

CHAPTER 18

MAIL, VISITS AND TELEPHONE

Authority

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

Source and Effective Date

R.1992 d.262, effective May 27, 1992.
See: 24 N.J.R. 1204(b), 24 N.J.R. 2627(a).

Executive Order No. 66(1978) Expiration Date

Chapter 18, Mail, Visits and Telephone, expires on May 27, 1997.

Chapter Historical Note

Chapter 18, Mail, Visits and Telephones, was adopted as R.1987 d.263, effective July 6, 1987. See: 19 N.J.R. 33(b), 19 N.J.R. 1214(b). Pursuant to Executive Order No. 66(1978), Chapter 18 was readopted as R.1992 d.262. See: Source and Effective Date.

See section annotations for specific rulemaking activity.

Cross References

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

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. INTRODUCTION

- 10A:18-1.1 Purpose
- 10A:18-1.2 Scope
- 10A:18-1.3 Definitions
- 10A:18-1.4 Forms

SUBCHAPTER 2. CORRESPONDENCE

- 10A:18-2.1 Notice to inmates
- 10A:18-2.2 Limitation on number of correspondents
- 10A:18-2.3 Limitation on number of postage stamps
- 10A:18-2.4 Correspondence in language other than English
- 10A:18-2.5 Correspondence to or from other inmates
- 10A:18-2.6 Inspection and identification of incoming correspondence
- 10A:18-2.7 Inspection of outgoing correspondence
- 10A:18-2.8 Legal correspondence
- 10A:18-2.9 Identification of sender of outgoing correspondence
- 10A:18-2.10 Telegrams and mailgrams
- 10A:18-2.11 Registered, certified or special delivery mail
- 10A:18-2.12 Correspondence processing
- 10A:18-2.13 Receipt of funds
- 10A:18-2.14 Disapproved correspondence
- 10A:18-2.15 Control of correspondence
- 10A:18-2.16 Procedures for handling withheld correspondence
- 10A:18-2.17 Procedure for handling correspondence removed from the inmate's possession
- 10A:18-2.18 Appeal and final disposition
- 10A:18-2.19 Forwarding correspondence to an inmate transferred to another correctional facility
- 10A:18-2.20 Forwarding correspondence to an inmate released on parole or at expiration of maximum sentence
- 10A:18-2.21 Forwarding correspondence to an inmate remanded to a detention facility
- 10A:18-2.22 Forwarding correspondence of an inmate who has escaped
- 10A:18-2.23 Correspondence by illiterate inmates
- 10A:18-2.24 Cost of mailing correspondence

- 10A:18-2.25 Cost of mailing correspondence by indigent inmates
- 10A:18-2.26 Inmate use of inter-office correspondence

SUBCHAPTER 3. LEGAL CORRESPONDENCE

- 10A:18-3.1 Notice to inmates
- 10A:18-3.2 Identification of outgoing legal correspondence
- 10A:18-3.3 Identification of incoming legal correspondence
- 10A:18-3.4 Inspection of incoming legal correspondence
- 10A:18-3.5 Certified or registered mail
- 10A:18-3.6 Proof of service
- 10A:18-3.7 Cost of mailing legal correspondence
- 10A:18-3.8 Cost of mailing legal correspondence by indigent inmates
- 10A:18-3.9 Forwarding legal correspondence to an inmate transferred to another correctional facility
- 10A:18-3.10 Forwarding legal correspondence to an inmate released on parole or released after expiration of maximum sentence
- 10A:18-3.11 Forwarding legal correspondence to an inmate remanded to a detention facility
- 10A:18-3.12 Forwarding legal correspondence of an inmate who has escaped
- 10A:18-3.13 Inmate use of inter-office correspondence

SUBCHAPTER 4. PUBLICATIONS

- 10A:18-4.1 Notice to inmates
- 10A:18-4.2 Limitation on source of publications
- 10A:18-4.3 Publications in a language other than English
- 10A:18-4.4 Publications to or from other inmates
- 10A:18-4.5 Inspection of incoming publications
- 10A:18-4.6 Identification of sender of incoming publications
- 10A:18-4.7 Inspection and identification of outgoing publications
- 10A:18-4.8 Processing of publications
- 10A:18-4.9 Disapproved content in publications
- 10A:18-4.10 Control of publications
- 10A:18-4.11 Procedure for handling withheld publications
- 10A:18-4.12 Procedure for handling publications removed from inmate's possession
- 10A:18-4.13 Appeal and final disposition
- 10A:18-4.14 Forwarding publications to an inmate transferred to another correctional facility
- 10A:18-4.15 Forwarding publications to an inmate released on parole or at expiration of maximum sentence
- 10A:18-4.16 Forwarding publications to an inmate remanded to a detention facility
- 10A:18-4.17 Return of publications addressed to an inmate who has escaped

SUBCHAPTER 5. PACKAGES

- 10A:18-5.1 Notice to inmates
- 10A:18-5.2 Limitation on packages
- 10A:18-5.3 Inspection of incoming packages
- 10A:18-5.4 Inspection and identification of outgoing packages
- 10A:18-5.5 Identification of incoming mailed packages
- 10A:18-5.6 Package processing
- 10A:18-5.7 Forwarding packages to an inmate transferred to another correctional facility
- 10A:18-5.8 Forwarding packages to an inmate released on parole or at expiration of maximum sentence
- 10A:18-5.9 Forwarding packages to an inmate remanded to a detention facility
- 10A:18-5.10 Forwarding packages of an inmate who has escaped

SUBCHAPTER 6. VISITS

- 10A:18-6.1 Notice to inmates
- 10A:18-6.2 List of visitors
- 10A:18-6.3 Approval of potential visitors
- 10A:18-6.4 Employee visits with incarcerated relatives
- 10A:18-6.5 Special visits
- 10A:18-6.6 Visits between incarcerated family members

- 10A:18-6.7 Attorneys and court related personal visits
- 10A:18-6.8 Visits from children
- 10A:18-6.9 Notification of prospective visitors
- 10A:18-6.10 Visitor identification
- 10A:18-6.11 Visiting schedule
- 10A:18-6.12 Number of visitors
- 10A:18-6.13 Treatment of visitors
- 10A:18-6.14 Search of visitors
- 10A:18-6.15 Search of inmates
- 10A:18-6.16 Supervision of visits
- 10A:18-6.17 Play areas for children
- 10A:18-6.18 Gifts of money from visitors
- 10A:18-6.19 Denial, termination or suspension of a visit
- 10A:18-6.20 Suspension of visiting program under emergency conditions

SUBCHAPTER 7. BEDSIDE, PRIVATE VIEWING, AND FUNERAL VISITS

- 10A:18-7.1 Notice to inmates
- 10A:18-7.2 Authority
- 10A:18-7.3 Verification
- 10A:18-7.4 Eligibility
- 10A:18-7.5 Ineligibility
- 10A:18-7.6 Security
- 10A:18-7.7 Court ordered private viewing, or funeral visits
- 10A:18-7.8 Payment of visit expenses
- 10A:18-7.9 Notification of Central Office

SUBCHAPTER 8. TELEPHONE

- 10A:18-8.1 Written procedures
- 10A:18-8.2 Notice to inmates
- 10A:18-8.3 Monitoring of telephone calls
- 10A:18-8.4 Cost of telephone calls
- 10A:18-8.5 Emergency telephone calls
- 10A:18-8.6 Legal telephone calls
- 10A:18-8.7 Telephone calls between incarcerated family members
- 10A:18-8.8 Telephone use by authorized inmate groups
- 10A:18-8.9 Telephone use in Close Custody Units

SUBCHAPTER 1. INTRODUCTION

10A:18-1.1 Purpose

(a) The purpose of this chapter is to establish guidelines for:

1. Permitting inmates to correspond with persons or entities outside the correctional facility;
2. Processing legal correspondence in correctional facilities;
3. Inmates sending and receiving publications;
4. Inmates sending and receiving packages;
5. Contact and non-contact visits with inmates;
6. Bedside and funeral visits by an inmate to a dying or deceased relative; and
7. Inmate access to and use of the telephone.

10A:18-1.2 Scope

This chapter shall be applicable to the Division of Adult Institutions and the Division of Juvenile Services, within the Department of Corrections, unless the context clearly indicates otherwise.

10A:18-1.3 Definitions

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

“Correspondence” means communication by the exchange of letters.

“Inmate Liaison Committee” means a group of inmate representatives that meet with an official(s) of a correctional facility to discuss matters of concern to the staff and inmates.

“Inter-office correspondence” means the exchange of correspondence between offices within the Department of Corrections.

“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. A State Public Defender;
3. Office of the Public Advocate;
4. Attorney General’s office;
5. Federal and State courts;
6. Federal and State court judges;
7. Offices of Legal Services;
8. Legal assistance clinics run by accredited law schools of this or any other state;
9. Administrative Office of the Courts;
10. Prosecutors’ offices;
11. Federal Public Defender;
12. Department of Corrections’ Internal Affairs Unit;
13. Department of Corrections’ Ombudsmen; and
14. Office of Administrative Law.

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

1. An order required by its term to be served;
2. A pleading subsequent to the original complaint;
3. A paper relating to discovery which is required to be served;

4. A written notice;
5. A written motion;
6. A demand;
7. An offer of judgment;
8. A designation of record on appeal;
9. Briefs;
10. Petitions;
11. Summons; and
12. Complaints.

“Legitimate public official” means the following:

1. An elected or appointed national, state or municipal government official; or
2. A director of a national, state or municipal government agency.

“News media representative” means a person whose principal employment is to gather or report news for:

1. A newspaper which qualifies as a general circulation newspaper in the community in which it is published. A newspaper is one of “general circulation” if it circulates among the general public and if it publishes news of a general character of general interest to the public such as news of political, religious, commercial or social affairs. A key test to determine whether a newspaper qualifies as a “general circulation” newspaper is to determine whether the paper qualifies for the purpose of publishing legal notices in the community in which it is located or the area to which it distributes;
2. A news magazine which has a national circulation and is sold by news-stands and by mail subscription to the general public;
3. A national or international news service; or
4. A radio or television news program, whose primary purpose is to report the news, of a station holding a Federal Communications Commission license.

“Pat-frisk” means a search that is conducted while a person is fully clothed and includes both touching of the person’s body through clothing and a thorough examination into his or her pockets, cuffs, seams, hair, dentures and personal property.

“Relative” means:

1. Father;
2. Mother;
3. Husband;
4. Wife;
5. Child;

6. Brother; or
7. Sister.

“Strip search” means a search conducted while a person is unclothed and includes a thorough and systematic examination of the person’s body, orifices, clothing and personal possessions.

“Truck mail” means inter-office mail that is exchanged between correctional facilities and the Department of Corrections’ Central Office. Truck mail does not include mail sent by the United States post office.

Amended by R.1991 d.413, effective August 5, 1991.
See: 23 N.J.R. 1758(a), 23 N.J.R. 2312(a).

Added definition of “Legitimate public official”.

Cross References

Identification of correspondence, see N.J.A.C. 10A:18-3.2, 10A:18-3.3.

Relatives, visitors, see N.J.A.C. 10A:18-6.3.

10A:18-1.4 Forms

(a) The following form related to Mail, Visits and Telephone shall be reproduced by each correctional facility from the original that is available by contacting the Standards Development Unit:

1. 292-I REQUEST FOR ATTORNEY-CLIENT CONTACT VISIT.

New Rule, R.1991 d.155, effective March 18, 1991.
See: 23 N.J.R. 14(a), 23 N.J.R. 859(c).

SUBCHAPTER 2. CORRESPONDENCE

10A:18-2.1 Notice to inmates

(a) Inmates shall be informed of new or revised rules and procedures regarding the mailing and receipt of correspondence by posting appropriate notices in each housing area and other areas of the correctional facility.

(b) Notice of new or revised rules and procedures regarding correspondence shall be given to each Inmate Liaison Committee. This Committee shall be responsible for notifying the inmate population.

(c) During the admission orientation program, new inmates shall be given a description and explanation of the rules and procedures regarding correspondence.

(d) New or revised rules and procedures regarding correspondence shall be incorporated into the next revision of the Inmate Handbook.

10A:18-2.2 Limitation on number of correspondents

The number of approved correspondents and the amount of correspondence an inmate may receive or send shall be unlimited.

10A:18-2.3 Limitation on number of postage stamps

(a) Inmates may purchase or possess a maximum of 40 postage stamps at any one time.

(b) Each correctional facility shall establish a limit of stamps (40 or less) that inmates may possess that is consistent with the maintenance of security and the orderly operation of the correctional facility.

10A:18-2.4 Correspondence in language other than English

All State correctional facilities shall permit incoming and outgoing correspondence of the inmates or residents to be in a language other than English.

10A:18-2.5 Correspondence to or from other inmates

All correspondence to or from inmates housed in other correctional facilities may be read to ensure that the correspondence does not contain any content prohibited by N.J.A.C. 10A:18-2.14.

Amended by R.1989 d.318, effective June 19, 1989.
See: 21 N.J.R. 837(a), 21 N.J.R. 1701(a).

Deleted reference to correctional facilities "within this State" thus authorizing reading of materials coming or going, within or outside of New Jersey.

10A:18-2.6 Inspection and identification of incoming correspondence

(a) Each piece of incoming correspondence shall be opened and inspected.

(b) The sender's name and address and the inmate's name and number should appear legibly on the outside of all incoming correspondence.

(c) If the inmate's name or number does not appear on the outside of the incoming correspondence, the correspondence shall be returned to the sender.

(d) If the sender's name or address does not appear but the inmate's name and number appear on the outside of the incoming correspondence, the correspondence may be delivered to the inmate after the correspondence has been opened and inspected for contraband.

(e) If the inmate's name or number and the sender's name and address do not appear on the outside of the incoming correspondence, the correspondence shall be marked "Refused" and returned to the United States Post Office unopened.

(f) If it is necessary to return correspondence to a sender and the return address is incomplete, the correspondence shall be marked "Refused" and returned to the United States Post Office unopened.

(g) Incoming correspondence shall be opened and inspected for contraband, but it shall not be read unless there is reason to believe that the correspondence contains disapproved content. If there is reason to believe that the correspondence contains disapproved content, the correspondence shall be read only upon prior authorization of the Superintendent or his or her designee.

(h) A confidential list of the names of inmates whose incoming correspondence is authorized to be read shall be established and maintained in the correctional facility's Internal Affairs Unit or mail room, or wherever the confidentiality of the list can be maintained.

Amended by R.1989 d.338, effective July 3, 1989.
See: 20 N.J.R. 2854(a), 21 N.J.R. 1910(a).

In (b): changed "shall" to "should."

In (c): changed "and" to "or" regarding inmate's name "or" number.
Added new (d) and (e) and recodified old (d)-(f) to new (f)-(h).

In (f): deleted text regarding the opening of inmate's correspondence and added language describing new procedures.

In (g): revised text to specify procedures on inspecting incoming correspondence.

In (h): added language "names of inmates whose" . . . and "authorized to be read"; changed "investigative unit" to "Internal Affairs Unit."

Case Notes

Prison officials prohibited by First Amendment from inspecting inmate's mail sent to or from government agencies, public officials or media. Matter of Rules Adoption Regarding Inmate Mail to Attorneys, Public Officials, and News Media Representatives, 232 N.J.Super. 478, 557 A.2d 698 (A.D.1989), certification granted 117 N.J. 168, 564 A.2d 884, affirmed in part, reversed in part 120 N.J. 137, 576 A.2d 274.

Regulations preventing inmates from sending mail to public officials, government agencies or media were unconstitutional. Matter of Rules Adoption Regarding Inmate Mail to Attorneys, Public Officials, and News Media Representatives (N.J.A.C. 10A:18-1.3; 18-2.7; 18-2.8; 18-3; 18-4.7), 120 N.J. 137, 576 A.2d 274 (1990).

Regulations regarding incoming correspondence to inmates from public officials, government agencies, or media were not unconstitutional. Matter of Rules Adoption Regarding Inmate Mail to Attorneys, Public Officials, and News Media Representatives (N.J.A.C. 10A:18-1.3; 18-2.7; 18-2.8; 18-3; 18-4.7), 120 N.J. 137, 576 A.2d 274 (1990).

10A:18-2.7 Inspection of outgoing correspondence

(a) Outgoing correspondence shall be reviewed to determine the sender. If the sender of the correspondence cannot be identified, the correspondence shall be destroyed.

(b) Outgoing mail shall not be opened, read or censored if it is considered legal correspondence or if it is addressed to:

1. Public officials such as:
 - i. The President of the United States;
 - ii. The Vice-President of the United States;

- iii. Members of Congress;
 - iv. The Governor;
 - v. Members of the State Legislature;
 - vi. Members of the County Board of Freeholders;
- or
- vii. The Mayor;
2. Governmental agency officials, such as:
 - i. The Director of the Federal Bureau of Prisons;
 - ii. Commissioner, New Jersey Department of Corrections;
 - iii. Members of the Federal Parole Board; or
 - iv. Members of the State Parole Board; or
 3. News media representatives.

(c) Outgoing mail from inmates to public officials, governmental agency officials and news media representatives may be held, for a maximum of 72 hours, in order to verify that the addressee is a legitimate public official, governmental agency official or news media representative.

(d) Any outgoing correspondence addressed to someone other than those cited in (b) above, shall not be opened, read or censored unless there is reason to believe that the correspondence contains disapproved content (see N.J.A.C. 10A:18-2.14) and then only with the prior approval of the Superintendent or his or her designee.

(e) Outgoing correspondence which is opened pursuant to this subchapter shall, once reviewed and approved, be resealed and mailed promptly.

(f) A confidential list of all correspondence which is read pursuant to this subchapter shall be maintained in the correctional facility's investigative unit or mail room, or wherever the confidentiality of the list can be maintained.

Amended by R.1989 d.204, effective April 17, 1989.
See: 21 N.J.R. 277(a), 21 N.J.R. 1014(b).

New (b)1 through 5 added, U.S. President, V.P., Members of Congress, Members of Federal Parole Board and Director of the Federal Bureau of Prisons; 1.-4. recodified as 6.-9.

Amended by R.1990 d.564, effective November 19, 1990.

See: 21 N.J.R. 3913(a), 22 N.J.R. 3488(a).

Amended to comply with Matter of Inmate Mail to Attorneys, 232 N.J.Super. 478 (Super. Ct. App. 1989).

Amended by R.1991 d.413, effective August 5, 1991.

See: 23 N.J.R. 1758(a), 23 N.J.R. 2312(a).

Established maximum of 72 hours to hold outgoing mail to verify legitimacy of addressee.

Case Notes

Prison officials prohibited by First Amendment from inspecting inmate's mail sent to or from government agencies, public officials or media. Matter of Rules Adoption Regarding Inmate Mail to Attorneys, Public Officials, and News Media Representatives, 232 N.J.Super. 478, 557 A.2d 698 (A.D.1989), certification granted 117 N.J. 168, 564 A.2d 884, affirmed in part, reversed in part 120 N.J. 137, 576 A.2d 274.

Regulations preventing inmates from sending mail to public officials, government agencies or media were unconstitutional. Matter of Rules Adoption Regarding Inmate Mail to Attorneys, Public Officials, and News Media Representatives (N.J.A.C. 10A:18-1.3; 18-2.7; 18-2.8; 18-3; 18-4.7), 120 N.J. 137, 576 A.2d 274 (1990).

Regulations regarding incoming correspondence to inmates from public officials, government agencies, or media were not unconstitutional. Matter of Rules Adoption Regarding Inmate Mail to Attorneys, Public Officials, and News Media Representatives (N.J.A.C. 10A:18-1.3; 18-2.7; 18-2.8; 18-3; 18-4.7), 120 N.J. 137, 576 A.2d 274 (1990).

10A:18-2.8 Legal correspondence

Legal correspondence shall be processed in accordance with N.J.A.C. 10A:18-3 LEGAL CORRESPONDENCE.

Case Notes

Prison officials prohibited by First Amendment from inspecting inmate's mail sent to or from government agencies, public officials or media. Matter of Rules Adoption Regarding Inmate Mail to Attorneys, Public Officials, and News Media Representatives, 232 N.J.Super. 478, 557 A.2d 698 (A.D.1989), certification granted 117 N.J. 168, 564 A.2d 884, affirmed in part, reversed in part 120 N.J. 137, 576 A.2d 274.

10A:18-2.9 Identification of sender of outgoing correspondence

(a) The inmate's name and number shall appear legibly on the outside of all outgoing correspondence.

(b) If an inmate's name and number do not appear on the outside of the correspondence, it shall be opened and examined to identify the sender so that the correspondence can be returned to the inmate.

(c) If the inmate cannot be identified, the correspondence shall be destroyed.

(d) The full name of the correctional facility shall be clearly stamped or printed in the upper left corner of all outgoing envelopes from inmates.

Amended by R.1992 d.3, effective January 6, 1992.

See: 23 N.J.R. 2468(a), 24 N.J.R. 107(a).

Added (d).

10A:18-2.10 Telegrams and mailgrams

(a) An inmate shall be permitted to send telegrams and mailgrams in an emergency. An emergency may include:

1. Death;
2. Critical illness;
3. Accident; or
4. When the inmate is paroled and no one has picked up the inmate as arranged.

10A:18-2.11 Registered, certified or special delivery mail

(a) All registered, certified or special delivery correspondence of a non-legal nature shall be processed as regular mail provided the mail room signs to acknowledge receipt of the correspondence. The inmate shall be required to sign

an acknowledgment that he or she received the correspondence.

(b) In instances where the mail room does not sign for registered, certified or special delivery correspondence of a non-legal nature, the inmate shall be required to sign for the correspondence to acknowledge receipt.

10A:18-2.12 Correspondence processing

(a) Properly identified incoming correspondence (see N.J.A.C. 10A:18-2.6) shall be distributed to inmates, and outgoing properly identified correspondence (see N.J.A.C. 10A:18-2.9) shall be sent to the post office within one day of receipt in the mail room, excluding weekends and holidays.

(b) Inmates shall not be involved in the processing of either incoming or outgoing correspondence.

10A:18-2.13 Receipt of funds

(a) Money orders and checks, other than personal checks and cash, shall be the only approved form of money received through the mail which can be accepted by the correctional facility for deposit in an inmate's account.

(b) When an inmate receives money orders and checks, other than personal checks, by mail, the inmate shall be given a receipt and the funds shall be deposited into the inmate's account.

(c) All cash and personal checks sent through the mail to an inmate shall be deemed contraband and processed in accordance with N.J.A.C. 10A:3-6.7.

10A:18-2.14 Disapproved correspondence

(a) Any incoming correspondence for an inmate may be withheld in the mail room or taken from an inmate's possession if it falls within one of the following categories:

1. The correspondence contains material which is detrimental to the security and/or order of the correctional facility because it incites violence based upon race, religion, creed or nationality and a reasonable inference can be drawn, based upon the experience and professional expertise of correctional administrators, that it may result in the outbreak of violence within the facility;
2. The correspondence contains information regarding the manufacture of:
 - i. Explosives;
 - ii. Weapons;
 - iii. Controlled dangerous substances;
 - iv. Escape plans;
 - v. Lockpicking; or
 - vi. Anything of a similar nature.

3. The correspondence contains information which appears to be written in code;

4. The correspondence contains information concerning activities within or outside the correctional facility which would be subject to criminal prosecution under the law of New Jersey or the United States;

5. The correspondence incites violence or destructive or disruptive behavior toward:

- i. Law enforcement officers;
- ii. Department of Corrections personnel; or
- iii. Correctional facility programs or procedures.

6. The correspondence contains material which, based upon the experience and professional expertise of correctional administrators and judged in the context of a correctional facility and its paramount interest in security, order and rehabilitation;

- i. Taken as a whole, appeals to a prurient interest in sex;
- ii. Lacks, as a whole, serious literary, artistic, political or scientific value; and
- iii. Depicts, in a patently offensive way, sexual conduct including patently offensive representations or descriptions of ultimate sexual acts, masturbation, excretory functions, lewd exhibition of the genitals, sadism or masochism.

Cross References

Inmate to inmate correspondence, see N.J.A.C. 10A:18-2.5.

10A:18-2.15 Control of correspondence

(a) Incoming correspondence which is withheld from an inmate shall be returned to the sender, together with a notice that the material has been found to violate the Department of Corrections' rules governing correspondence.

(b) If the correspondence is withheld pursuant to N.J.A.C. 10A:18-2.14(a)4 for containing information which would be subject to criminal prosecution under the laws of New Jersey or the United States, the correspondence shall be turned over to the Internal Affairs or Control Unit of the correctional facility for further action.

(c) Possession of correspondence which is in violation of N.J.A.C. 10A:18-2.14(a)6 shall not form the basis for disciplinary action.

(d) Possession of correspondence found in violation of N.J.A.C. 10A:18-2.14(a)1 through 5 shall form the basis for disciplinary action.

Case Notes

Prison officials prohibited by First Amendment from inspecting inmate's mail sent to or from government agencies, public officials, or media. Matter of Rules Adoption Regarding Inmate Mail to Attorneys, Public Officials, and News Media Representatives, 232 N.J.Super. 478, 557 A.2d 698 (A.D.1989), certification granted 117 N.J. 168, 564 A.2d 884, affirmed in part, reversed in part 120 N.J. 137, 576 A.2d 274.

10A:18-2.16 Procedures for handling withheld correspondence

(a) When correspondence violates one of the categories cited in N.J.A.C. 10A:18-2.14 and is withheld in the mail room, the following action shall be taken.

1. The correction officer who withholds the correspondence must submit a written report, no later than the end of the shift to the shift supervisor identifying:

- i. The correspondence withheld;
- ii. The inmate's name and number to whom it was addressed;
- iii. The time and date of withholding; and
- iv. The category which the correspondence violates.

2. The decision of the correction officer shall be reviewed by the shift supervisor.

3. The correspondence shall be given to the inmate within 48 hours if the shift supervisor disagrees with the correction officer's determination.

4. The written report shall be initialed and returned to the correction officer if the shift supervisor agrees with the determination.

5. The correction officer shall provide the sender, within 72 hours of the withholding, with a written notice which identifies:

- i. The correspondence withheld;
- ii. The reason for withholding the correspondence; and
- iii. The right of the sender to appeal this decision within 10 days of the date of the notice.

6. The correction officer shall provide the inmate, within 72 hours of the withholding, with a written notice that correspondence has been withheld. The notice must contain:

- i. Name of the sender;
- ii. Date of the correspondence;
- iii. Date of the withholding; and
- iv. A statement that the sender has been notified of the withholding and of the right to appeal.

Case Notes

Prison officials prohibited by First Amendment from inspecting inmate's mail sent to or from government agencies, public officials, or

media. Matter of Rules Adoption Regarding Inmate Mail to Attorneys, Public Officials, and News Media Representatives, 232 N.J.Super. 478, 557 A.2d 698 (A.D.1989), certification granted 117 N.J. 168, 564 A.2d 884, affirmed in part, reversed in part 120 N.J. 137, 576 A.2d 274.

10A:18-2.17 Procedure for handling correspondence removed from the inmate's possession

(a) When correspondence violates one of the categories cited in N.J.A.C. 10A:18-2.14 and is removed from the inmate's possession, the following action shall be taken.

1. The correction officer who removes the correspondence from the inmate must submit a written report no later than the end of the shift to the shift supervisor identifying:

- i. The correspondence removed;
- ii. The inmate's name and number from whom it was removed;
- iii. The time and date of removal; and
- iv. The category which the correspondence violates.

2. The decision of the correction officer shall be reviewed by the shift supervisor.

3. The correspondence shall be returned to the inmate within 48 hours if the shift supervisor disagrees with the correction officer's determination.

4. The written report shall be initialed and returned to the correction officer if the shift supervisor agrees with the determination.

5. The correction officer shall provide the inmate, within 72 hours of the removal, with a written notice which identifies:

- i. The correspondence removed;
- ii. The reason for removing it; and
- iii. The inmate's right to appeal the removal.

10A:18-2.18 Appeal and final disposition

(a) When correspondence has been withheld in the mail room or when correspondence has been removed from the inmate's possession, the sender or inmate may appeal the action of the shift supervisor to the Superintendent within 10 days of the date of the notice.

(b) The sender or inmate shall be permitted to argue in writing to the Superintendent that the challenged correspondence does not violate the category indicated in the correction officer's report.

(c) The Superintendent or his or her designee, whose title shall not be lower than Assistant Superintendent or Director of Custody Operations, shall consider the appeal.

(d) The Superintendent or his or her designee shall issue a written decision on the appeal and shall respond to the

sender or inmate, as appropriate, within 72 hours of receipt of the written appeal. If the decision is to withhold the correspondence from the inmate, the decision shall contain a specific finding that the correspondence violates the category indicated in the correction officer's report.

(e) If a correspondence is found to be objectionable only in part and such part is easily separable from the rest of the correspondence, the sender or inmate, as appropriate, shall be given the choice of whether to allow the correctional facility to excise the offending portions or to forfeit the inmate's right to the correspondence.

10A:18-2.19 Forwarding correspondence to an inmate transferred to another correctional facility

(a) Whenever an inmate is transferred from one correctional facility to another, the inmate shall be responsible for notifying his or her correspondents of the change of address.

(b) For a period not to exceed three months, the correctional facility from which the inmate is transferred shall forward all regular incoming correspondence to the correctional facility to which the inmate has been transferred.

(c) Any correspondence received after the three month period shall be returned to the sender. If the sender cannot be identified, the correspondence shall be marked "Refused" and returned to the United States Post Office unopened.

Amended by R.1989 d.338, effective July 3, 1989.
See: 20 N.J.R. 2854(a), 21 N.J.R. 1910(a).

In (c): added language regarding procedures for marking correspondence and returning it unopened.

10A:18-2.20 Forwarding correspondence to an inmate released on parole or at expiration of maximum sentence

(a) The correctional facility shall obtain an inmate's forwarding address at or about the time of the inmate's release on parole or at the expiration of the inmate's maximum sentence.

(b) The inmate shall be asked whether correspondence received at the correctional facility should be forwarded to him or her.

(c) Upon the inmate's request, the correctional facility shall forward the correspondence to him or her.

(d) The correctional facility shall not forward certified or registered mail, but shall return it to the sender.

(e) Correspondence shall be forwarded for a maximum of three months from the date of the inmate's release. Correspondence received thereafter shall be returned to the sender. If the sender cannot be identified, the correspondence shall be marked "Refused" and returned to the United States Post Office unopened.

Amended by R.1989 d.338, effective July 3, 1989.
See: 20 N.J.R. 2854(a), 21 N.J.R. 1910(a).

In (e): added language describing the procedures for marking correspondence and returning it unopened.

10A:18-2.21 Forwarding correspondence to an inmate remanded to a detention facility

(a) When an inmate is remanded to a county jail or other facility in which he or she is temporarily detained to await trial for a prior offense or for any other reasons, correspondence received for the inmate at the correctional facility shall be forwarded to the other facility, upon the inmate's request.

(b) Written procedures shall be developed by the correctional facility for forwarding an inmate's correspondence when the inmate is remanded to a detention facility. These procedures shall include a form which the inmate shall sign before the inmate is transferred to the other facility indicating whether the inmate wishes correspondence forwarded.

10A:18-2.22 Forwarding correspondence of an inmate who has escaped

(a) All incoming correspondence addressed to an inmate who has escaped from a correctional facility shall be returned to the sender with an indication that the inmate is no longer in custody.

(b) If the incoming mail does not have a return address, it shall be opened to determine the sender.

(c) If the sender cannot be identified, the correspondence shall be resealed and returned to the United States Post Office.

Amended by R.1989 d.338, effective July 3, 1989.
See: 20 N.J.R. 2854(a), 21 N.J.R. 1910(a).

In (c): deleted "destroyed" and added "resealed . . . Office."

10A:18-2.23 Correspondence by illiterate inmates

(a) If an inmate is unable to read or write, the social worker assigned to the inmate's housing unit shall, upon request, assist the inmate in maintaining community ties by:

1. Writing a letter as dictated by the inmate; and
2. Reading incoming correspondence to the inmate.

10A:18-2.24 Cost of mailing correspondence

(a) If an inmate has funds in his or her account, the inmate shall be charged for the cost of mailing correspondence.

(b) If the inmate has temporarily overdrawn the account or has a balance in the account, but the balance is not sufficient to pay the total cost of mailing the correspondence, the correctional facility shall:

1. Remove from the inmate's account the amount available;

2. Advance from the correctional facility's account the difference between the amount available and the total cost of mailing via regular mail;

3. Debit the inmate's account the amount owed the correctional facility; and

4. Advise the inmate in writing of the amount owed and the reason therefor.

(c) The Business Manager or his or her designee shall:

1. With the posting each month of an inmate's wages or funds from other sources, remove from the inmate's account any amount of funds in excess of a \$15.00 balance until the correctional facility has been reimbursed in full;

2. Note on the inmate's record each removal of funds from an inmate's account;

3. Inform the inmate in writing of each removal of funds from the inmate's account; and

4. Place a copy of the written notification in the inmate's classification folder.

(d) In the event an inmate is transferred to another correctional facility within the Department of Corrections, the Business Manager or his or her designee shall notify the receiving correctional facility in writing of the remaining amount due. The notification shall also request that funds continue to be removed from the inmate's account until reimbursement has been made in full.

(e) Whenever an inmate's correctional facility business account is debited in excess of \$25.00, the debit shall be reported to the appropriate Assistant Commissioner.

(f) If an inmate is released prior to making full reimbursement, the correctional facility shall regard the debt as uncollectable and shall not deduct the debt from any financial aid given to the inmate by the Bureau of Parole.

10A:18-2.25 Cost of mailing correspondence by indigent inmates

(a) If an inmate has no funds in his or her account and is not able to earn inmate wages due to prolonged illness or any other uncontrollable circumstances, and it has been verified that the inmate has no outside source, from which to obtain funds, the correctional facility shall provide letter writing materials and shall assume the cost of mailing not more than 12 letters per month so that the inmate can maintain community ties with family and personal friends.

(b) The correctional facility shall only assume the cost of first class postage and shall not assume the cost of postage on:

1. Registered mail;
2. Certified mail; or
3. Insured mail.

10A:18-2.26 Inmate use of inter-office correspondence

(a) Inmates shall not be permitted to use either the pink or the blue and white inter-office envelopes which are purchased for use by State employees.

(b) Inmates using or possessing State inter-office envelopes shall be charged with Prohibited Act .210—Possession of anything not authorized for retention or receipt by an inmate or not issued to him or her through regular correctional facility channels. (See N.J.A.C. 10A:4-4.1.)

(c) In instances where a correctional facility provides envelopes to inmate groups, plain white envelopes shall be provided.

(d) Inmates corresponding with Department Central Office staff, or with staff at other correctional facilities, or with the Parole Board, shall be permitted to use the facility's "truck mail" delivery service, but the inmates must use their own envelopes and mark the envelopes "INTER-OFFICE" or "TRUCK MAIL."

(e) Inmates shall not be permitted to use the "truck mail" delivery services to correspond with persons in other State Departments or Agencies or with inmates in other correctional facilities. Inmates attempting to do so shall be charged with Prohibited Act .709—Failure to comply with a written rule or regulation of the correctional facility. (See N.J.A.C. 10A:4-4.1.)

(f) Except as described in (d) above, all outgoing correspondence shall be sent through the regular mail and at the inmate's expense.

SUBCHAPTER 3. LEGAL CORRESPONDENCE

10A:18-3.1 Notice to inmates

(a) Inmates shall be informed of new or revised rules and procedures regarding the mailing and receipt of legal correspondence by posting appropriate notices in each housing area and other areas of the correctional facility.

(b) Notice of new or revised rules and procedures regarding legal correspondence shall also be given to each Inmate Liaison Committee. The Committee shall be responsible for notifying the inmate population.

(c) During the admission orientation program, new inmates shall be given a description and explanation of the rules and procedures regarding legal correspondence.

(d) New or revised rules and procedures regarding legal correspondence shall be incorporated into the next revision of the Inmate Handbook.

10A:18-3.2 Identification of outgoing legal correspondence

(a) All outgoing legal correspondence shall be clearly marked with the inmate's name and number on the envelope.

(b) An inmate who is sending legal correspondence out of the correctional facility shall be responsible for clearly marking "legal mail" on the front and back of the envelope.

(c) The absence of the "legal mail" designation shall not mean that the correspondence may be treated as non-legal correspondence if the address on the envelope clearly indicates that it is being sent to a legal correspondent as enumerated in N.J.A.C. 10A:18-1.3.

Case Notes

Prison officials prohibited by First Amendment from inspecting inmate's mail sent to or from government agencies, public officials or media. Matter of Rules Adoption Regarding Inmate Mail to Attorneys, Public Officials, and News Media Representatives, 232 N.J.Super. 478, 557 A.2d 698 (A.D.1989), certification granted 117 N.J. 168, 564 A.2d 884, affirmed in part, reversed in part 120 N.J. 137, 576 A.2d 274.

10A:18-3.3 Identification of incoming legal correspondence

(a) The return address on the outside of an envelope should clearly indicate that the correspondence is being sent from a legal correspondent as enumerated in N.J.A.C. 10A:18-1.3.

(b) Mail sent from a legal correspondent shall be considered legal correspondence and shall be handled in accordance with this subchapter.

(c) The absence of a particular name of an attorney or judge shall not preclude the correspondence from being treated as legal correspondence if the return address indicates an office or court as enumerated in N.J.A.C. 10A:18-1.3.

10A:18-3.4 Inspection of incoming legal correspondence

(a) Incoming legal correspondence shall be opened and inspected for contraband only.

(b) Incoming legal correspondence shall be opened and inspected only in the presence of the inmate to whom it is addressed.

(c) Incoming legal correspondence shall not be read or copied. The content of the envelope may be removed and shaken loose to ensure that no contraband is included. After the envelope has been inspected the correspondence shall be given to the inmate.

(d) The correctional facility may require that the inmate sign a slip acknowledging receipt of the incoming legal correspondence.

(e) Where there is substantial reason to believe that the incoming correspondence is not legal in nature or that it contains disapproved content pursuant to N.J.A.C. 10A:18-2.14, the Superintendent shall immediately notify the appropriate Assistant Commissioner who shall immediately contact the Special Assistant for Legal Affairs, Office of the Deputy Commissioner. The incoming legal correspondence shall not be inspected in a manner other than as outlined in this subchapter without first obtaining instructions from the Special Assistant for Legal Affairs.

Case Notes

Prison official entitled to qualified immunity; claim that First Amendment right to access to courts was violated when official read inmate's legal mail during search for contraband. *Jordan v. New Jersey Dept. of Corrections*, D.N.J.1995, 881 F.Supp. 947.

Regulations preventing inmates from sending mail to public officials, government agencies or media were unconstitutional. Matter of Rules Adoption Regarding Inmate Mail to Attorneys, Public Officials, and News Media Representatives (N.J.A.C. 10A:18-1.3; 18-2.7; 18-2.8; 18-3; 18-4.7), 120 N.J. 137, 576 A.2d 274 (1990).

Regulations regarding incoming correspondence to inmates from public officials, government agencies, or media were not unconstitutional. Matter of Rules Adoption Regarding Inmate Mail to Attorneys, Public Officials, and News Media Representatives (N.J.A.C. 10A:18-1.3; 18-2.7; 18-2.8; 18-3; 18-4.7), 120 N.J. 137, 576 A.2d 274 (1990).

Prison officials prohibited by First Amendment from inspecting inmate's mail sent to or from government agencies, public officials or media. Matter of Rules Adoption Regarding Inmate Mail to Attorneys, Public Officials, and News Media Representatives, 232 N.J.Super. 478, 557 A.2d 698 (A.D.1989), certification granted 117 N.J. 168, 564 A.2d 884, affirmed in part, reversed in part 120 N.J. 137, 576 A.2d 274.

10A:18-3.5 Certified or registered mail

(a) Legal correspondence need not be sent by certified or registered mail.

(b) If an inmate has sufficient funds in his or her account to cover the costs of mailing and the inmate prefers to use certified or registered mail, the inmate shall be permitted to do so.

(c) The correctional facility shall not send the legal correspondence of indigent inmates via certified or registered mail.

10A:18-3.6 Proof of service

Inmates who have insufficient funds to send legal correspondence as certified or registered mail and who are concerned that they have no proof of service where regular mail is employed, shall be advised that under the rules of court, an affidavit of service filed with the clerk of the court shall be sufficient proof of service.

10A:18-3.7 Cost of mailing legal correspondence

(a) If an inmate has funds in his or her account, the inmate shall be charged for the total cost of mailing legal correspondence.

(b) If the inmate has temporarily overdrawn his or her account or has a balance in the account, but the balance is not sufficient to pay the total cost of mailing the correspondence, the correctional facility shall:

1. Remove from the inmate's account the amount available;
2. Advance from the correctional facility's account the difference between the amount available and the total cost of mailing via regular mail;
3. Debit in the inmate's account the amount owed the correctional facility; and
4. Advise the inmate in writing of the amount owed and the reason therefor.

(c) The Business Manager or his or her designee shall:

1. With the posting each month of an inmate's wages or funds from other sources, remove from the inmate's account any amount of funds in excess of a \$15.00 balance until the correctional facility has been reimbursed in full;
2. Note on the inmate's record each removal of funds from an inmate's account;
3. Inform the inmate in writing of each removal of funds from the inmate's account; and
4. Place a copy of the written notification in the inmate's classification folder.

(d) In the event an inmate is transferred to another correctional facility within the Department of Corrections, the Business Manager or his or her designee shall notify the receiving correctional facility in writing of the remaining amount due the correctional facility. The notification shall also request that funds continue to be removed from the inmate's account until reimbursement has been made in full.

(e) Whenever an inmate's correctional facility business account is debited in excess of \$25.00, the debit shall be reported to the appropriate Assistant Commissioner.

(f) If an inmate is released prior to making full reimbursement, the correctional facility shall regard the debt as uncollectable and shall not deduct the debt from any financial aid given to the inmate by the Bureau of Parole.

10A:18-3.8 Cost of mailing legal correspondence by indigent inmates

(a) If an inmate has no funds in his or her account and is not able to earn inmate wages due to prolonged illness or any other uncontrollable circumstances, and it has been verified that the inmate has no outside source from which to obtain funds, the correctional facility shall provide letter writing materials and shall assume the cost of mailing his or her legal correspondence.

(b) The cost of mailing legal correspondence shall extend only to first class postage and shall not include:

1. Registered mail;
2. Certified mail; or
3. Insured mail.

(c) An inmate shall not be considered as indigent if he or she has rejected a job that has been offered by the correctional facility. The rejection of a job offer shall be documented in the inmate's classification folder.

10A:18-3.9 Forwarding legal correspondence to an inmate transferred to another correctional facility

(a) Whenever an inmate is transferred from one correctional facility to another, the inmate shall be responsible for notifying his or her correspondents of the change of address.

(b) For a period not to exceed three months, the correctional facility from which the inmate is transferred shall forward all regular incoming legal correspondence to the correctional facility to which the inmate has been transferred.

(c) Any legal correspondence received after the three month period shall be returned to the sender.

10A:18-3.10 Forwarding legal correspondence to an inmate released on parole or released after expiration of maximum sentence

(a) The correctional facility shall obtain an inmate's forwarding address at or about the time of the inmate's release on parole or at the expiration of the inmate's maximum sentence.

(b) The inmate shall be asked whether legal correspondence received at the correctional facility should be forwarded to him or her.

(c) Upon the inmate's request, the correctional facility shall forward the legal correspondence to him or her.

(d) The correctional facility shall not forward certified or registered mail, but shall return it to the sender.

(e) Legal correspondence shall be forwarded for a maximum of three months from the date of the inmate's release. Legal correspondence received thereafter shall be returned to the sender.

10A:18-3.11 Forwarding legal correspondence to an inmate remanded to a detention facility

(a) When an inmate is remanded to a county jail or other facility in which he or she is temporarily detained to await trial for a prior offense or for any other reasons, legal correspondence received for the inmate at the correctional

facility shall be forwarded to the other facility, upon the inmate's request.

(b) Written procedures shall be developed by the correctional facility for forwarding an inmate's legal correspondence when the inmate is remanded to a detention facility. These procedures shall include a form which the inmate shall sign before the inmate is transferred to the other facility indicating whether the inmate wishes the legal correspondence forwarded.

10A:18-3.12 Forwarding legal correspondence of an inmate who has escaped

(a) All incoming legal correspondence addressed to an inmate who has escaped from a correctional facility shall be returned to the sender with an indication that the inmate is no longer in custody.

(b) If the incoming legal correspondence does not have a return address, it shall be opened to determine the sender.

(c) If the sender cannot be identified, the correspondence shall be destroyed.

10A:18-3.13 Inmate use of inter-office correspondence

(a) Inmates shall not be permitted to use either the pink or the blue and white inter-office envelopes which are purchased for use by State employees.

(b) Inmates using or possessing State inter-office envelopes shall be charged with Prohibited Act .210—Possession of anything not authorized for retention or receipt by an inmate or not issued to him or her through regular correctional facility channels. (See N.J.A.C. 10A:4-4.1.)

(c) In instances where a correctional facility provides envelopes to inmate groups, plain white envelopes shall be provided.

(d) Inmates corresponding with Department Central Office staff, or with staff at other correctional facilities, or with the Parole Board, shall be permitted to use the facility's "truck mail" delivery service, but the inmates must use their own envelopes and mark the envelopes "INTER-OFFICE" or "TRUCK MAIL."

(e) Inmates shall not be permitted to use the "truck mail" delivery services to correspond with persons in other State Departments or Agencies or with inmates in other correctional facilities. Inmates attempting to do so shall be charged with Prohibited Act .709—Failure to comply with a written rule or regulation of the correctional facility. (See N.J.A.C. 10A:4-4.1.)

(f) Except as described in (d) above, all outgoing correspondence shall be sent through the regular mail and at the inmate's expense.

SUBCHAPTER 4. PUBLICATIONS

10A:18-4.1 Notice to inmates

(a) Inmates shall be informed of new or revised rules and procedures regarding the mailing and receipt of publications by posting appropriate notices in each housing area and other areas of the correctional facility.

(b) Notice of new or revised rules and procedures regarding publications shall be given to each Inmate Liaison Committee. The Committee shall be responsible for notifying the inmate population.

(c) During the admission orientation program, new inmates shall be given a description and explanation of the rules and procedures regarding publications.

(d) New or revised rules and procedures regarding publications shall be incorporated into the next revision of the Inmate Handbook.

10A:18-4.2 Limitation on source of publications

(a) Inmates shall be permitted to receive hardcover books only if the books are mailed directly from the publisher or a bookstore.

(b) Inmates shall be permitted to receive paperback books, magazines and other soft-cover publications from any source.

(c) Inmates shall be permitted to receive newspapers only by subscription mailed directly from the publisher.

(d) There shall be no restriction on the number of publications an inmate may receive.

(e) All books, magazines, publications and newspapers must be prepaid by the inmate.

10A:18-4.3 Publications in a language other than English

All State correctional facilities shall permit incoming publications in a language other than English.

10A:18-4.4 Publications to or from other inmates

All publications to or from inmates housed in other correctional facilities may be read to ensure that the publications do not contain any contents prohibited by N.J.A.C. 10A:18-4.9.

Amended by R.1989 d.318, effective June 19, 1989.

See: 21 N.J.R. 837(a), 21 N.J.R. 1701(a).

Deleted reference to correctional facilities "within the State" thus authorizing reading of publications to or from inmates from other states.

10A:18-4.5 Inspection of incoming publications

(a) Each incoming publication shall be opened and inspected for contraband, but shall not be read unless there is reason to believe that the publication contains disapproved content (see N.J.A.C. 10A:18-4.9) and then only upon the prior authorization of the Superintendent or his or her designee.

(b) A confidential list of the incoming publications that are read shall be maintained in the investigative unit or mailroom of the correctional facility, or wherever the confidentiality of the list can be maintained.

10A:18-4.6 Identification of sender of incoming publications

(a) The sender's name and address and the inmate's name and number shall appear legibly on the outside of all incoming publications.

(b) If the name and address do not appear on the outside of the publication, the publication shall be opened and examined to determine the identity of the sender.

(c) If the sender cannot be identified, the publication shall be destroyed.

10A:18-4.7 Inspection and identification of outgoing publications

(a) Outgoing publications shall be reviewed to determine the sender. If the sender cannot be identified, the outgoing publication shall be destroyed.

(b) The inmate's name and number or the name of the inmate group shall appear legibly on the outside of the publication.

(c) If the name and number of the sender do not appear on the outside of the outgoing publication, it shall be opened and examined to determine the sender so that it can be returned to the inmate or group.

(d) Outgoing publications shall not be opened, read or censored unless there is reason to believe that the publication contains disapproved content (see N.J.A.C. 10A:18-4.9) and then only with the prior approval of the Superintendent or his or her designee.

(e) Outgoing publications which are opened pursuant to this subchapter shall, once reviewed and approved, be resealed and mailed promptly.

(f) A confidential list of the outgoing publications that are read pursuant to this subchapter shall be maintained in the investigative unit or mail room of the correctional facility, or wherever the confidentiality of the list can be maintained.

Amended by R.1989 d.203, effective April 17, 1989.

See: 21 N.J.R. 277(b), 21 N.J.R. 1014(c).

At (d) deleted reference to specific government official addressees; recodified (e) to (d) deleting reference to old (d).

Case Notes

Prison officials prohibited by First Amendment from inspecting inmate's mail sent to or from government agencies, public officials or media. Matter of Rules Adoption Regarding Inmate Mail to Attorneys, Public Officials, and News Media Representatives, 232 N.J. Super. 478, 557 A.2d 698 (A.D.1989), certification granted 117 N.J. 168, 564 A.2d 884, affirmed in part, reversed in part 120 N.J. 137, 576 A.2d 274.

10A:18-4.8 Processing of publications

(a) All properly identified and inspected incoming publications (see N.J.A.C. 10A:18-4.5 and N.J.A.C. 10A:18-4.6) shall be distributed to inmates within one day of their receipt in the mail room, excluding weekends and holidays.

(b) All properly identified outgoing publications (see N.J.A.C. 10A:18-4.7) shall be sent to the post office within one day of their receipt in the mail room, excluding weekends and holidays.

(c) Inmates shall not participate in the processing of either incoming or outgoing publications.

10A:18-4.9 Disapproved content in publications

(a) Any incoming publication may be withheld in the mailroom or taken from an inmate's possession if it falls within one of the following categories:

1. The publication contains material that is detrimental to security and/or order of the correctional facility because it incites violence based upon race, religion, creed or nationality and a reasonable inference can be drawn, based upon the experience and professional expertise of correctional administrators, that it may result in the outbreak of violence within the facility;
2. The publication contains information regarding:
 - i. Explosives;
 - ii. Weapons;
 - iii. Controlled dangerous substances;
 - iv. Escape plans;
 - v. Lockpicking; or
 - vi. Anything of a similar nature.
3. The publication contains information which appears to be written in code;
4. The publication contains information concerning activities, within or outside the correctional facility, which would be subject to criminal prosecution under the laws of New Jersey or the United States;
5. The publication incites violence, or destructive or disruptive behavior toward:
 - i. Law enforcement officers;

- ii. Department of Corrections personnel; or
 - iii. Correctional facility programs or procedures.
6. The publication contains material which, based upon the experience and professional expertise of correctional administrators and judged in the context of a correctional facility and its paramount interest in security, order and rehabilitation:
- i. Taken, as a whole, appeals to a prurient interest in sex;
 - ii. Lacks, as a whole, serious literary, artistic, political or scientific value; and
 - iii. Depicts, in a patently offensive way, sexual conduct including patently offensive representations or descriptions of ultimate sex acts, masturbation, excretory functions, lewd exhibition of the genitals, sadism or masochism.

Cross References

Approval of publications, see N.J.A.C. 10A:17-8.11.

Law Review and Journal Commentaries

ACLU Plans Suit to Challenge Prison Censorship. Hanna W. Rosin, 132 N.J.L.J. No. 13, 3 (1992).

10A:18-4.10 Control of publications

(a) Publications which are withheld from an inmate shall be disposed of in a manner determined by the inmate and at his or her expense.

(b) If the publication is withheld pursuant to N.J.A.C. 10A:18-4.9(a)4, it shall be turned over to the Internal Affairs or Control Unit for further action.

(c) Possession of publications which are in violation of N.J.A.C. 10A:18-4.9(a)6 shall not form the basis for disciplinary action.

(d) Possession of publications found in violation of N.J.A.C. 10A:18-4.9(a)1 through 5 shall form the basis for disciplinary action.

10A:18-4.11 Procedure for handling withheld publications

(a) When a publication violates one of the categories cited in N.J.A.C. 10A:18-4.10 and is withheld in the mail room, the following action shall be taken:

1. The correction officer who withholds the publication must submit a written report, no later than the end of the shift to the shift supervisor identifying:
 - i. The publication withheld;
 - ii. The inmate's name and number to whom it was addressed;
 - iii. The time and date of withholding; and

- iv. The category which the publication violates.
2. The decision of the correction officer shall be reviewed by the shift supervisor.
3. The publication shall be given to the inmate within 48 hours if the shift supervisor disagrees with the correction officer's determination.
4. The written report shall be initialed and returned to the correction officer if the shift supervisor agrees with the correction officer's determination.
5. The correction officer shall provide the sender, within 72 hours of the withholding, with a written notice which identifies:
 - i. The publication withheld;
 - ii. The reason for withholding the publication; and
 - iii. The right of the sender to appeal this decision within 10 days of the date of the notice.
6. The correction officer shall provide the inmate, within 72 hours of the withholding, with a written notice that the publication has been withheld. The notice must contain:

- i. Name of the publication;
- ii. Date of the publication;
- iii. Date of the withholding; and
- iv. A statement that the sender has been notified of the withholding and of the right to appeal.

10A:18-4.12 Procedure for handling publications removed from inmate's possession

(a) When a publication violates one of the categories cited in N.J.A.C. 10A:18-4.10 and is removed from the inmate's possession, the following action shall be taken:

1. The correction officer who removes the publication from the inmate must submit a written report, no later than the end of the shift to the shift supervisor identifying:
 - i. The publication removed;
 - ii. The inmate's name and number from whom it was removed;
 - iii. The time and date of the removal; and
 - iv. The category which the publication violates.
2. The decision of the correction officer shall be reviewed by the shift supervisor.
3. The publication shall be returned to the inmate within 48 hours if the shift supervisor disagrees with the correction officer's determination.

4. The written report shall be initialed and returned to the correction officer if the shift supervisor agrees with the correction officer's determination.

5. The correction officer shall provide the inmate, within 72 hours of the removal, with a written notice which identifies:

- i. The publication removed;
- ii. The reason for removing the publication; and
- iii. The inmate's right to appeal the removal.

10A:18-4.13 Appeal and final disposition

(a) When a publication has been withheld in the mail-room or when a publication has been removed from the inmate's possession, the sender or inmate may appeal the action of the shift supervisor to the Superintendent within 10 days of the date of the notice.

(b) The sender or inmate shall be permitted to argue, in writing to the Superintendent, that the challenged publication does not violate the category indicated in the correction officer's report.

(c) The Superintendent or his or her designee, whose title shall not be lower than Assistant Superintendent or Director of Custody Operations, shall consider the appeal.

(d) The Superintendent or his or her designee shall issue a written decision on the appeal and respond to the sender or inmate, as appropriate, within 72 hours of receipt of the written appeal. If the decision is to withhold the publication from the inmate, the decision shall contain a specific finding that the publication violates the category indicated in the correction officer's report and a notification that the publication is being returned to the sender.

(e) If a publication is found to be objectionable only in part and such part is easily separable from the rest of the publication (such as a magazine article, etc.) the inmate shall be given the choice of whether to allow the correctional facility to excise the offending portion(s) or to forfeit his or her right to the publication.

10A:18-4.14 Forwarding publications to an inmate transferred to another correctional facility

(a) Whenever an inmate is transferred from one correctional facility to another, the inmate shall be responsible for notifying the publishers of the change of address.

(b) For a period not to exceed three months, the correctional facility from which the inmate is transferred shall forward all publications to the correctional facility to which the inmate has been transferred.

(c) Any publications received after the three month period may be destroyed or placed in the library of the correctional facility from which the inmate was transferred.

10A:18-4.15 Forwarding publications to an inmate released on parole or at expiration of maximum sentence

(a) The correctional facility shall obtain an inmate's forwarding address at or about the time of the inmate's release on parole or at the expiration of the inmate's maximum sentence.

(b) The inmate shall be asked whether publications received at the correctional facility should be forwarded to him or her.

(c) Upon the inmate's request, the correctional facility shall forward the publications to him or her.

(d) Publications shall be forwarded for a maximum of three months from the date of the inmate's release. Publications received thereafter may be destroyed or placed in the library of the correctional facility.

10A:18-4.16 Forwarding publications to an inmate remanded to a detention facility

(a) When an inmate is remanded to a county jail or other facility in which he or she is temporarily detained to await trial for a prior offense or for any other reasons, publications received for the inmate at the correctional facility shall be forwarded to the other facility, upon the inmate's request.

(b) Written procedures shall be developed by the correctional facility for forwarding an inmate's publications when the inmate is remanded to a detention facility. These procedures shall include a form which the inmate shall sign before the inmate is transferred to the other facility indicating whether the inmate wishes publications forwarded.

10A:18-4.17 Return of publications addressed to an inmate who has escaped

(a) All publications addressed to an inmate who has escaped from a correctional facility shall be returned to the sender with an indication that the inmate is no longer in custody.

(b) If the publication does not have a return address, it shall be opened to determine the sender.

(c) If the sender cannot be identified, the publication may be destroyed or placed in the library of the correctional facility.

SUBCHAPTER 5. PACKAGES

10A:18-5.1 Notice to inmates

(a) Inmates shall be informed of new or revised rules and procedures regarding the mailing and receipt of packages by

the posting of appropriate notices in each housing area and other areas of the correctional facility.

(b) Notice of new or revised rules and procedures regarding packages shall be given to each Inmate Liaison Committee. The Committee shall be responsible for notifying the inmate population.

(c) During the admission orientation program, new inmates shall be given a description and explanation of the rules and procedures regarding packages.

(d) New or revised rules and procedures regarding packages shall be incorporated into the next revision of the Inmate Handbook.

10A:18-5.2 Limitation on packages

(a) Each correctional facility shall promulgate:

1. A written list of items which may be received in a package; and,
2. A limit on the number and weight of packages which may be received by an inmate each month.

(b) Each inmate shall be given written notice of package limitations as established by (a) above.

(c) All packages received from a retail store must be prepaid.

(d) Inmates shall be permitted to send and receive packages from other inmates who are members of his or her immediate family and who are incarcerated in a correctional facility within the jurisdiction of the New Jersey Department of Corrections. Such packages shall be subject to the provisions of this subchapter.

Case Notes

Prison clothing regulation precluding inmates from wearing symbols or indicia of group membership or rank and precluding inmate from wearing dashiki was not illegal. *Lumumba v. Morton*, 280 N.J.Super. 400, 655 A.2d 487 (A.D.1995).

10A:18-5.3 Inspection of incoming packages

(a) Every incoming package shall be opened and searched for contraband.

(b) Any item of contraband which is found during a search shall be processed in accordance with N.J.A.C. 10A:3-6.

10A:18-5.4 Inspection and identification of outgoing packages

(a) Every outgoing package shall be opened and inspected.

(b) Every outgoing package shall be clearly marked with the inmate's name and number on the outside of the package.

(c) If the inmate's name and number do not appear on the outside of the outgoing package, when opened for inspection, it shall be examined to identify the sender so that it can be returned to the inmate for proper mailing.

(d) If the sender of an outgoing package cannot be identified, the content of the package shall be destroyed.

(e) The content of outgoing packages shall be limited to inmate personal property.

(f) Manuscripts and inventions of inmates shall be processed in accordance with N.J.A.C. 10A:13.

(g) Any item of contraband which is found during an inspection of outgoing packages shall be processed in accordance with N.J.A.C. 10A:3-6.

10A:18-5.5 Identification of incoming mailed packages

(a) Every incoming package shall be clearly marked with the sender's name and address and the inmate's name and number.

(b) If the inmate's name and number do not appear on the outside of incoming mailed package, it shall be returned to the sender.

(c) If the sender's name and address do not appear on the outside of the incoming mailed package, it shall be examined to identify the sender when it is opened. (See N.J.A.C. 10A:18-5.3.)

(d) If the sender of an incoming mailed package cannot be identified, the contents of the package shall be destroyed.

10A:18-5.6 Package processing

(a) All properly identified incoming packages (see N.J.A.C. 10A:18-5.5) shall be distributed to inmates as soon as possible to avoid spoilage of perishable items.

(b) All properly identified outgoing packages (see N.J.A.C. 10A:18-5.4) shall be sent to the post office within one day of their receipt in the mailroom excluding weekends and holidays.

(c) Inmates shall not be involved in the processing of either incoming or outgoing packages.

10A:18-5.7 Forwarding packages to an inmate transferred to another correctional facility

(a) Whenever an inmate is transferred from one correctional facility to another, the inmate shall be responsible for notifying his or her correspondents of the change of address.

(b) For a period not to exceed three months, the correctional facility from which the inmate is transferred shall forward all packages to the correctional facility to which the inmate has been transferred.

(c) Any packages received after the three month period shall be returned to the sender, if possible, or destroyed.

10A:18-5.8 Forwarding packages to an inmate released on parole or at expiration of maximum sentence

(a) The correctional facility shall obtain an inmate's forwarding address at or about the time of the inmate's release on parole or at the expiration of the inmate's maximum sentence.

(b) The inmate shall be asked whether packages received at the correctional facility should be forwarded to him or her.

(c) Upon the inmate's request, the correctional facility shall forward the packages to him or her.

(d) Packages shall be forwarded for a maximum of three months from the date of the inmate's release. Packages received thereafter shall be returned to the sender, if possible, or destroyed.

10A:18-5.9 Forwarding packages to an inmate remanded to a detention facility

(a) When an inmate is remanded to a county jail or other facility in which he or she is temporarily detained to await trial for a prior offense or for any other reasons, packages received for the inmate at the correctional facility shall be forwarded to the other facility, upon the inmate's request.

(b) Written procedures shall be developed by the correctional facility for forwarding packages to an inmate when the inmate is remanded to a detention facility. These procedures shall include a form which the inmate shall sign before the inmate is transferred to the other facility indicating whether the inmate wishes packages forwarded.

10A:18-5.10 Forwarding packages of an inmate who has escaped

(a) All incoming packages addressed to an inmate who has escaped from a correctional facility shall be returned to the sender with an indication that the inmate is no longer in custody.

(b) If the package does not have a return address, the package shall be opened to determine the sender.

(c) If the sender cannot be identified, the package shall be destroyed.

SUBCHAPTER 6. VISITS

10A:18-6.1 Notice to inmates

(a) Inmates shall be informed of new or revised rules and procedures regarding visits by posting appropriate notices in each housing area and other appropriate areas of the correctional facility.

(b) Notice of new or revised rules and procedures regarding visits shall be given to each Inmate Liaison Committee. The Committee shall be responsible for notifying the inmate population.

(c) During the admission orientation program, new inmates shall be given a description and explanation of the rules and procedures regarding visits.

(d) New or revised rules and procedures regarding visits shall be incorporated into the next revision of the Inmate Handbook.

10A:18-6.2 List of visitors

Upon admission, an inmate shall submit to a person as designated by the Superintendent a list of names and addresses of potential visitors.

10A:18-6.3 Approval of potential visitors

(a) The correctional facility may approve the following persons to visit an inmate:

1. Relatives (see N.J.A.C. 10A:18-1.3);
2. Close friends;
3. Clergy; and
4. Persons who may have a constructive influence on the inmate.

(b) Persons with criminal records shall not be automatically excluded from visiting an inmate. The nature and extent of an individual's criminal record, plus his or her history of recent criminal activity, shall be weighed against the benefits of visitation in determining visitation eligibility.

(c) Persons determined, by substantial evidence, to have a harmful influence upon the inmate or to constitute a threat to the security of the correctional facility shall not be granted visitation privileges.

(d) At the Superintendent's discretion, former employees of the Department of Corrections may be permitted to visit an inmate. The Superintendent's decision shall be made on a case-by-case basis after due consideration of the security interests involved, and after the Superintendent is satisfied that the visit will not pose a threat to the orderly operation of the correctional facility.

(e) Employees of the Department of Corrections who have relatives incarcerated in facilities under the jurisdiction

of the New Jersey Department of Corrections shall be permitted to visit an inmate in accordance with N.J.A.C. 10A:18-6.4.

(f) Approval of special visits shall be in accordance with N.J.A.C. 10A:18-6.5.

(g) Approval of visits between incarcerated family members shall be in accordance with N.J.A.C. 10A:18-6.6.

(h) Approval of visits by attorneys and court related person shall be in accordance with N.J.A.C. 10A:18-6.7.

(i) Approval of visits by children shall be in accordance with N.J.A.C. 10A:18-6.8.

10A:18-6.4 Employee visits with incarcerated relatives

(a) Employees of the Department of Corrections who have relatives incarcerated in facilities under the jurisdiction of the New Jersey Department of Corrections shall be permitted to visit an incarcerated relative provided the Superintendent is satisfied that there is no threat to the orderly operation of the correctional facility.

(b) For the purpose of this subchapter, "relative" (see N.J.A.C. 10A:18-1.3) shall also include:

1. Grandparents;
2. Cousins;
3. Uncles; and
4. Aunts.

(c) An employee of the Department of Corrections who wishes to visit a relative incarcerated in a correctional facility under the jurisdiction of the New Jersey Department of Corrections shall submit a written request for permission to visit the incarcerated relative to the Superintendent of the correctional facility at which the relative is housed.

(d) The Superintendent may schedule the visit during regular visiting hours or at special times, according to the orderly administration and staffing of the correctional facility.

Amended by R.1990 d.124, effective February 20, 1990.
See: 21 N.J.R. 3410(a), 22 N.J.R. 662(a).

At (c), clarified the requirement of submitting a written request and deleted (e).

10A:18-6.5 Special visits

(a) Special visits must be authorized by the correctional facility Superintendent or his or her designee. Special visits include:

1. Visits from persons who have come long distances;
2. Visits to hospitalized inmates;
3. Visits to inmates in disciplinary status; and

4. Visits between inmates and:

- i. Members of the clergy;
- ii. Social service agency representatives;
- iii. Prospective employers;
- iv. Sponsors; and
- v. Parole advisors.

(b) The Superintendent or his or her designee may approve a visitor who accompanies a person on the approved list.

(c) Close Custody visits shall be governed by N.J.A.C. 10A:5 CLOSE CUSTODY UNITS and N.J.A.C. 10A:4-10 DETENTION PROGRAM.

10A:18-6.6 Visits between incarcerated family members

(a) Visits shall be permitted between incarcerated family members that are incarcerated in facilities under the jurisdiction of the New Jersey Department of Corrections.

(b) Incarcerated family members mean:

1. Husband and wife;
2. Mother and child; and,
3. Father and child; and
4. Brother and sister.

(c) The following requirements must be met before visits between incarcerated family members shall be permitted:

1. Family relationships must be substantiated by documentation found in the classification folder or from other appropriate resources;
2. Visits must be approved by the Classification Committee(s); and
3. The cost of the visit shall be borne by the inmates involved.

(d) The Business Office of the correctional facility shall predetermine the expenses involved in arranging a visit between family members, and a detailed statement of expenses shall be prepared using the following to determine the amount due:

1. Number of correction officers required which depends on the inmate's custody classification. (See N.J.A.C. 10A:3-9 TRANSPORTATION OF INMATES.)
2. The fee per correction officer which is the maximum salary of a senior correction officer at time and a half.
3. State vehicle mileage cost which is established by the Director, Division of Budget and Accounting. The overall State vehicle cost shall be based on the mileage rate times double the number of miles to the destination.

4. Cost of meals;

i. The projected number of meals for inmates and escorts shall be established.

ii. The fee charged for each meal shall be based on the rate in the current State of New Jersey Travel Regulations.

iii. The cost of meals shall be the projected number of meals times the per meal fee established by the State of New Jersey Travel Regulations.

5. All tolls and parking expenses shall be charged to the inmate.

(e) The frequency, duration and time of the visits must be coordinated between the correctional facilities involved and shall be subject to the other sections of the subchapter.

10A:18-6.7 Attorneys and court related personal visits

(a) Attorneys licensed in any jurisdiction and representatives of attorneys shall be permitted contact visits during regular business hours when sufficient space and staff are available.

(b) Representatives of attorneys shall include, but not be limited to the following:

1. Investigators;
2. Investigative aides;
3. Paralegals; and
4. Law students.

(c) A written notice or telephone request from an attorney shall be required 24 hours in advance of an intended visit. The purpose of the advance notice is to insure the availability of:

1. Space;
2. Staff; and
3. The inmate.

(d) Advance notice shall include the following information:

1. Name of the attorney or his or her representative;
2. Name of the inmate to be interviewed;
3. Name of the attorney for whom the representative is acting; and
4. Date and time the interview is sought.

(e) Form 292-I REQUEST FOR ATTORNEY-CLIENT CONTACT VISIT may be used to verify the inmate's desire to meet with the requesting attorney in the context of an attorney-client relationship.

(f) Appropriate identification is required of attorneys and attorney representatives who visit the inmate at a correctional facility.

(g) Contact visits with attorneys or their representatives may be restricted or prohibited when, in the judgment of the correctional facility Superintendent or his or her designee, the inmate is acting up or is especially dangerous. Contact visits may also be denied where the attorney or his or her representative poses a threat to security or orderly operation of the correctional facility. In those cases in which contact visits have been denied, every effort shall be made to provide a non-contact visit consistent with the orderly operation of the correctional facility.

(h) The Superintendent or his or her designee may authorize a visit without prior written notice, under exceptional circumstances.

Amended by R.1991 d.155, effective March 18, 1991.

See: 23 N.J.R. 14(a), 23 N.J.R. 859(c).

Added "licensed in any jurisdiction" to modify "attorneys"; added new subsection (e) regarding forms.

10A:18-6.8 Visits from children

(a) Children under the age of 18 shall not be permitted to visit unless accompanied by a family member defined as a "relative." (See N.J.A.C. 10A:18-1.3.)

(b) In unusual circumstances, exceptions to (a) above shall be made by special approval of the Superintendent or his or her designee.

10A:18-6.9 Notification of prospective visitors

(a) The correctional facility shall establish a letter of information, written in English and in Spanish, which spells out the pertinent regulations with which prospective visitors should be familiar regarding visiting inmates. This letter shall include, but is not limited to:

1. Visiting times;
2. Number of visitors;
3. Visits by children;
4. Identification required;
5. Directions to the correctional facility; and
6. The provisions of N.J.S.A. 2C:29-6 which prescribe specific penalties for introducing contraband into a correctional facility.

(b) Copies of the letter of information shall be posted in the visiting areas of the correctional facility.

(c) An inmate may choose one household which shall be notified by the correctional facility as to the occupant's approval as visitors. The approved visitors shall receive a copy of the correctional facility's letter of information. Such notification shall be transmitted within five working

days from the day the inmate is received at the correctional facility.

(d) When an individual is not approved as a visitor, notice of and reasons for the exclusion shall be given to the inmate who submitted the individual's name. The inmate may appeal the decision to the Superintendent who shall respond, in writing, within ten working days of receipt of the appeal.

(e) Procedures on how the inmate can change his or her list of approved visitors shall be incorporated into the Inmate Handbook.

10A:18-6.10 Visitor identification

(a) All visitors must have identification when visiting an inmate.

(b) Visitors may identify themselves through:

1. Automobile driver's license;
2. Welfare/medicaid card;
3. Employment photo I.D. card;
4. Passport;
5. A card bearing a signature of the visitor; or
6. Joint Connection photo I.D. card. No other form of identification is needed with this card.

(c) Social Security cards shall not be used as a means of identification.

(d) Inability to establish identity should be reported to the Superintendent or his or her designee.

10A:18-6.11 Visiting schedule

(a) The Superintendent shall establish a visiting schedule which emphasizes visiting on Saturdays, Sundays and holidays.

(b) When the restriction of visiting on Saturdays, Sundays and holidays is a hardship to a visitor, arrangements for suitable hours on other days shall be made, if at all possible.

(c) Evening visit schedules shall be established where the number of staff permit.

(d) Limitation on the length or frequency of visits shall be imposed only to avoid overcrowded conditions in the visiting area(s).

10A:18-6.12 Number of visitors

(a) The Superintendent shall establish written regulations as to the maximum number of persons who may visit an inmate at one time.

(b) These regulations should be interpreted flexibly because their purpose is to prevent overcrowding in the visiting room or unusual difficulty in supervising a visit.

10A:18-6.13 Treatment of visitors

All correctional staff members shall treat visitors in a professional, dignified, courteous and respectful manner.

10A:18-6.14 Search of visitors

(a) Signs written in English and Spanish shall be posted in both the visiting area and visiting entrances stating that, as a condition of visitation, all visitors and their belongings are subject to search while on the premises of the correctional facility.

(b) All visitors may be required to submit to a search by a scanning device and/or by pat frisks.

(c) If a visitor refuses to submit to a search, and there is no reasonable suspicion that the visitor is in possession of contraband, the visitor shall be directed to leave the correctional facility grounds immediately. No visit shall be allowed.

(d) Male or female correctional officers may be assigned to conduct metal detector searches of visitors regardless of the sex of the visitors as long as no physical contact is required.

(e) In the event that a correction officer with the rank of Sergeant or above receives information sufficient to form reasonable suspicion that a visitor is carrying contraband, the visitor shall be pat-frisked in accordance with (g) below. If contraband is discovered during the pat-frisk of the visitor, the visitor shall be detained and the Internal Affairs Officer of the correctional facility shall be contacted.

(f) In the event a correctional facility staff member receives information which leads him or her to believe that a visitor will be concealing contraband on his or her person, the Superintendent or his or her designee shall be contacted immediately. The Superintendent or his or her designee may ask the local magistrate to issue a search warrant so that the visitor may be strip searched in accordance with (g) below. The information given to the magistrate must establish probable cause to search. The Internal Affairs Officer of the correctional facility shall be contacted and shall be present at the correctional facility before the strip search is conducted.

(g) A pat-frisk or an approved strip search shall be conducted in privacy by a correction officer of the same sex as the visitor. No member of the opposite sex of the visitor shall be present in the room during the pat-frisk or approved strip search.

(h) All contraband discovered during the search of a visitor shall be confiscated by the correction officer performing the search, and a written report shall be submitted to the Superintendent.

(i) The written report shall specify:

1. The name of the correction officer who performed the search;
2. The name of the inmate who was to receive the visit;
3. The name and address of the visitor who was searched;
4. The time of the search;
5. The description of the items confiscated; and
6. The specific reason for confiscating the items.

(j) All contraband and evidence seized shall be turned over to the Internal Affairs Investigator.

(k) The Superintendent shall decide whether the visitor shall continue to have visitation privileges.

(l) All searches shall be conducted in a professional and dignified manner, with maximum courtesy and respect for the visitor's person.

Amended by R.1995 d.526, effective September 18, 1995.
See: 27 N.J.R. 2675(b), 27 N.J.R. 3613(b).
Administrative Correction.
See: 27 N.J.R. 3957(b).

10A:18-6.15 Search of inmates

All inmates shall be subject to a pat-frisk before a visit and pat-frisk or a strip search after the visit in accordance with procedures established by N.J.A.C. 10A:3-5. SEARCH OF INMATES AND FACILITIES.

10A:18-6.16 Supervision of visits

(a) Visits shall be supervised to prevent the passage of contraband and to insure the security and welfare of the correctional facility.

(b) The staff member in charge of the visiting room shall be responsible for ensuring that all visits are conducted in a quiet, orderly and dignified manner.

(c) The staff member(s) supervising visits should be cognizant of any articles passed between the inmate and the visitor. If there is a substantial basis to conclude that articles are being passed which constitute contraband or are otherwise in violation of the law or regulations, the articles shall be confiscated and examined.

(d) Handshaking, embracing and kissing shall be permitted, within the bounds of good taste, at the beginning and

end of the visit in order to minimize the opportunity to introduce contraband into the correctional facility.

- i. An inmate and visitor may hold hands during the visit.
- ii. Contact restrictions shall not apply to small children.

10A:18-6.17 Play areas for children

If a correctional facility provides play areas for children of visitors, signs shall be posted in both English and Spanish stating that children who use the area must be supervised by the parents or a relative and that the area and equipment are used at their own risk.

10A:18-6.18 Gifts of money from visitors

(a) A visitor(s) may only bring a money order or certified check to the correctional facility for deposit in an inmate's account. Cash shall not be accepted.

(b) When a visitor(s) brings a money order or certified check for deposit in the inmate's account, the correctional facility shall:

1. Accept the funds;
2. Establish and/or maintain an appropriate record of funds received;
3. Issue a signed receipt to the visitor(s); and
4. Retain a copy of the receipt.

(c) Each correctional facility may place a limit on the amount of funds which an inmate is permitted to receive, per day, from one visitor or a combination of visitors.

Amended by R.1996 d.22, effective January 2, 1996 (operative February 1, 1996).
See: 27 N.J.R. 3674(a), 28 N.J.R. 152(a).

Substituted "a money order or certified check" and "funds" for "cash", and specified that cash shall not be accepted.

10A:18-6.19 Denial, termination or suspension of a visit

(a) An inmate's visiting privileges shall not be denied because of violation of correctional facility regulations, other than those regulations specifically related to or concerned with visiting privileges.

(b) A visit may be denied, terminated or suspension and a visiting privilege suspended under the following circumstances:

1. Visitor(s) is under the influence of drugs or alcohol;
2. Space is unavailable;
3. Visitor(s) refuses to submit to search procedures;
4. Visitor(s) refuses or fails to produce sufficient identification or falsifies identifying information;

5. Visiting rules of facility are violated by visitor, provided that such rules are posted;

6. Children are disturbing other persons in the visiting area;

7. Physical contact between the visitor and inmate which is in excess of N.J.A.C. 10A:18-6.16(d); or

8. Denial or termination of visiting privileges is necessary to preserve the security of the correctional facility and maintain order in the visiting room.

(c) Prior to the denial or termination of visiting privileges for any of the reasons in (b) above, less restrictive action should be instituted. Such action may include:

1. Warning the inmate and/or visitor of improper conduct; and/or

2. Transferring the visit to a non-contact visiting area.

10A:18-6.20 Suspension of visiting program under emergency conditions

(a) The Superintendent of a correctional facility shall notify the Commissioner of the Department of Corrections whenever the safety, security and orderly operation of the correctional facility is seriously threatened.

(b) The Commissioner shall determine if an emergency exists at the correctional facility and shall make a public declaration to this effect through the Department's Office of Public Information.

(c) In order to return the correctional facility to a safe, secure and orderly operation, the Superintendent may suspend certain programs for the duration of the emergency. The Superintendent shall consult with the Commissioner regarding the suspension of programs.

(d) The visiting program, including visits to inmates by attorneys and attorney representatives, may be suspended for the duration of an emergency. Information concerning such suspension shall be made part of the public announcement of an emergency.

(e) A public declaration shall be made through the Department's Office of Public Information when the state of emergency has passed, and the scheduling of visits by attorneys and attorney representatives shall be reinstated beginning no later than 24 hours from this public declaration. A statement to this effect shall be made in the public declaration.

(f) The public declaration that the state of emergency has passed shall also contain a statement as to whether the visiting program shall be reinstated. If the visiting program is not to be reinstated, a second public declaration shall be made announcing the date that the visiting program shall be reinstated.

(g) The scheduling of visiting, in terms of the number of visitors, times of visitation and frequency of visits, shall be subject to special conditions as determined by the Superintendent in consultation with the Commissioner. Efforts shall be made to supply all such pertinent information in a public declaration announcing reinstatement of the visiting program.

SUBCHAPTER 7. BEDSIDE, PRIVATE VIEWING, AND FUNERAL VISITS

Subchapter Historical Note

Subchapter 7, Bedside and Funeral Visits, was renamed as Subchapter 7, Bedside, Private Viewing, and Funeral Visits, by R.1996 d.489, effective October 21, 1996. See: 28 N.J.R. 3868(a), 28 N.J.R. 4580(b).

10A:18-7.1 Notice to inmates

(a) Inmates shall be informed of new or revised rules and procedures regarding bedside, private viewing, and funeral visits by posting appropriate notices in each housing area and other appropriate areas of the correctional facility.

(b) Notice of new or revised rules and procedures regarding bedside, private viewing, and funeral visits will be given to each Inmate Liaison Committee. The Committee shall be responsible for notifying the inmate population.

(c) During the admission orientation program, new inmates shall be given a description and explanation of the rules and procedures regarding bedside, private viewing, and funeral visits.

(d) New or revised rules and procedures regarding bedside, private viewing, and funeral visits shall be incorporated in the next revision of the correctional facility Inmate Handbook.

Amended by R.1996 d.489, effective October 21, 1996.
See: 28 N.J.R. 3868(a), 28 N.J.R. 4580(b).

Added provision for private viewing.
Administrative correction.
See: 28 N.J.R. 5074(a).

10A:18-7.2 Authority

(a) Pursuant to N.J.S.A. 30:4-8.1, the correctional facility Superintendent may, at his or her discretion, authorize and permit the attendance of an inmate at the bedside of a dying relative, or at a private viewing, when no relatives or friends are present, of a deceased relative as defined in N.J.A.C. 10A:18-1.3 within a six month period of time. Should the relative previously visited at bedside expire more than six months after the date of the bedside visit, the Superintendent may authorize the private viewing visit.

(b) An inmate shall not be permitted to visit relatives or friends during the private viewing of a deceased relative unless the Superintendent has made a recommendation to, and received approval from, the Assistant Commissioner, Division of Operations.

(c) An inmate shall not be permitted to attend or participate in a funeral service unless the Superintendent has made a recommendation to, and received approval from, the Assistant Commissioner, Division of Operations.

(d) The Superintendent may, at his or her discretion and in accordance with (a) above, authorize and permit the attendance of an inmate at the bedside of a dying relative and/or the private viewing of a deceased relative other than those relatives listed in N.J.A.C. 10A:18-1.3 when it can be verified that the relative, such as a grandparent, acted, for a period of time, as a parent or guardian of the inmate.

Amended by R.1988 d.432, effective September 6, 1988.
See: 20 N.J.R. 1332(b), 20 N.J.R. 2294(c).

Substantially amended.

Amended by R.1995 d.585, effective November 20, 1995.
See: 27 N.J.R. 3274(a), 27 N.J.R. 4717(b).

Amended by R.1996 d.489, effective October 21, 1996.
See: 28 N.J.R. 3868(a), 28 N.J.R. 4580(b).

Added provision for private viewing.
Administrative correction.
See: 28 N.J.R. 5074(a).

10A:18-7.3 Verification

(a) The burden is on the inmate to prove that the ill or deceased person is his or her relative as defined in N.J.A.C. 10A:18-1.3 and this subchapter.

(b) The fact of illness or death shall be verified by the Superintendent or his or her designee.

New Rule, R.1988 d.432, effective September 6, 1988.
See: 20 N.J.R. 1332(b), 20 N.J.R. 2294(c).

Old section 3 "Eligibility" recodified to section 4.

10A:18-7.4 Eligibility

(a) The correctional facility Superintendent shall determine whether an inmate is eligible to go on a bedside, private viewing, and/or funeral visit.

(b) If the Superintendent is in doubt as to the propriety of permitting a particular inmate to leave the correctional facility under the circumstances enumerated in this subchapter, the Superintendent shall consult with the Assistant Commissioner, Division of Operations.

Amended by R.1988 d.432, effective September 6, 1988.
See: 20 N.J.R. 1332(b), 20 N.J.R. 2294(c).

Recodified old section 4 "Court ordered funeral visits" to section 7; repealed text in (a) "The correctional facility . . . his or her designee," also repealed subsections (c) and (d).

Amended by R.1995 d.585, effective November 20, 1995.
See: 27 N.J.R. 3274(a), 27 N.J.R. 4717(b).

Amended by R.1996 d.489, effective October 21, 1996.
See: 28 N.J.R. 3868(a), 28 N.J.R. 4580(b).

Added provision for private viewing.

Administrative correction.
See: 28 N.J.R. 5074(a).

10A:18-7.5 Ineligibility

(a) The inmate shall not be permitted to go on a bedside, private viewing, or funeral visit that is outside the State of New Jersey.

(b) The inmate shall not be permitted to go on a bedside, private viewing, or funeral visit that is in a private residence.

(c) The correctional facility Superintendent is not required to permit bedside, private viewing, or funeral visits if:

1. The visit will interfere with the security or orderly operation of the correctional facility;
2. The inmate is an incorrigible criminal;
3. The inmate is a known escape risk;
4. The inmate has unusual disciplinary problems;
5. The inmate is recognized as untrustworthy;
6. The inmate is a highly publicized person whose reappearance in the community under any conditions other than strict compliance with the laws governing parole and release would cause unfavorable comment in the community; or
7. The location of the bedside visit, private viewing, or funeral could place either the escorting correction officer(s) or the inmate in jeopardy.

New Rule, R.1988 d.432, effective September 6, 1988.
See: 20 N.J.R. 1332(b), 20 N.J.R. 2294(c).

Old section 5 "Payment of visit expense" recodified to section 8.

Amended by R.1996 d.489, effective October 21, 1996.

See: 28 N.J.R. 3868(a), 28 N.J.R. 4580(b).

Added provision for private viewing.

Administrative correction.
See: 28 N.J.R. 5074(a).

10A:18-7.6 Security

During the bedside, private viewing, or funeral visit, the inmate shall at all times be in the custody of one or more correction officers or employees of the correctional facility wherein the inmate is confined.

New Rule, R.1988 d.432, effective September 6, 1988.
See: 20 N.J.R. 1332(b), 20 N.J.R. 2294(c).

Old section 6 "Notification of Central Office" recodified to section 9.
Amended by R.1996 d.489, effective October 21, 1996.

See: 28 N.J.R. 3868(a), 28 N.J.R. 4580(b).

Added provision for private viewing.

Administrative correction.
See: 28 N.J.R. 5074(a).

10A:18-7.7 Court ordered private viewing, or funeral visits

(a) A correctional facility is not authorized to accept a court order for:

1. A temporary release of an inmate for a bedside, private viewing, or funeral visit of a person not included in the definition of "relative" in N.J.A.C. 10A:18-1.3; or

2. A bedside, private viewing, or funeral visit destination other than within the State of New Jersey.

(b) All court orders for bedside, private viewing, or funeral visits shall be referred immediately to the Office of the Commissioner for visit authorization.

Administrative Correction to (b) changing the visit authorization.

See: 22 N.J.R. 3625(a).

Amended by R.1996 d.489, effective October 21, 1996.

See: 28 N.J.R. 3868(a), 28 N.J.R. 4580(b).

Added provision for private viewing.

Administrative correction.

See: 28 N.J.R. 5074(a).

10A:18-7.8 Payment of visit expenses

(a) The inmate or the inmate's family shall reimburse the correctional facility for all travel and other necessary expenses.

(b) No inmate shall be denied approval for a bedside, private viewing, or funeral visit solely because of the inability of the inmate and his or her family to pay travel and other expenses. In the event that an inmate is indigent and it can be verified that the inmate's family is unable to reimburse the correctional facility for the expenses of a bedside, private viewing, or funeral visit, the correctional facility shall assume the expenses of the visit.

(c) The Business Office of the correctional facility shall predetermine the expenses claimed for reimbursement upon the approval by the Superintendent.

(d) A detailed written statement of expenses shall be prepared using the following criteria to determine the amount of reimbursement due:

1. Number of correction officers required which depends on the inmate's custody classification. (See 10A:3-9 TRANSPORTATION OF INMATES.)

2. The fee per correction officer which is the maximum salary of a Senior Correction Officer at time and a half;

3. State vehicles mileage cost which is established by the Director, Division of Budget and Accounting. The overall State vehicle cost shall be based on the mileage rate times double the number of miles to the destination;

4. Cost of meals;

i. The projected number of meals for inmates and escorts shall be established.

ii. The fee charged for each meal shall be based on the rate in the current State of New Jersey Travel Regulation.

iii. The cost of meals shall be the projected number of meals times the per meal fee established by the State of New Jersey Travel Regulation.

5. All tolls and parking expenses shall be charged to the inmate.

Amended by R.1996 d.489, effective October 21, 1996.

See: 28 N.J.R. 3868(a), 28 N.J.R. 4580(b).

Added provision for private viewing.

Administrative correction.

See: 28 N.J.R. 5074(a).

10A:18-7.9 Notification of Central Office

All bedside, private viewing, and funeral visits shall be noted in the Superintendent's monthly report.

Amended by R.1996 d.489, effective October 21, 1996.

See: 28 N.J.R. 3868(a), 28 N.J.R. 4580(b).

Added provision for private viewing.

Administrative correction.

See: 28 N.J.R. 5074(a).

SUBCHAPTER 8. TELEPHONE

Law Review and Journal Commentaries

ACLU Plans Suit to Challenge Prison Censorship. Hanna W. Rosin, 132 N.J.L.J. No. 13, 3 (1992).

10A:18-8.1 Written procedures

(a) Each correctional facility shall develop and implement written procedures which provide inmates with reasonable and equitable access to public telephones. These procedures shall specify:

1. Hours of telephone availability;
2. Maximum length of telephone calls; and
3. Any limitation on telephone calls.

10A:18-8.2 Notice to inmates

(a) Inmates shall be informed of new or revised rules and procedures regarding telephone calls by posting appropriate notices in each housing area and other areas of the correctional facility.

(b) Notice of new or revised rules and procedures regarding telephone calls shall be given to each Inmate Liaison Committee. The Committee shall be responsible for notifying the inmate population.

(c) During the admission orientation program, new inmates shall be given a description and explanation of the rules and procedures regarding telephone calls.

(d) New or revised rules and procedures regarding telephone calls shall be incorporated into the next revision of the Inmate Handbook.

10A:18-8.3 Monitoring of telephone calls

(a) Non-legal telephone calls shall not be monitored except in the following instances:

1. Where it is suspected that the inmate is using the telephone to harass or threaten someone;
2. Where it is suspected or determined that the inmate's conduct while placing a telephone call presents a danger to the safe, secure or orderly operation of the correctional facility;
3. When the call is in connection with investigations of violations of laws or Department rules; or
4. When the call must be monitored in those instances as set forth in this subchapter.

(b) All non-legal telephone calls by inmates in the Capital Sentence Unit (C.S.U.) shall be monitored.

(c) Legal telephone calls shall not be monitored, except to determine the identity of the party called.

10A:18-8.4 Cost of telephone calls

(a) Outgoing telephone calls made by inmates shall be collect calls, with the following exceptions:

1. The cost of outgoing telephone calls made by inmates at the Lloyd McCorkle Training School for Boys and Girls, shall be borne by that correctional facility; and

2. Telephone calls between incarcerated family members shall be handled in accordance with N.J.A.C. 10A:18-8.7.

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

10A:18-8.5 Emergency telephone calls

(a) An inmate shall be permitted to make monitored telephone calls of reasonable length, as determined by the monitor, in emergencies such as:

1. Serious family illness;
2. Death; or
3. Impending disaster related to the inmate's property which cannot be deferred until regular mail delivery.

(b) Whenever an emergency telephone call for an inmate is received by the correctional facility:

1. The telephone number and name of the calling party shall be taken;
2. The particulars of the telephone call shall be noted;
3. The Social Service Department shall check, to the extent possible, the validity of the telephone call;



4. The Social Service Department shall inform the inmate of the validated telephone call within 24 hours from the time the call was received; and

5. The inmate shall be permitted to return the emergency telephone call.

(c) In the event emergency telephone calls are received after regular institutional working hours or on weekends or holidays and a social worker is not available to perform the duties in (b) above within 24 hours, a custody supervisor shall check the validity of the emergency telephone call and follow the procedures outlined in (b) above.

10A:18-8.6 Legal telephone calls

(a) The Superintendent of the correctional facility shall establish written rules and regulations by which legal telephone calls may be made by:

1. Inmates;
2. Inmate paralegals; and
3. Professional staff.

(b) Legal telephone calls may be made to the following individuals or agencies for assistance in legal research and/or preparation of legal documents:

1. Office of the Public Advocate;
2. Office of the Public Defender;
3. Regional Legal Services;
4. Court Clerks;
5. Attorneys of Record;
6. Ombudsmen; and
7. The Legal Services Coordinator, Office of the Deputy Commissioner, Department of Corrections.

10A:18-8.7 Telephone calls between incarcerated family members

(a) Telephone calls shall be permitted between incarcerated family members. Family members are defined as:

1. Husband and wife;

2. Mother and child;
3. Father and child; and
4. Siblings.

(b) Telephone calls between incarcerated family members shall be permitted if:

1. The family relationship has been substantiated through documentation found in the classification folder or other appropriate resources;
2. The telephone calls have been approved by the Institutional Classification Committee (I.C.C.);
3. The full costs of the telephone calls are borne by the inmates involved; and
4. The frequency, duration and time of the calls are coordinated between the correctional facilities involved, subject to other provisions of this subchapter.

Amended by R.1988 d.238, effective June 6, 1988.

See: 20 N.J.R. 496(c), 20 N.J.R. 1229(a).

(a)4 substituted "siblings" for "brother and sister".

10A:18-8.8 Telephone use by authorized inmate groups

(a) Correctional facilities are not obligated to provide direct telephone lines to inmate groups or organizations.

(b) Authorized inmate groups and organizations may be permitted to make telephone calls to achieve approved objectives of that group in accordance with written rules and regulations established by the Superintendent.

(c) Authorized groups and organizations shall assume the cost of telephone calls that are made in furtherance of their approved objectives.

(d) Telephone calls may be monitored at the Superintendent's discretion.

10A:18-8.9 Telephone use in Close Custody Units

Inmate access to telephones in Close Custody Units shall be governed by N.J.A.C. 10A:5 CLOSE CUSTODY UNITS.