

**CHAPTER 3
SECURITY AND CONTROL**

Authority

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

Chapter Historical Note

Chapter 3, Security and Control, was adopted as R.1986 d.410 and d.409, effective October 6, 1986. See: 18 N.J.R. 1057(b), 18 N.J.R. 1067(a), 18 N.J.R. 2016(a).

Subchapter 2, Keep Separate Status, was adopted as R.1991 d.250, effective May 20, 1991. See: 23 N.J.R. 383(a), 23 N.J.R. 1672(b).

Pursuant to Executive Order No. 66(1978), Chapter 3, Security and Control, was readopted as R.1991 d.503, effective September 16, 1991. See: 23 N.J.R. 1259(a), 23 N.J.R. 3031(b).

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

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

Subchapter 8, Fingerprinting and Photographing Juvenile Inmates, was repealed by R.2001 d.197, effective June 18, 2001.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

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

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SUBCHAPTER 1. INTRODUCTION

10A:3-1.1 Purpose

(a) The purpose of this chapter is to:

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

Amended by R.1991 d.250, effective May 20, 1991.
 See: 23 N.J.R. 383(a), 23 N.J.R. 1672(b).
 Added reference to keep separate status.
 Amended by R.1996 d.209, effective May 6, 1996 (operative August 19, 1996).
 See: 28 N.J.R. 763(a), 28 N.J.R. 2387(b).
 Added breathalyzer provision.
 Amended by R.1997 d.41, effective January 21, 1997.
 See: 28 N.J.R. 4840(a), 29 N.J.R. 356(a).
 In (a)6. added text "who may be transferred to a Department of Corrections facility".
 Amended by R.2002 d.171, effective June 3, 2002.
 See: 34 N.J.R. 962(a), 34 N.J.R. 1908(a).
 Rewrote the section.

10A:3-1.2 Scope

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

Amended by R.1991 d.250, effective May 20, 1991.
 See: 23 N.J.R. 383(a), 23 N.J.R. 1672(b).
 Added reference to Subchapter 2 at (a).
 Amended by R.1997 d.41, effective January 21, 1997.
 See: 28 N.J.R. 4840(a), 29 N.J.R. 356(a).
 Amended by R.2001 d.197, effective June 18, 2001.
 See: 32 N.J.R. 2637(a), 33 N.J.R. 2082(a).
 Rewrote the section.

10A:3-1.3 Definitions

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

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

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

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

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

"Contact visit" means a visit between an inmate and a visitor where there is no barrier (that is, window, wall) between them.

"Contraband" means:

1. Any item, article or material found in the possession of, or under the control of, an inmate which is not authorized for retention or receipt;
2. Any item, article or material found within the facility or on its grounds which has not been issued by the correctional facility or authorized as permissible for retention or receipt;

3. Any item, article or material found in the possession of, or under the control of, staff or visitors within the facility or on its grounds which is not authorized for receipt, retention or importation;

4. Any item, article or material which is authorized for receipt, retention or importation by inmates, staff or visitors but which is found in an excessive amount or which has been altered from its original form. An amount shall be considered excessive if it exceeds stated correctional facility limits or exceeds reasonable safety, security, sanitation or space considerations; or

5. Any article which may be harmful or presents a threat to the security and orderly operation of the correctional facility shall be considered contraband. Items of contraband shall include, but shall not be limited to: guns and firearms of any type; ammunition; explosives; knives, tools and other implements not provided in accordance with correctional facility regulations; hazardous or poisonous chemicals and gases; unauthorized drugs and medications; medicines dispensed or approved by the correctional facility but not consumed or utilized in the manner prescribed; intoxicants, including, but not limited to, liquor or alcoholic beverages; and, where prohibited, currency and stamps.

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

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

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

“Keep separate status” means the intentional assignment of certain inmates to different correctional facilities or different units within a correctional facility so as to maintain a separation between these inmates in order to prevent the possibility of retaliation because of a previous act or occurrence.

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

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

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

“Reasonable belief” means an objective assessment based upon an evaluation of how a reasonable custody staff member with comparable training and experience would react to, or draw inferences from, the facts and circumstances confronted and known by the custody staff member at the scene.

“Roving patrol” means observation of the outer perimeter of a facility by making rounds at intervals on foot or in a vehicle.

“Shift commander” means the custody staff member holding the rank of Lieutenant or higher responsible for the maintenance of security during a tour of duty in a correctional facility.

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

“Substantial risk” means any discharge of a firearm that entails some risk of an unintended outcome. A substantial risk exists when a custody staff member disregards a foreseeable likelihood that innocent persons will be endangered. An example of substantial risk is firing a weapon into a confined space (such as a room or vehicle) occupied by innocent persons and exposes those persons to a substantial risk of harm.

“Trigger locking device” or “locking device” means a device that, if installed on a firearm and secured by means of a key or mechanically, electronically or electromechanically operated combination lock, prevents the firearm from being discharged without first deactivating or removing the device by means of a key or mechanically, electronically or electromechanically operated combination lock.

Amended by R.1991 d.250, effective May 20, 1991.

See: 23 N.J.R. 383(a), 23 N.J.R. 1672(b).

Added definition of “keep separate status”.

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

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

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

Amended by R.2000 d.33, effective January 18, 2000.

See: 31 N.J.R. 3577(a), 32 N.J.R. 303(b).

Deleted “Internal Affairs Unit”.

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

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

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

Amended by R.2004 d.90, effective March 1, 2004.

See: 35 N.J.R. 496(a), 36 N.J.R. 1192(b).

Added "Trigger locking device".

10A:3-1.4 Forms

(a) The following forms related to Security and Control shall be reproduced by each facility from originals that are available by contacting the Administrative Rules Unit:

1. 156-I Oath of Office;
2. 171-I Seizure of Contraband Report
3. 171-II Inmate Receipt, Contraband Seizure
4. 171-III Notice of Decision on Appeal, Contraband Seizure (Non-Disciplinary)
5. 172-I Continuity of Evidence—Urine Specimen;
6. 172-II Continuity of Evidence—On Site Urine Specimen Testing;
7. 173-I Placement In Keep Separate Status
8. 173-II Removal From Keep Separate Status
9. 173-III Transfer of Keep Separate Status Inmate;
10. 285-I Request for Polygraph Examination
11. 285-II Prohibited Substance Testing Request Summary.

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

1. 002 Travel Order.

Amended by R.1991 d.250, effective May 20, 1991.
See: 23 N.J.R. 383(a), 23 N.J.R. 1672(b).

Added forms regarding keep separate status.
Amended by R.1993 d.679, effective December 20, 1993.
See: 25 N.J.R. 4702(a), 25 N.J.R. 5929(a).

Amended by R.1996 d.209, effective May 6, 1996 (operative August 19, 1996).

See: 28 N.J.R. 763(a), 28 N.J.R. 2387(b).

Added breathalyzer request summary and alcohol influence report.

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

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

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

SUBCHAPTER 2. KEEP SEPARATE STATUS

10A:3-2.1 Recommending placement of an inmate in keep separate status

(a) Any staff person may recommend that an inmate be placed in keep separate status.

(b) The staff person recommending that an inmate be placed in keep separate status shall complete the recommendation section of Form 173-I, Placement in Keep Separate Status, and submit Form 173-I to the Administrator indicating the reason(s) for the recommendation.

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

Administrative change.

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

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

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

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

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

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

(b) If the Administrator authorizes that an inmate be placed in keep separate status, the completed Form 173-I, along with supporting documents shall be forwarded to:

1. The Senior Classification Officer to be filed in the inmate's classification folder; and
2. The correctional facility housing the other inmate(s) involved in this assignment of keep separate status.

(c) A "Keep Separate" notation should be prominently placed on the outside cover of the inmate's institutional classification folder and in the appropriate files within the computerized inmate information record keeping system.

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

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

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

10A:3-2.3 Procedures for tracking transfers of inmates in keep separate status

(a) The Director, Division of Operations or designee or the Special Classification Committee (S.C.C.) shall authorize the transfer of an inmate in keep separate status to another correctional facility when such transfer is determined to be warranted and appropriate. Emergency transfer procedures shall be followed in accordance with N.J.A.C. 10A:9-3.13 or 7.5.

(b) Prior to the transfer of any inmate in keep separate status, the Senior Classification Officer shall: