

“Institutional Classification Committee (I.C.C.)” means the committee of correctional facility staff members responsible for monitoring an inmate’s progress and assigning the inmate to appropriate programs or activities. The I.C.C. may consist of subcommittees as deemed necessary.

“Institutional Classification Reception Committee (I.C.R.C.)” means the committee of staff members responsible for determining the initial custody status and correctional facility assignments of male inmates; the custody status and correctional facility assignments of male parole violators, escapees and Interstate Corrections Compact transferees; and for recommending inmates at the Central Reception and Assignment Facility (CRAF) who are considered appropriate for Protective Custody.

“Internal Management Procedures” means procedures that are issued by the correctional facility/unit Administrator or supervisor or designee to provide specific operating procedures for that particular correctional facility/unit.

“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 for administrative reasons to ensure the safe, secure and orderly operation of the correctional facility and/or in order to prevent the possibility of retaliation because of a previous act or occurrence.

“Lawfully confined” means custodial confinement in a municipal detention facility, county correctional facility or a Department of Corrections facility.

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

1. An attorney of this State or any other state when properly identified as such on the outside of the envelope;
2. Offices of the Federal or State Public Defender;
3. The Office of the Attorney General;
4. Federal, State, county and municipal courts;
5. Federal, State, county and municipal court judges;
6. Offices of Legal Services;
7. Legal assistance clinics managed by accredited law schools of this or any other state;
8. The Administrative Office of the Courts;
9. Offices of the Federal, State or county Prosecutor;
10. A foreign consul;
11. The Bureau of Risk Management, New Jersey Department of the Treasury;
12. The Special Investigations Division, Department of Corrections;
13. The Corrections Ombudsperson, Division of Citizen Relations, Department of the Public Advocate; and

#### 14. The Office of Administrative Law.

“Legal material” means papers or documents that are required to be filed with the court and served upon opposing parties. Legal material includes:

1. Orders required by their terms to be served;
2. Written notices;
3. Written motions;
4. Demands, or answers to demands which the inmate is required to serve, such as, for the production of documents for interrogatories;
5. Offers of judgment;
6. Designations of records on appeal;
7. Briefs;
8. Petitions;
9. Summons; and
10. Complaints.

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

“News media representative” means an individual with valid press credentials who provides any means of communication to the public.

“Non-asterisk offense” means a prohibited act that is considered less serious and results in a less severe sanction.

“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 which is not likely to cause death or serious bodily harm.

“Non-permissible property” means property that is not identified, or exceeds the permitted amount indicated on a list of permissible property. Examples of non-permissible property include, but are not limited to, any item addressed to or received by an inmate from or someone or someplace that is not an authorized source of sale, an unauthorized item received by an inmate through the mail from an authorized source of sale, an item retained by the inmate who receives notice that such item has been deleted from the permissible property list, or an item the inmate has in his or her possession that was permitted in a certain unit or facility that is not permitted in another unit or facility.

“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. Prior felony convictions (initial only);
6. Education (initial only);
7. Employment (initial only);
8. Age;
9. Number of disciplinary reports (reclassification only);
10. Most severe disciplinary infraction received (reclassification only);
11. Program participation (reclassification only); and
12. System overrides.

“Office of Community Programs” means the office within the Department of Corrections, Division of Programs and Community Services, responsible for overseeing Residential Community Release Programs, such as Assessment and Treatment Centers, halfway houses, and Substance Use Disorder Treatment Programs, which provide rehabilitative and treatment services for inmates prior to their release.

“On-the-spot correction” means the immediate imposition of a sanction upon an inmate for the violation of a minor prohibited act.

“Passive canine search” means a search conducted by a canine team consisting of a handler(s) and a dog(s) specially trained to discover and passively indicate to the handler(s) the presence of various substances and/or materials.

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

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

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

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

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

“Prison Complex” means state correctional facilities designated to house inmates serving prison sentences.

“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.

“Prohibited act” means conduct in violation of rules and regulations which will result in the imposition of sanctions.

“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 source(s) of information.

“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.

“Regional institution” means the correctional facility designated to provide support services to a residential community program, such as, but not limited to, medical, security, administration, disciplinary returns and parole hearing scheduling.

“Relative” means:

1. Parent;
2. Legal guardian;
3. Partner in a civil union couple;
4. Spouse;
5. Domestic partner;
6. Child; or
7. Sibling.

“Scanning/testing device” means a mechanical and/or electronic instrument used to identify or to detect certain substances and materials.

“Scanning/testing device operator” means an individual specially trained and authorized by the Department to operate a scanning/testing device.

“Scanning/testing device search” means a search of a person or object by exposure to a mechanical and/or electronic instrument used to detect certain substances and materials.

“Security threat group” means a group of inmates possessing common characteristics, interests and goals which serve to distinguish the inmates from other inmates or groups of inmates and which, as a discrete entity, poses a threat to the safety of staff, other inmates or the community and to the orderly operation of the correctional facility.

“Shift Commander” means the custody staff member holding the rank of Sergeant or higher responsible for the main-

tenance of security during a tour of duty in a correctional facility or unit.

“Special Investigations Division,” prior to November 17, 1999 known as the Internal Affairs Unit, means the unit responsible for conducting investigations at the discretion of the Commissioner or designee.

“Special needs inmate” means an inmate who suffers a DSM IV, axis I and/or axis II disorder which interferes with the inmate’s ability to meet the functional requirements of prison life without mental health treatment.

“Staff” means all personnel who are hired by the Department of Corrections as employees.

“State” (upper case “S”) means the State of New Jersey; “state” (lower case “s”) means a state of the United States; the United States of America; a territory or possession of the United States; the District of Columbia; and the Commonwealth of Puerto Rico.

“State DNA Databank” means the repository of DNA samples collected under the provisions of the DNA Database and Databank Act of 1994 (N.J.S.A. 53:1-20.17 et seq.).

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

“Suicide watch” means monitoring the activities, emotional status and behavior of inmates who are identified as emotionally troubled, mentally disturbed or otherwise deemed likely to inflict physical injury or death upon themselves.

“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).

“Youth Complex” means State correctional facilities designated to house young adult offenders pursuant to N.J.S.A. 30:4-146.

“Zero Tolerance Drug/Alcohol Policy” means a zero tolerance for the possession/sale/use by State prison inmates of any drugs, intoxicants or narcotic paraphernalia not prescribed for the inmate by medical or dental staff. This policy establishes that inmates found guilty of drug/alcohol related prohibited acts as set forth in N.J.A.C. 10A:4-5.1(c) shall have their contact visit privileges terminated while housed in New Jersey State prisons and correctional facilities in addition to being subject to administrative action and program requirements in accordance with N.J.A.C. 10A:4, Inmate Discipline.

“Zero Tolerance for Misuse or Possession of an Electronic Communication Device Policy” means a zero tolerance for the misuse, possession, distribution, sale, or intent to distribute or sell, an electronic communication device that is not authorized for use or retention. This policy establishes that inmates who are found guilty of an electronic communication device related prohibited act as set forth in N.J.A.C. 10A:4-4.1, 5.1, and 12 shall have their contact visit privileges terminated and shall be ineligible for consideration for any custody status lower than medium custody until after the contact visit privileges are reinstated in addition to being subject to administrative action and program requirements in accordance with N.J.A.C. 10A:4, Inmate Discipline.

“Zero Tolerance of the Incidence of Sexual Assault” means the zero tolerance policy maintained by the Department for the incidence of sexual assault in accordance with the Federal Prison Rape Elimination Act of 2003 (PREA), 42 U.S.C. §§15601 et seq. (see N.J.A.C. 10A:4-12).

Amended by R.1992 d.269, effective July 6, 1992.

See: 24 N.J.R. 1465(a), 24 N.J.R. 2451(c).

Revised definition “youth complex”.

Amended by R.1993 d.246, effective June 7, 1993.

See: 25 N.J.R. 1043(a), 25 N.J.R. 2591(b).

Amended by R.1998 d.364, effective July 20, 1998.

See: 30 N.J.R. 1367(b), 30 N.J.R. 2618(b).

In “Legal correspondence”, inserted a new 10 and recodified former 10 through 12 as 11 through 13.

Amended by R.1998 d.526, effective November 2, 1998.

See: 30 N.J.R. 2810(a), 30 N.J.R. 3965(a).

Added new “Zero Tolerance Drug/Alcohol Policy” definition. Administrative correction.

See: 31 N.J.R. 1066(a).

Amended by R.1999 d.187, effective June 7, 1999 (operative July 1, 1999).

See: 31 N.J.R. 831(a), 31 N.J.R. 1487(b).

Inserted “Special needs inmate”.

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”; and inserted “Special Investigations Division”.

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

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

Added “Administrator”, “Associate Administrator”, “Canine search”, “Passive canine search”, “Scanning/testing device”, “Scanning/testing device operator” and “Scanning/testing device search”; in “Shift supervisor”, substituted “Commander” for “supervisor” and substituted “custody staff member” for “correction officer”; deleted “Superintendent”.

Amended by R.2003 d.176, effective May 5, 2003.

See: 35 N.J.R. 331(a), 35 N.J.R. 1898(a).

Added “Business day(s)”, “Calendar day(s)”, “Immediate family” and “Internal Management Procedures”; rewrote “Capital Sentence Unit (C.S.U.)”, “Constant observation”, “Custody status”, “Deadly force”, “Division of Programs and Community Services”, “Inmate handbook”,

"Lawfully confined" and "Regional institution"; in "Shift Commander", inserted "holding the rank of Sergeant or higher" following "custody staff member"; in "Special Investigations Division", inserted "or designee" following "Commissioner".

Amended by R.2004 d.180, effective May 3, 2004.

See: 36 N.J.R. 6(b), 36 N.J.R. 2241(b).

In "Institutional Classification Committee (I.C.C.)", substituted "committee of" for "group of staff members within a" and "staff members" for "that is" following "correctional facility"; rewrote "Inter-Institutional Classification Committee (I.I.C.C.)".

Amended by R.2004 d.395, effective October 18, 2004.

See: 36 N.J.R. 3225(b), 36 N.J.R. 4826(a).

Added "DNA", "DNA sample" and "State DNA Databank".

Emergency amendment, R.2005 d.435, effective November 15, 2005, (to expire on January 14, 2006).

See: 37 N.J.R. 4575(a).

Added definitions "Electronic communication device" and "Zero Tolerance for Misuse or Possession of an Electronic Communication Device Policy".

Adopted concurrent amendment, R.2006 d.58, effective January 11, 2006.

See: 37 N.J.R. 4575(a), 38 N.J.R. 993(a).

Provisions of R.2005, d.435, adopted without change.

Amended by R.2006 d.151, effective May 1, 2006.

See: 38 N.J.R. 96(a), 38 N.J.R. 1836(a).

At the end of the introductory paragraph, added "unless the context clearly indicates otherwise"; in the definition of "Detainer", substituted "U.S. Immigration and Customs Enforcement" for "Immigration and Naturalization Service"; rewrote the definition of "Inmate Liaison Committee"; in the definition for "Legal Correspondence", in 4 and 5, substituted a comma for "and", and inserted "county and municipal", and in 9, substituted a comma for "or", inserted "or county"; and added the definitions for "Non-contact visit" and "Staff".

Amended by R.2006 d.398, effective November 20, 2006.

See: 38 N.J.R. 3121(a), 38 N.J.R. 4867(a).

In definitions "Zero Tolerance Drug/Alcohol Policy" and "Zero Tolerance for Misuse or Possession of an Electronic Communication Device Policy", updated N.J.A.C. references.

Amended by R.2007 d.17, effective January 16, 2007.

See: 38 N.J.R. 4159(a), 39 N.J.R. 216(a).

Inserted definitions "Domestic partner", "Family member", and "Relative"; and deleted definition "Immediate family".

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.127, effective May 7, 2007.

See: 39 N.J.R. 155(a), 39 N.J.R. 1730(a).

Added definitions "Non-permissible property" and "State".

Amended by R.2007 d.198, effective July 2, 2007.

See: 39 N.J.R. 834(b), 39 N.J.R. 2538(a).

Added definitions "Counsel substitute" and "Disciplinary detention".

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

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

In definition "Detainer", inserted "(ICE)".

Amended by R.2007 d.226, effective August 6, 2007.

See: 39 N.J.R. 836(a), 39 N.J.R. 3383(a).

Added definition "Departmental Research Review Board (DRRB)".

Amended by R.2007 d.268, effective August 20, 2007.

See: 39 N.J.R. 1622(a), 39 N.J.R. 3539(a).

Added definition "Community Corrections Classification Committee (C-4)".

Amended by R.2007 d.315, effective October 15, 2007.

See: 39 N.J.R. 2442(a), 39 N.J.R. 4402(a).

Added definitions "Civil union" and "Civil union couple"; in definition "Family member", added new 3 and recodified former 3 through 8 as 4 through 9; and in definition "Relative", added new 3 and recodified former 3 through 6 as 4 through 7.

Amended by R.2007 d.379, effective December 17, 2007.

See: 39 N.J.R. 2445(a), 39 N.J.R. 5340(b).

In definition "Institutional Classification Committee (I.C.C.)", inserted the last sentence; substituted definition "Institutional Classification Reception Committee (I.C.R.C.)" for definition "Inter-Institutional Classification Committee (I.I.C.C.)"; and in definition "Objective classification", deleted paragraphs 5 through 7, recodified former paragraphs 8

through 14 as 5 through 11, in paragraph 11, inserted "and" at the end, deleted paragraph 15, and recodified paragraph 16 as 12.

Amended by R.2008 d.97, effective April 21, 2008.

See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

Deleted definition "Capital Sentence Unit (C.S.U.)".

Amended by R.2008 d.171, effective June 16, 2008.

See: 39 N.J.R. 2188(a), 40 N.J.R. 3718(d).

Added definition "Inmate Remedy System".

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

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

Added definitions "Administrative Segregation", "Weapon" and "Zero Tolerance of the Incidence of Sexual Assault"; in definition "Contraband", substituted "that" for "which" three times in paragraph 4, and in paragraph 5, substituted "that" for "which", substituted a comma for "and" following "currency" and inserted "and electronic communication devices"; rewrote definitions "Division of Programs and Community Services" and "Strip search"; in definition "Firearm", inserted the last sentence; in definition "Keep separate status", inserted a comma following the first occurrence of "facility" and inserted "for administrative reasons to ensure the safe, secure and orderly operation of the correctional facility and/or"; in definition "Legal correspondence", added new paragraph 10 and recodified former paragraphs 10 through 13 as paragraphs 11 through 14; in paragraph 12 of definition "Legal correspondence", substituted "Special Investigations Division" for "Internal Affairs Unit"; in paragraph 13 of definition "Legal correspondence", substituted "Corrections Ombudsperson, Division of Citizen Relations, Department of the Public Advocate" for "Office of the Ombudsman, Department of Corrections"; and in definition "Non-permissible property" inserted "any item addressed to or received by an inmate from or someone or someplace that is not an authorized source of sale," deleted "or" following "through the mail" and substituted "an authorized" for "a".

Amended by R.2008 d.266, effective September 2, 2008.

See: 40 N.J.R. 2647(a), 40 N.J.R. 5040(a).

Added definition "Office of Community Programs".

Amended by R.2009 d.86, effective March 16, 2009.

See: 40 N.J.R. 6732(a), 41 N.J.R. 1250(a).

In paragraph 2 of definition "Constant observation", inserted "uninterrupted surveillance by one staff member of up to four inmates".

### Case Notes

Regulation which classifies inmates who do not have any funds in their account and who cannot work, but are able to receive funds from outside sources as "nonindigent," thus requiring them to use funds from outside sources for payment of legal photocopying and medical care, did not violate equal protection clause. *Robinson v. Fauver*, D.N.J.1996, 932 F.Supp. 639.

In an inmate's appeal of disciplinary action arising from a fight he was involved in, the appellate court rejected the Department of Correction's blanket policy of keeping confidential all security camera videotapes in order to preclude inmates from learning camera angles, locations, or blind spots, and directed the Department to develop a record on remand regarding the need for confidentiality of the particular videotape. *Robles v. New Jersey Dept. of Corrections*, 388 N.J. Super. 516, 909 A.2d 755, 2006 N.J. Super. LEXIS 295 (App.Div. 2006).

### 10A:1-2.3 Chief Executive Officer

Pursuant to N.J.S.A. 30:1B-1 et seq., the Chief Executive Officer of the Department of Corrections is the Commissioner of Corrections.

### 10A:1-2.4 Rulemaking and exemption authority

(a) The Commissioner, pursuant to N.J.S.A. 30:1B-1 et seq., is authorized to formulate, adopt, issue and promulgate rules and regulations for the administration of correctional facilities, community programs and operational units within the Department of Corrections.