

CHAPTER 31

ADULT COUNTY CORRECTIONAL FACILITIES

Authority

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

Source and Effective Date

R.2011 d.059, effective January 21, 2011.
See: 42 N.J.R. 2692(a), 43 N.J.R. 427(a).

Chapter Expiration Date

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

Chapter Historical Note

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 The chapter was repealed by R.1986 d.182, effective May 19, 1986.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

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

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

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

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

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

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

Chapter 31, Adult County Correctional Facilities, was repealed and Chapter 31, Adult County Correctional Facilities, was adopted as new rules by R.1990 d.140, effective March 5, 1990.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

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

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

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

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

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

Chapter 31, Adult County Correctional Facilities, was readopted as R.2011 d.059, effective January 21, 2011. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. GENERAL PROVISIONS

10A:31-1.1 Purpose

(a) The purpose of this chapter is to:

1. Establish the minimum criteria for the planning, design and construction of new adult county correctional facilities or renovation of existing facilities;
2. Establish the minimum criteria for the administration of adult county correctional facilities;
3. Establish guidelines for the provision of programs and services to inmates in adult county correctional facilities;
4. Establish guidelines which permit correctional officials at county and State levels to analyze and evaluate the

performance and adequacy of services provided to inmates by adult county correctional facilities, and delineate the deficiencies which require improvement;

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

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

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

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

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

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

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

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

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

Added (a)8.

10A:31-1.2 Scope

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

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

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

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

10A:31-1.3 Definitions

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

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

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

"Body cavity search" means the visual inspection or manual search of a person's anal or vaginal cavity.

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

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

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

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

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

1. Severity of current offense;
2. Prior assaultive offense history;
3. Escape history;
4. History of correctional facility violence;
5. Balance of term to be served to expiration of sentence (initial only);
6. Alcohol/drug abuse (initial only);
7. Current detainer/open charges;
8. Prior felony convictions (initial only);
9. Education (initial only);
10. Employment (initial only);
11. Age;
12. Number of disciplinary reports (reclassification only);
13. Most severe disciplinary infraction received (reclassification only);
14. Program participation (reclassification only);
15. Balance on parole eligibility date (reclassification only); and
16. System overrides.

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

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

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

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

1. Social Security number;
2. Driver’s license number or State identification card number; or

3. Account number or credit or debit card number, in combination with any required security code, access code or password that would permit access to an individual’s financial account.

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

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

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

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

“Protective custody” means confinement to a secure unit designated to restrict or limit an inmate’s activities and contacts with others, in order to provide protection to the inmate from injury or harm actually threatened, or reasonably believed to exist based on events, investigative reports, reports from an informant(s) or other reliable sources of information.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Inserted “Objective classification”.

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

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

Rewrote the section.

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

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

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

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

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

Added definition “Personal information”.

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

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

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

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

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

Added definition “Electronic communication device”.

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

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

Added definitions “Legitimate public official” and “Publication”.

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

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

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

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

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

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

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

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

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

10A:31-1.4 Forms

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

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

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

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

10A:31-1.5 Rulemaking and exemption authority

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

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

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

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

In (c) substituted "adult county correctional facility" for "Jail" and "custody staff member" for "officer"; rewrote (f); and in (k) substituted "law enforcement authorities" for "and State police".

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

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

In (a), added "(see N.J.S.A. 2C:33-1)."

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

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

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

10A:31-7.6 Natural disasters

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

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

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

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

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

In (a) and (b), substituted references to law enforcement authorities for references to the State police; and in (a), substituted a reference to the Department of Emergency Management for a reference to the Department of Civil Defense.

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

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

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

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

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

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

SUBCHAPTER 8. SECURITY AND CONTROL

10A:31-8.1 (Reserved)

Repealed by R.2000 d.322, effective August 7, 2000.

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

Section was "Contraband defined".

10A:31-8.2 Search of inmates and facilities

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

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

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

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

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

10A:31-8.3 Search of inmates

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4. Under sanitary conditions; and

5. In a professional and dignified manner.

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

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

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

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

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

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

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

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

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

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

2. The adult county correctional facility Administrator;

3. The Attorney General;

4. The county prosecutor; and/or

5. The person searched.

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

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

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

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

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

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

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

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

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

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

Rewrote the section.

Case Notes

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

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

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

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

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

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

i. A search warrant or valid documented consent; or

ii. A reasonable suspicion that an inmate is concealing a weapon, controlled dangerous substance, contraband or evidence of a crime.

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

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

2. Before placement of an inmate into:

i. Prehearing Detention;

ii. Disciplinary Detention; or

iii. Protective Custody.

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

4. After a contact visit.

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

1. Body vermin;

2. Cuts;

3. Bruises;

4. Needle scars; and

5. Other injuries, where appropriate.

(d) A strip search shall be conducted:

1. At a location where the search cannot be observed by unauthorized persons;
2. By a custody staff member(s) of the same sex as the inmate except as set forth in (e) below;
3. By the number of custody staff members deemed reasonably necessary to provide security;
4. Under sanitary conditions; and
5. In a professional and dignified manner.

(e) Strip searches may be conducted by custody staff members of the opposite sex under emergency conditions as ordered by the adult county correctional facility Administrator.

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

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

1. A statement of facts indicating any reasonable suspicion that is the basis for the search;
2. A statement of the emergent conditions requiring the presence of a custody staff member of the opposite sex when such conditions existed;
3. The name of the custody staff supervisor in charge who authorized the search;
4. The name(s) of the custody staff member(s) present during the search and the reason for custody staff presence;
5. The name(s) of the custody staff member(s) conducting the search; and
6. An inventory of the items(s) found during the search.

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

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

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

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

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

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

Rewrote (d).

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

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

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

Case Notes

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

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

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

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

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

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

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

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

1. Remove the object in the presence of the licensed medical professional and a custody staff member(s) of the same sex as the person; or

2. Be examined by the licensed medical professional who may remove the object in a medically accepted manner and environment, without the use of force.

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

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

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

1. A statement of facts indicating any reasonable suspicion for the search and that the search was conducted in a medically accepted manner;

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

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

4. The name(s) of the licensed medical professional(s) conducting the search;

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

6. The reason for use of force, if necessary; and

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

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

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

2. The adult county correctional facility Administrator;

3. The Attorney General;

4. The county prosecutor; and/or

5. The person searched.

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

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

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

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

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

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

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

Rewrote the section.

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

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

1. The custody staff supervisor in charge authorizes the search and the search is authorized by a warrant or valid documented consent; or

2. The search is based on a reasonable suspicion that a weapon, controlled dangerous substance, contraband or evidence of a crime will be found in the body cavity of the inmate.

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

1. A body cavity search shall be conducted:

i. Under sanitary conditions;

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

iii. By a licensed medical professional of either sex;

iv. In the presence of only the custody staff member(s) deemed reasonably necessary for security, who are of the same sex as the inmate; and

v. Conducted in a professional and dignified manner, with maximum courtesy and respect for the inmate's person.

2. The inmate may:

i. Remove the object in the presence of the licensed medical professional and a custody staff member(s) of the same sex as the inmate; or

ii. Be examined by the licensed medical professional who may remove the object in a medically ac-

cepted manner and environment, without the use of force.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10A:31-8.8 Search of facilities

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

(b) Procedures to be utilized in conducting searches shall be as set forth by each facility's plan governing searches required by N.J.A.C. 10A:31-8.2. 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.

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

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

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

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

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

Recodified from 10A:31-8.6 by R.1994 d.484, effective September 19, 1994.

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

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

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

In (c), substituted a reference to adult county correctional facility Administrators for a reference to Jail Administrators; and in (g), substituted a reference to custody staff members for a reference to correctional officers.

10A:31-8.9 Center Control

(a) The Center Control shall coordinate all security and communication functions within the facility.

(b) The Center Control shall be staffed 24 hours a day.

(c) Access to the Center Control shall be limited to authorized staff members who shall enter this location from a

secure area not accessible to unauthorized persons, such as by way of the sally-port.

(d) All security perimeter doors, Center Control entrances and cell block doors shall remain secure except during use or in an emergency situation.

(e) The Center Control shall be responsible for the following:

1. Inmate counts;
2. Key control;
3. Operational coordination;
4. Internal and perimeter security; and
5. Communications.

(f) The Center Control shall monitor, as warranted, the following systems:

1. Fire alarms;
2. Smoke and thermal detection;
3. Public address;
4. Radio; and
5. Other mechanical and electrical systems.

Recodified from 10A:31-8.7 by R.1994 d.484, effective September 19, 1994.

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

10A:31-8.10 Counts

(a) At the end of each work shift, a count shall be taken by the oncoming shift custody staff.

(b) Custody staff taking count shall convey count sheets to the area/individual designated in adult county correctional facility internal management procedures.

(c) Inmates assigned to cell blocks shall be in their respective cells during counts. During the count, custody staff shall verify that the inmates being counted are alive and not in an unsafe situation.

(d) No one except a custody staff member shall conduct a count.

(e) During the third shift hours, approximately 10 P.M. to 6 A.M., inmates shall be counted every half hour and the results of these counts shall be communicated to the central control area.

(f) The information contained on signed count slips shall be transposed to a master log located in the Center Control.

Recodified from 10A:31-8.8 by R.1994 d.484, effective September 19, 1994.

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

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

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

Substituted references to custody staff for references to correctional officers throughout; rewrote (e); and in (f), inserted "signed" preceding "count".

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

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

In (a), deleted "written"; rewrote (b).

10A:31-8.11 Inmate movements

(a) Inmates shall move about the adult county correctional facility in an orderly fashion to facilitate the maintenance of security and the orderly operation of the facility.

(b) Inmate movements shall be observed by custody staff located in strategic areas in order to:

1. Detect the occurrence of assaults;
2. Deter the passage of contraband;
3. Maintain security and order; and
4. Expedite the movement of inmates from one location to another.

Recodified from 10A:31-8.9 by R.1994 d.484, effective September 19, 1994.

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

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

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

In (b), substituted a reference to custody staff for a reference to correction officers.

10A:31-8.12 Custody staff posts

(a) Staff at every adult county correctional facility shall develop written operating procedures for every post which shall include, but not be limited to, provisions for staffing and collapsing a post when operationally necessary. These procedures shall be reviewed and updated annually.

(b) Custody staff shall be required to sign for post orders and acknowledge that the content is understood.

(c) Custody staff posts shall be located immediately in or adjacent to inmate living areas.

(d) Custody staff shall not leave their assigned posts without being properly relieved unless authorized by the Administrator or designee.

(e) Under no circumstances shall a custody staff member be removed from his or her post to perform another function if such removal results in the post becoming unstaffed unless authorized by the Administrator or designee.

(f) Custody staff shall not respond to violent situations unless the custody staff have received prior approval from the Center Control.

(g) Post orders for each custody staff member working in a housing unit shall include a requirement that each inmate, who has been classified as being in need of close supervision, shall be observed as frequently as the adult county correc-