

the same gender as the inmate except as set forth in (d) below.

(d) Strip searches of inmates may be conducted by custody staff and a scanning/testing device operator(s) of the opposite gender under emergent conditions as ordered by the Administrator, Associate Administrator, Assistant Superintendent or the highest ranking custody supervisor on duty.

(e) In emergent circumstances, strip searches may be observed by persons, such as, but not limited to, the on-call Ombudsman, a Special Investigations Division Investigator(s) or Special Operations Group (SOG) Unit members required to be present who are not conducting the search and who may be of the opposite gender to help ensure:

1. The secure and orderly operation of the procedure;
2. The accurate recordkeeping regarding the emergent circumstances and incident;
3. That the strip search is conducted in a professional and dignified manner, with maximum courtesy and respect for the inmate's person.

(f) Under no circumstances shall invasive body cavity searches be conducted in accordance with this section. Body cavity searches shall be conducted pursuant to N.J.A.C. 10A:3-5.8.

Amended by R.1988 d.406, effective September 6, 1988.

See: 20 N.J.R. 1331(a), 20 N.J.R. 2294(a).

Changed frisk to pat and added (g).

Amended by R.1994 d.374, effective July 18, 1994.

See: 26 N.J.R. 1937(b), 26 N.J.R. 2903(a).

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

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

Inserted (b)6; deleted (c), relating to administrative segregation, prehearing detention, Management Control Units, South Hall, and other closed custody units; deleted (d)1 and (d)2 and recodified (d) as (a)7, (e) as (c) with substantial amendment, and (g) as (d); and deleted (f), prohibiting searches as punishment or discipline.

Amended by R.1997 d.324, effective August 4, 1997.

See: 29 N.J.R. 2231(a), 29 N.J.R. 3451(a).

In (d), added "Assistant Superintendent or the highest ranking custody supervisor on duty"; added (e); and recodified the former last sentence of (d) as (f) and amended.

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

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

Rewrote (c); and in (d), substituted "custody staff" for "officers".

Administrative change.

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

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

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

In (b), inserted "of an inmate(s)" in the introductory paragraph and in 7 substituted "a custody staff member" for "an officer"; in (c), rewrote 4; rewrote (d); in (e), substituted "gender" for "sex".

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

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

In (e) substituted "a Special Investigations Division" for "an Internal Affairs" and inserted "Special Operations Group" following "Investigator(s) or".

Petition for Rulemaking.

See: 35 N.J.R. 5312(a).

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

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

In the introductory paragraph of (b), substituted "A strip search" for "Strip searches"; in (b)6, substituted "constant" for "psychological"; and in (b)7, substituted "reasonable suspicion" for "clear indication".

### 10A:3-5.8 Body cavity searches of an inmate(s)

(a) A body cavity search shall be conducted on an inmate when the custody staff member in charge is satisfied that a reasonable suspicion exists that contraband will be found in the inmate's body cavity.

(b) In the event the custody staff member in charge has reasonable suspicion to believe that contraband is being concealed in the inmate's body cavity, the inmate shall immediately be escorted to the infirmary of the correctional facility and ordered to remove the contraband. The custody staff member in charge shall advise the inmate that medical assistance is available to the inmate for removal of the contraband.

(c) The health care provider at the correctional facility shall provide assistance to the inmate under the following conditions:

1. The inmate has requested assistance from the health care provider staff in order to remove the contraband from the inmate's body cavity; or

2. If during or after removal of the contraband by the inmate, the health care provider staff determines that the inmate is in need of medical assistance. In that event, medical treatment shall be rendered to the inmate unless the inmate refuses such treatment.

(d) If the inmate refuses to remove the contraband from his or her body cavity, the inmate shall receive appropriate disciplinary charges and shall be:

1. Isolated and kept under visual surveillance until the contraband is eliminated from the inmate's body cavity; or

2. Transported to an outside hospital or medical facility for removal of the contraband, if necessary for the well being of the inmate, or the safe, secure and orderly operation of the correctional facility. The health care provider staff at the correctional facility shall make the necessary arrangements with the outside hospital or medical facility for any procedures that are necessary for the safe removal of the contraband.

(e) If the suspected contraband cannot be removed from the inmate's body cavity without the use of force, a court order may be sought if the following circumstances exist:

1. The inmate cannot be confined to a dry cell until the contraband is eliminated from the inmate's body, because the nature of the suspected contraband presents a safety or security risk to staff, other inmates or the facility; or

2. Suspected contraband has been secreted in an inmate's vaginal cavity, the inmate has been confined to a dry cell for a 48-hour time period, and the inmate continues to refuse to remove the contraband with or without the assistance of a health care professional.

(f) Any request for a court order must be approved by the Commissioner or designee. If approval by the Commissioner

or designee has been granted, the Administrator or designee of the correctional facility in which the inmate is housed shall contact the Division of Law. The Administrator or designee shall provide the assigned Deputy Attorney General with a sufficient factual basis for concluding that a court order is necessary, in accordance with the criteria in (e) above.

(g) The custody staff member in charge shall prepare a written report of the results of a body cavity search that shall be made part of the inmate's record and shall include, but is not limited to, the following information:

1. A statement of facts indicating reasonable suspicion for the search;
2. The name of the custody staff member in charge who authorized the search;
3. The name(s) of the custody staff member(s) present during the search and the reason(s) for his or her presence;
4. The name(s) of the person(s) conducting the search;
5. An inventory of any item(s) found during the search; and
6. The reason(s) for use of force, if applicable.

(h) The correctional health care providers shall document the medical assistance rendered or offered to the inmate in the inmate's Electronic Medical Record and/or the Medical Reference File. The documentation shall include, but is not limited to, the following:

1. The name of the health care professional(s) providing medical assistance;
2. The names of all individuals present during the removal of the contraband;
3. An inventory of any item(s) removed from the inmate's body cavity; and
4. A description of the medical assistance that was offered or provided to the inmate.

(i) If the inmate has been transported to an outside hospital or medical facility, the health care provider staff of the correctional facility shall ensure that a report is made by the outside hospital or medical facility. This report, together with the report of the custody staff member in charge, shall be entered into the inmate's Electronic Medical Record and/or the Medical Reference File. The report from the hospital or medical facility health care provider staff shall include, but is not limited to, the following:

1. The name of any health care professional(s) providing medical assistance; and
2. A description of the medical procedures that were conducted.

Amended by R.2001 d.197, effective June 18, 2001.  
See: 32 N.J.R. 2637(a), 33 N.J.R. 2082(a).

Rewrote (a) and the introductory paragraph of (b); in (b), substituted "gender" for "sex" throughout; in (c)6, substituted "applicable" for "necessary"; substituted references to custody staff member for references to officer and to correction officer throughout section.  
Amended by R.2002 d.171, effective June 3, 2002.

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

Rewrote the section.

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

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

In the introductory paragraphs of (h) and (i), substituted "Medical Record and/or the Medical Reference File" for "Medical/Dental Record".

### 10A:3-5.9 Canine searches

All inmates and their possessions and all correctional facilities, areas, objects and properties under the jurisdiction of the Department of Corrections are subject to routine and random searches by canine teams, specially trained to discover and indicate to the handler(s) the presence of various substances and/or materials.

New Rule, R.1987 d.397 effective October 5, 1987.

See: 19 N.J.R. 1175(a), 19 N.J.R. 1813(a).

Recodified from 10A:3-5.8 by R.1997 d.41, effective January 21, 1997.

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

Former rule recodified to N.J.A.C. 10A:3-5.10.

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

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

Rewrote the section.

### 10A:3-5.10 Testing for prohibited substances

(a) Testing for prohibited substances may be conducted for the purpose of deterring and controlling the introduction of contraband or to detect the presence of any substance not authorized for possession or use by the inmate.

(b) Inmates shall be tested:

1. When the name of the inmate appears on a computer-generated randomly selected list of names, regardless of how often the name of the inmate is randomly selected;
2. Prior to commencing participation in any unsupervised community release program such as, but not limited to, furlough or work release;
3. During the 72 hour period prior to an inmate's release from custody on parole;
4. During the 10 calendar days prior to the inmate's release from custody on expiration of maximum sentence;
5. In accordance with drug treatment program requirements;
6. When a custody staff member of the rank of Sergeant or above or a Special Investigations Division Investigator believes, based upon his or her education and experience, that there is a reasonable factual basis to suspect the inmate of using or possessing a non-alcoholic prohibited substance;

7. When a supervising staff member or a licensed medical staff person in a residential community program