

In (a), inserted reference to post procedures; in (a)1, inserted N.J.A.C. reference; and deleted (c), relating to uses of force which allow denial of indemnification and representation. Former rule recodified to N.J.A.C. 10A:3-4.14.

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), inserted "internal management" preceding "procedures" in the introductory paragraph and substituted "employee" for "officer" in 4.

10A:3-4.14 Post orders and procedures

(a) Each correctional facility shall be responsible for developing written post orders and internal management procedures consistent with this subchapter.

(b) All written post orders and procedures shall be forwarded to the Office of the Commissioner or designee for review and approval on or before February 15 of each year.

Recodified from 10A:3-4.13 and 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.2002 d.65, effective March 4, 2002.

See: 33 N.J.R. 3857(a), 34 N.J.R. 1027(a).

In (b), substituted "Commissioner or designee" for "Chief of Staff". 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), inserted "internal management" preceding "procedures".

SUBCHAPTER 5. SEARCHES OF INMATES AND FACILITIES

10A:3-5.1 Purpose

Facilities and inmates may be searched as provided by this subchapter for the purpose of controlling and deterring the introduction and concealment of contraband. The definition of contraband and all procedures for disposition of contraband set forth in N.J.A.C. 10A:3-6, Contraband and Disposition of Contraband, are fully applicable to this subchapter.

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

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

10A:3-5.2 Search plan

(a) Each correctional facility shall develop and implement a comprehensive written plan governing routine and random searches of facilities and inmates. Each plan shall be submitted to the Office of the Commissioner or designee for review and approval on or before February 15 of each year.

(b) Each correctional facility shall appoint a custody staff member, of a rank no less than Captain, as Institutional Search Plan Coordinator.

(c) The Institutional Search Plan Coordinator shall submit monthly data to the Administrator and the Indicator Report Coordinator. The data shall include, but not be limited to, information regarding searches completed and

contraband recovered. The reported data shall be included in the Monthly Indicator Report.

Amended by R.1988 d.582, effective December 19, 1988.

See: 20 N.J.R. 2441(a), 20 N.J.R. 3155(a).

Added (b)-(d).

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).

In (a), inserted "routine and random" preceding "searches"; in (b), substituted "a custody staff member" for "an officer"; in (c), inserted "and search results" following "Institutional Search Plan", and substituted "Administrator" for "Superintendent"; rewrote (d).

Amended by R.2002 d.65, effective March 4, 2002.

See: 33 N.J.R. 3857(a), 34 N.J.R. 1027(a).

Substituted "Commissioner or designee" for "Chief of Staff" throughout.

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 "of" for "at" prior to "a rank"; rewrote (c); and deleted (d).

10A:3-5.3 Searches of inmates and facilities

(a) All facility residential, work, training, visit areas and other areas to which inmates have access shall be searched thoroughly for contraband on a routine, continuing basis. Searches shall be unannounced and irregularly timed, and may be limited to a specific building or area.

(b) Procedures to be utilized in conducting searches shall be as set forth in an internal management document prepared by each correctional facility Administrator or designee to be promulgated pursuant to the search plan required by N.J.A.C. 10A:3-5.2. Such procedures may provide that an inmate may be excluded from entry into an area being searched to facilitate the safe and effective performance of the search.

(c) Searches of inmates shall be conducted in a professional and dignified manner, with maximum courtesy and respect for the inmate's person, and under sanitary conditions.

(d) No inmate shall be searched as punishment or discipline except as provided by N.J.A.C. 10A:3-5.10.

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

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

Added (c) and (d).

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

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

In (a), substituted "inmate" for "facility" preceding "residential" and inserted ", visit" preceding "areas and other areas"; in (b), inserted "in an internal management document prepared" following "as set forth" and substituted a reference to Administrator or designee for a reference to Standard Operating Procedures.

10A:3-5.4 Inspection of security devices

(a) All bars and sashes, locks, windows, doors, lock boxes and other security devices shall be inspected daily to detect any tampering or defect.

(b) Emergency keys shall be checked at least quarterly to determine that they work properly.

(c) Inspections of security devices shall be conducted continuously and systematically but scheduled to avoid an observable or predictable routine. The results of all inspections shall be submitted in writing to the shift commander for review by the Director of Custody Operations.

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

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

In (c), substituted "commander" for "supervisor".

10A:3-5.5 Use of scanning/testing devices

(a) Searches of inmates, areas and objects by the use of scanning/testing devices may be done routinely and randomly where necessary for security purposes. This may be, but is not limited to, a walk-through device or a handheld device which is passed over the fully clothed body of the inmate. A scanning/testing device may also be utilized in conjunction with a strip search.

(b) Scanning/testing device searches of inmates may be conducted by male or female custody staff members or scanning/testing device operators subject to the limitations set forth in N.J.A.C. 10A:3-5.7 and 5.8.

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:3-5.6 Pat search

(a) A pat search shall be conducted while the inmate is fully clothed. A pat search includes both the touching of the inmate's body through clothing, including hair, dentures, etc., and a thorough examination into pockets, cuffs, seams, etc., and all personal property in the inmate's possession.

(b) Pat searches of inmates may be conducted at any time in the following circumstances:

1. Prior to the departure or return of the inmate to or from any area where the inmate has had access to dangerous or valuable items;
2. Prior to entering or departing the visiting room; or
3. Under any other circumstances where conditions indicate a need for such searches, as, for example, upon departure of inmates from kitchen or dining areas.

(c) In addition to the foregoing routine searches, a pat search may be conducted at any time when there is a reasonably clear indication that the inmate is carrying contraband. Factors which may form the basis for such search may include:

1. Personal observations of activities or conditions which may be interpreted in light of the custody staff member's experience and knowledge of the inmate as indicating the possession of contraband; or
2. Information received from a third party who is believed to be reliable.

(d) Pat searches may be conducted by either male or female custody staff members regardless of the gender of the inmate.

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.

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

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

In (b)1 inserted reference to returning inmates; and in (b)2, inserted reference to departing visiting rooms.

Amended by R.1997 d.343, effective August 18, 1997.

See: 29 N.J.R. 2614(b), 29 N.J.R. 3732(a).

In (c), deleted prior approval requirement.

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

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

In (c)1, substituted "custody staff member's" for "correction officer's"; in (d), substituted "custody staff members" for "officers" and "gender" for "sex".

10A:3-5.7 Strip searches

(a) A strip search shall be conducted while the inmate is unclothed. A strip search includes a thorough and systematic examination of the inmate's body and orifices, including visual inspection of external genital and anal areas, as well as the inmate's clothing and all personal possessions.

(b) Strip searches of an inmate(s) may be conducted in any of the following circumstances:

1. After a contact visit;
2. Before an inmate enters or leaves the facility's main building, whether to go to a destination in the outside community or to a minimum security camp or farm area;
3. Prior to the departure of the inmate from any area where the inmate has had access to dangerous or valuable items;
4. Upon entering or leaving any close custody unit;
5. During housing unit/wing searches;
6. Before placement of an inmate under psychological observation or suicide watch; or
7. When a custody staff member with a rank of Sergeant or above is satisfied that there is a clear indication that an inmate is carrying or concealing contraband on his or her person, or in the inmate's anal or vaginal cavity.

(c) A strip search shall be conducted:

1. At a location where the search cannot be observed by unauthorized persons;
2. In a professional and dignified manner, with maximum courtesy and respect for the inmate's person;
3. By the number of custody staff deemed reasonably necessary to provide security; and
4. By custody staff of the same gender as the inmate and may include a scanning/testing device operator(s) of 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".

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/Dental Record. 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/Dental Record. 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.

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 persons in a residential contract facility and/or other community residential facility utilizing non-custody staff 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;