facility and his or her personal property shall be forwarded to the receiving correctional facility immediately following the transfer.

10A:3-10.3 Inmate supervision

A transporting officer and/or facility staff member(s) shall be in the presence of the inmate during the entire transfer process.