

**CHAPTER 3
SECURITY AND CONTROL**

Authority

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

Source and Effective Date

R.2015 d.037, effective February 9, 2015.
See: 46 N.J.R. 1928(a), 47 N.J.R. 649(b).

Chapter Expiration Date

Chapter 3, Security and Control, expires on February 9, 2022.

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Subchapter 8, Fingerprinting and Photographing Juvenile Inmates, was repealed by R.2001 d.197, effective June 18, 2001.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: 34 N.J.R. 962(a), 34 N.J.R. 1908(a).

Chapter 3, Security and Control, was readopted as R.2007 d.294, effective August 20, 2007. As a part of R.2007 d.294, Subchapter 1, Introduction, was renamed General Provisions, effective September 17, 2007. See: 39 N.J.R. 2191(a), 39 N.J.R. 3936(b).

Subchapter 11, Security Threat Groups, was recodified in part from Subchapter 6 of Chapter 5 of this Title and adopted as new rules in part by R.2011 d.277, effective November 7, 2011. See: 43 N.J.R. 1562(a), 43 N.J.R. 3024(a).

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 3, Security and Control, was scheduled to expire on August 20, 2014. See: 43 N.J.R. 1203(a).

Chapter 3, Security and Control, was readopted as R.2015 d.037, effective February 9, 2015. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. GENERAL PROVISIONS

10A:3-1.1 Purpose

(a) The purpose of this chapter is to establish policies and procedures regarding:

1. The use of force by custody staff members, both on-duty and off-duty;
2. The use of firearms on-duty and off-duty;
3. The search of inmates and facilities in order to control and deter contraband;

4. Contraband seizure and disposal;
5. Testing for prohibited substances;
6. The use of polygraph examinations to ensure that they are used only under limited and appropriate circumstances;
7. The transportation of inmates outside the correctional facility and from one jurisdiction to another;
8. The placement of inmates into and removing inmates from keep separate status; and
9. Security threat groups.

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.

Amended by R.2007 d.294, effective September 17, 2007.

See: 39 N.J.R. 2191(a), 39 N.J.R. 3936(b).

Rewrote the section.

Amended by R.2011 d.277, effective November 7, 2011.

See: 43 N.J.R. 1562(a), 43 N.J.R. 3024(a).

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

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:

"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 another individual, but is carrying a weapon and running for cover.

Recodified from 10A:3-6.4 and amended by R.1997 d.41, effective January 21, 1997.

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

Former rule recodified to N.J.A.C. 10A:3-6.2.

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 or designee" for "Superintendent" in 1, 3 and 4, and rewrote the introductory paragraph of 2.

10A:3-6.4 Disposal of contraband, State issued property

Where State issued personal property is confiscated as contraband, 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 Administrator or designee.

Recodified from 10A:3-6.5 and amended by R.1997 d.41, effective January 21, 1997.

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

Former rule recodified to N.J.A.C. 10A:3-6.3.

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

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

Substituted "Administrator or designee" for "Superintendent".

10A:3-6.5 Disposal of contraband threatening to security or disruptive to operations

(a) All contraband determined to pose a threat to security or to be disruptive to 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 Special Investigations Division or Central Control of the correctional facility, together with the completed Seizure of Contraband Report Form 171-I and Inmate Receipt Form 171-II.

2. Appropriate disciplinary reports shall be written and issued, pursuant to N.J.A.C. 10A:3-6.7.

(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 or to be disruptive to 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 Administrator or designee;
2. Upon completion of all disciplinary action; and

3. With the prior approval of the appropriate county prosecutor's office.

Recodified from 10A:3-6.6 and amended by R.1997 d.41, effective January 21, 1997.

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

Former rule recodified to N.J.A.C. 10A:3-6.4.

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 (a), substituted "to" for "of" following "disruptive" in the introductory paragraph; in (c), deleted "to" following "pose a threat" and substituted "to" for "of" following "disruptive" in the introductory paragraph, and substituted "Administrator" for "Superintendent" in 1. Amended by R.2007 d.294, effective September 17, 2007.

See: 39 N.J.R. 2191(a), 39 N.J.R. 3936(b).

In (c)1, inserted "or designee".

10A:3-6.6 Confiscation and disposal of unauthorized money, unauthorized checks or currency

(a) All unauthorized money, unauthorized checks or currency found in an inmate's possession shall be immediately seized and turned over to Central Control or Special Investigations Division together with reports required by N.J.A.C. 10A:3-6.

1. Any inmate found to be in possession or to have control over such money, unauthorized checks or currency shall be subject to disciplinary action.

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

3. If the Disciplinary Hearing Officer/Adjustment Committee concludes that the money, checks 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, checks 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, checks 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, checks or currency forfeited by the inmate which is not the subject of a disciplinary action as determined by the Disciplinary Hearing Officer/Adjustment Committee or the Administrator 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 funds received through the mail which can be accepted by the correctional facility for deposit in inmate 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 inmate accounts.

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

(e) Money orders and checks other than personal shall be the only approved form of funds a visitor may bring to the correctional facility for deposit in an inmate account. Cash shall not be accepted.

(f) Administrators have the discretion to place an upper limit on the total amount of funds 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).

Recodified from 10A:3-6.7 and amended by R.1997 d.41, effective January 21, 1997.

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

In (b), required checks be certified; rewrote (e); and in (f), substituted "funds" for "cash". Former rule recodified to N.J.A.C. 10A:3-6.5.

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 (a)5, substituted "Administrator" for "Superintendent".

Amended by R.2007 d.294, effective September 17, 2007.

See: 39 N.J.R. 2191(a), 39 N.J.R. 3936(b).

Section was "Confiscation and disposal of unauthorized currency or money". In the introductory paragraph of (a), (a)1 and (a)2, inserted "unauthorized checks"; in the introductory paragraph of (a), substituted "or" for the comma following "Control"; in (a)1, substituted "be subject to" for "receive a" and "action" for "report"; in (a)2, substituted "regarding" for "against" and "incident" for "inmate"; in (a)3, (a)4 and (a)5, inserted "checks" throughout; in (b) and (e), deleted "certified"

preceding "checks"; inserted "other than personal" and substituted "funds" for "money"; and in (f), substituted "Administrators have the discretion" for "Facilities desiring to do so shall be permitted".

Cross References

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

10A:3-6.7 Disciplinary reports

(a) When disciplinary reports are issued resulting from application of this subchapter, such reports shall be issued and adjudicated in accordance with N.J.A.C. 10A:4, Inmate Discipline.

(b) Specific prohibited acts which involve contraband are enumerated in N.J.A.C. 10A:4-4.1 and in the Department of Corrections, Handbook on Discipline.

Administrative Correction, effective January 27, 1989.

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

Institutional name change.

Recodified from 10A:3-6.8 and amended by R.1997 d.41, effective January 21, 1997.

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

In (b), deleted reference excepting Lloyd McCorkle Training School for Boys and Girls and amended and deleted handbook references; and deleted (c). Former rule recodified to N.J.A.C. 10A:3-6.6.

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), substituted "N.J.A.C. 10A:4" for "Chapter 4".

10A:3-6.8 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 Administrator or designee shall determine to be contraband.

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

2. If there is reason to believe that possession of the contraband violates a Federal or State statute, the employee shall detain such a visitor and notify the correctional facility Special Investigations Division.

(b) If there is 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 correctional facility Special Investigations Division shall be notified.

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