

**CHAPTER 3
SECURITY AND CONTROL**

Authority

N.J.S.A. 30:1B-6, 30:1B-10, 30:4-123.47c, 52:14B-5.1c, 52:17B-169, 2C:58-15 and 2A:154-3 and 4.

Source and Effective Date

R.2002 d.171, effective May 8, 2002.
See: 34 N.J.R. 962(a), 34 N.J.R. 1908(a).

Chapter Expiration Date

Chapter 3, Security and Control, expires on May 8, 2007.

Chapter Historical Note

Chapter 3, Security and Control, was 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: 23 N.J.R. 1259(a), 23 N.J.R. 3031(b).

Pursuant to Executive Order No. 66(1978), Chapter 3, Security and Control, expired on September 16, 1996.

Chapter 3, Security and Control, was adopted as new rules by R.1997 d.41, effective January 21, 1997. See: 28 N.J.R. 4840(a), 29 N.J.R. 356(a).

Subchapter 8, Fingerprinting and Photographing Juvenile Inmates, was repealed by R.2001 d.197, effective June 18, 2001. See: 32 N.J.R. 2637(a), 33 N.J.R. 2082(a).

Chapter 3, Security and Control, was readopted as R.2002 d.171, effective May 8, 2002. See: Source and Effective Date. See, also, section annotations.

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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 custody staff members, both on-duty and off-duty;
2. Establish policies and procedures regarding the use of firearms on-duty and off-duty;
3. Establish policies and procedures for searching inmates and facilities in order to control and deter contraband;
4. Define contraband and establish policies and procedures for its seizure and disposal;
5. Establish policies and procedures for testing for prohibited substances;
6. Establish policies and procedures for the use of polygraph examinations to ensure that they are used only under limited and appropriate circumstances;
7. Establish policies and procedures regarding the transportation of inmates outside the correctional facility and from one jurisdiction to another; and
8. Establish policies and 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.

Amended by R.1997 d.41, effective January 21, 1997.

See: 28 N.J.R. 4840(a), 29 N.J.R. 356(a).

In (a)6, added text "who may be transferred to a Department of Corrections facility".

Amended by R.2002 d.171, effective June 3, 2002.

See: 34 N.J.R. 962(a), 34 N.J.R. 1908(a).

Rewrote the section.

10A:3-1.2 Scope

This chapter shall be applicable to the Department of Corrections unless otherwise indicated in this chapter.

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).

Amended by R.1997 d.41, effective January 21, 1997.

See: 28 N.J.R. 4840(a), 29 N.J.R. 356(a).

Amended by R.2001 d.197, effective June 18, 2001.

See: 32 N.J.R. 2637(a), 33 N.J.R. 2082(a).

Rewrote the section.

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.

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

"Central Communications Unit" means the centralized communication center within the Department of Corrections which coordinates certain functions of the Department of Corrections on a 24 hour, seven day a week basis.

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

"Central Medical/Transportation Unit" means the centralized unit which provides transportation for inmates within the 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.

"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;

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, sanitation or space considerations; or

5. 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.

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

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

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

“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.

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

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

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

“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.

“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 the rank of Lieutenant or higher responsible for the maintenance of security during a tour of duty in a correctional facility.

“Strip search” means a thorough and systematic examination of an unclothed person’s body and orifices, including visual inspection of external genital and anal areas, as well as the person’s clothing and all personal possessions.

“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 and exposes those persons to a substantial risk of harm.

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”.
Amended by R.1997 d.41, effective January 21, 1997.
See: 28 N.J.R. 4840(a), 29 N.J.R. 356(a).

Added “Body cavity search”, “Central Communications Unit”, “Central Medical/Transportation Unit”, “Correction officer”, “Contraband”, and “Mechanical restraints”; deleted “Commissioner”, “Department”, and “Superintendent”; and amended “Deadly force”, “Non-deadly force”, “Pat search” and “Strip search”.

Amended by R.2000 d.33, effective January 18, 2000.
See: 31 N.J.R. 3577(a), 32 N.J.R. 303(b).

Deleted “Internal Affairs Unit”.
Amended by R.2002 d.171, effective June 3, 2002.
See: 34 N.J.R. 962(a), 34 N.J.R. 1908(a).

In “Contraband”, substituted “sanitation” for “sanitary” following “security” in 4; deleted “Correction officer”; rewrote “Deadly force”, “Pat search”, “Roving patrol”, “Shift supervisor”, and “Strip search”; inserted “Imminent danger”, “Reasonable belief” and “Substantial risk”.

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 Administrative Rules Unit:

1. 156-I Oath of Office;
2. 171-I Seizure of Contraband Report

3. 171-II Inmate Receipt, Contraband Seizure
4. 171-III Notice of Decision on Appeal, Contraband Seizure (Non-Disciplinary)
5. 172-I Continuity of Evidence—Urine Specimen;
6. 172-II Continuity of Evidence—On Site Urine Specimen Testing;
7. 173-I Placement In Keep Separate Status
8. 173-II Removal From Keep Separate Status
9. 173-III Transfer of Keep Separate Status Inmate;
10. 285-I Request for Polygraph Examination
11. 285-II Prohibited Substance Testing Request Summary.

(b) The following form related to transportation of inmates is printed by the Bureau of State Use Industries—DEPTCOR and each facility shall purchase a supply of this form by contacting DEPTCOR:

1. 002 Travel Order.

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.
Amended by R.1997 d.41, effective January 21, 1997.
See: 28 N.J.R. 4840(a), 29 N.J.R. 356(a).

Added (b).
Amended by R.2002 d.171, effective June 3, 2002.
See: 34 N.J.R. 962(a), 34 N.J.R. 1908(a).

Rewrote (a).
Administrative change.
See: 35 N.J.R. 1137(a).

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 Administrator indicating the reason(s) for the recommendation.

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

Administrative change.

See: 32 N.J.R. 303(a).

Amended by R.2002 d.171, effective June 3, 2002.

See: 34 N.J.R. 962(a), 34 N.J.R. 1908(a).

In (b), substituted "Administrator indicating" for "Superintendent giving" preceding "the reason(s)"; in (c), substituted "Administrator" for "Superintendent" preceding "may order".

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

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

(b) If the Administrator authorizes that an inmate be placed in keep separate status, the completed Form 173-I, along with 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.

Amended by R.2002 d.171, effective June 3, 2002.

See: 34 N.J.R. 962(a), 34 N.J.R. 1908(a).

In (a) and (b), substituted "Administrator" for "Superintendent" throughout.

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 determined to be 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 of other correlated keep separate status inmate(s) via the Department of Corrections computerized inmate information record-keeping systems;

2. Complete Form 173-III Transfer of Keep Separate Status Inmate for the 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

1. For maintenance of the firearm;
2. To secure the firearm;
3. When commanded by the firearms staff during training exercises, range practice, qualification or requalification with the firearm;
4. When circumstances create a reasonable belief that it may be necessary to use the firearm in the performance of the custody staff member's duties; or
5. When circumstances create a reasonable belief that display of a firearm as an element of constructive authority will help establish or maintain control in a potentially dangerous situation in an effort to discourage resistance and ensure custody staff safety.

(c) A custody staff member, if required to carry a firearm while on-duty, shall carry his or her on-duty firearm on his or her person at all times unless otherwise instructed by his or her immediate supervisor. The firearm shall:

1. Remain in the holster while in a rest room; and
2. Not be left in a motor vehicle or other unauthorized location except under unusual or special circumstances, such as when a custody staff member must remove his or her on-duty firearm and another authorized staff member is unavailable to take custody of the firearm. Under an unusual or special circumstance every effort shall be made to secrete the firearm within a locked compartment.

(d) The custody staff member entering any residential or correctional facility of the Department of Corrections shall store his or her firearm at the main correctional facility or at an approved Department of Corrections authorized weapons storage unit.

(e) When an authorized firearm is believed to have been lost or stolen, the custody staff member shall report this fact to the local law enforcement authorities and to the New Jersey Department of Corrections within three hours from the time the custody staff member is aware that the firearm is missing.

(f) When a State of New Jersey, Firearms Unit Weapons Card, official photo identification card or badge of the New Jersey Department of Corrections is believed to have been lost or stolen, the custody staff member shall notify the local law enforcement authorities and the Director of Custody Operations, Unit Chief, or their designee as soon as practicable.

Recodified from N.J.A.C. 10A:3-3.3 and amended by R.2002 d. 171, effective June 3, 2002.

See: 34 N.J.R. 962(a), 34 N.J.R. 1908(a).

Substituted "custody staff member" for "correction officer" throughout; added (b)5. Former N.J.A.C. 10A:3-4.3, Off-duty firearm, recodified to N.J.A.C. 10A:3-4.6.

10A:3-4.4 Personnel authorized to carry firearms while off-duty

(a) Firearms may be carried off-duty only by Department:

1. Custody staff holding the rank of Senior Correction Officer and higher who meet the following requirements:

i. Have taken and successfully completed the Police Training Commission (P.T.C.) approved basic course for State correction officers as set forth in N.J.S.A. 52:17B-66 et seq. (The Department of Corrections shall allow completion of an equivalent P.T.C. approved course for county correction officers to substitute for this requirement.);

ii. Have qualified in the use and handling of approved off-duty firearms at the firearms training course of the Corrections Staff Training Academy (CSTA), New Jersey Department of Corrections; and

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

2. Administrative staff authorized by the Commissioner or designee who have taken and successfully completed the firearms training course at the Corrections Staff Training Academy (CSTA), New Jersey Department of Corrections.

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.

Amended by R.1997 d.41, effective January 21, 1997.

See: 28 N.J.R. 4840(a), 29 N.J.R. 356(a).

Substantially amended section.

Amended by R.2002 d.65, effective March 4, 2002.

See: 33 N.J.R. 3857(a), 34 N.J.R. 1027(a).

In (a), inserted "N.J.A.C." following "provided by" in the introductory paragraph, substituted "Commissioner or designee" for "Chief of Staff" and deleted "Thomas M. Cooper" preceding "Corrections" in 2. Recodified from N.J.A.C. 10A:3-4.1 and amended by R.2002 d. 171, effective June 3, 2002.

See: 34 N.J.R. 962(a), 34 N.J.R. 1908(a).

In (a), rewrote the introductory paragraph, substituted "custody staff" for "correction officer" in 1, deleted "Thomas M. Cooper" preceding "Corrections Staff" throughout. Former N.J.A.C. 10A:3-4.4, Firearm instructors, recodified to N.J.A.C. 10A:3-4.7.

10A:3-4.5 Authorized off-duty firearms, ammunition, holsters and security

(a) Eligible employees who are trained and meet qualification specifications shall be permitted to have a maximum of two authorized firearms for off-duty use. An eligible

employee shall be authorized to carry only one such firearm at a time on his or her person while off-duty.

(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) Only off-duty firearm makes and models approved and authorized by the New Jersey Department of Corrections may be carried while off-duty.

(d) Ammunition for the off-duty firearm(s) shall be approved and authorized by the New Jersey Department of Corrections.

(e) Only shoulder, waist and ankle holsters shall be used for off-duty use. A holster must hold the firearm firmly when inverted and have no internal clips. An off-duty firearm shall be carried in the approved holster on the body. No purse holsters or holstered firearms in purses are approved.

(f) The waist holster is the only holster approved for use while qualifying with the off-duty firearm(s).

(g) Personnel who elect to use a shoulder or ankle holster for off-duty use shall demonstrate proficiency in the use of that holster during firearms requalification but need not qualify while using the holster.

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

(i) Pursuant to N.J.S.A. 2C:58-15, an employee who knows or reasonably should know that a minor is likely to gain access to a loaded firearm at a premises under the employee's control shall:

1. Store the off-duty firearm in a securely locked box or container;
2. Store the off-duty firearm in a location which a reasonable person would believe to be secure; or
3. Secure the off-duty firearm with a trigger lock.

Amended by R.1997 d.41, effective January 21, 1997.

See: 28 N.J.R. 4840(a), 29 N.J.R. 356(a).

Substantially amended section.

Recodified from N.J.A.C. 10A:3-4.2 and amended by R.2002 d. 171, effective June 3, 2002.

See: 34 N.J.R. 962(a), 34 N.J.R. 1908(a).

Rewrote section. Former N.J.A.C. 10A:3-4.5, Firearms training, qualification and requalification, recodified to N.J.A.C. 10A:3-4.8.

10A:3-4.6 Off-duty firearm

(a) The authorized off-duty firearm shall be the responsibility of the employee at all times.

(b) The employee shall not draw or exhibit his or her firearm except for one of the following circumstances:

1. For maintenance of the firearm;
2. To secure the firearm;
3. When commanded by the firearms staff during training exercises, range practice, qualification, or requalification with the firearm; or
4. When circumstances create a reasonable belief that it may be necessary to use the firearm.

Recodified from N.J.A.C. 10A:3-4.3 by R.2002 d. 171, effective June 3, 2002.

See: 34 N.J.R. 962(a), 34 N.J.R. 1908(a).

Former N.J.A.C. 10A:3-4.6, Storage of personal firearms while on-duty, recodified to N.J.A.C. 10A:3-4.9.

10A:3-4.7 Firearm instructors

(a) As established by the New Jersey Division of Criminal Justice requirement, only those persons who have successfully completed a Police Training Commission (P.T.C.) approved firearms instruction course and are P.T.C. certified as Firearm Instructors shall instruct in the Department of Corrections Firearms Training Program at the Corrections Staff Training Academy (C.S.T.A.).

(b) As established by the New Jersey Division of Criminal Justice, all firearms training instructors engaged by the Department of Corrections for annual and requalification firearms training shall satisfy at least one of the following requirements:

1. Be certified by the P.T.C.;
2. Possess training equivalent to the P.T.C. approval firearms instructor course and are able to demonstrate a knowledge of and skill with a firearm; or
3. Have successfully completed some other recognized firearms instructor course as determined by the Commissioner of the Department of Corrections.

Recodified from 10A:3-4.3 by R.1997 d.41, effective January 21, 1997. See: 28 N.J.R. 4840(a), 29 N.J.R. 356(a).

Substantially amended (a); and added (b). Former rule recodified to N.J.A.C. 10A:3-4.5.

Recodified from N.J.A.C. 10A:3-4.4 and amended by R.2002 d. 171, effective June 3, 2002.

See: 34 N.J.R. 962(a), 34 N.J.R. 1908(a).

Former N.J.A.C. 10A:3-4.7, Use of force while off-duty, recodified to N.J.A.C. 10A:3-3.6.

10A:3-4.8 Off-duty firearms training, qualification and requalification

(a) All personnel authorized by the DOC to carry firearms off-duty must be initially trained and shall qualify in the use and handling of approved off-duty firearms.

(b) Department of Corrections personnel who carry off-duty firearms shall requalify annually on a range approved by the New Jersey Department of Corrections.