

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 adult county correctional facility or on facility grounds which has not been issued by the 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 facility 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 adult county correctional facility limits or exceeds reasonable safety, security, sanitary, or space considerations; and/or

5. Any article which may be harmful or presents a threat to the security and orderly operation of an adult county correctional facility. Items of contraband shall include, but shall not be limited to:

- i. Guns and firearms of any type;
- ii. Ammunition;
- iii. Explosives;
- iv. Knives, tools and other implements not provided in accordance with adult county correctional facility regulations;
- v. Hazardous or poisonous chemicals and gases;
- vi. Unauthorized drugs and medications;
- vii. Medicines dispensed or approved by the adult county correctional facility but not consumed or utilized in the manner prescribed;
- viii. Intoxicants, including, but not limited to, liquor or alcoholic beverages; and
- ix. Where prohibited, currency and stamps.

“County work release” means a program which permits selected inmates, committed by the municipal or county court to an adult county correctional facility, to be in the community during specified periods to engage in remunerative employment, to attend vocational training and, in the case of female offenders, to attend to family needs.

“Custodian of a government record” or “record custodian” means any individual officially designated by formal action of the county governing body or agency director in accordance with the Open Public Records Act.

“Custody staff” except as otherwise provided, means Custody Supervisors, Senior Correction Officers and Correction Officer recruits who have been sworn as peace officers.

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

“Detainer” means a warrant of formal authorization to hold an inmate for prosecution or detention by a Federal, state or local law enforcement agency or the U.S. Immigration and Customs Enforcement (ICE). Detainers may include, but are not limited to:

1. Adjudicated criminal charges for which sentence has been imposed;
2. Criminal charges resulting from indictment, for which there is no final disposition (open charges);
3. Warrants for violation of parole or probation; and
4. Immigration detainers.

“Disciplinary Board” means a custody supervisor and two non-custody staff members who have been designated by the adult county correctional facility Administrator to hear and adjudicate inmate violations of facility rules.

“Disciplinary Detention” means the removal of an inmate from the general population to a short term close custody unit because of a violation of facility rules.

“Electronic communication device” means a device or related equipment or peripheral that is capable of electronically receiving, transmitting or storing a message, image or data. Examples of such electronic devices include, but are not limited to, all types and sizes of a computer, telephone, two-way radio, camera or video/audio player/recorder, fax machine, pager or beeper, personal data assistant, hand-held e-mail system, or any other device containing a means of internet access or receiving, transmitting or storing information electronically by means of audio, visual or recorded data.

“Facility” means an adult county correctional facility.

“Foreign national” means any person who is not a citizen or permanent alien resident (green card holder) of the United States and who is a foreign visitor or illegal alien.

“Government record” or “record” means any paper, written or printed book, document, drawing, map, plan, photograph, microfilm, data processed or image processed document, information stored or maintained electronically or by sound-recording or in a similar device, or any copy thereof, that has been made, maintained or kept on file in the course of official business by any officer, commission, agency or authority of the State or of any political subdivision thereof, including subordinate boards thereof, or that has been received in the course of official business by any such officer, commission, agency, or authority of the State or of any political subdivi-

sion thereof, including subordinate boards thereof. The terms shall not include inter-agency or intra-agency advisory, consultative, or deliberative material. A government record shall not include information which is deemed to be confidential in accordance with N.J.S.A. 47:1A-1 et seq.

“Handbook on Discipline” means a publication that is provided to inmates which contains the inmate’s rights and responsibilities, the acts and activities which are prohibited, and the disciplinary procedures and sanctions imposed.

“Hearing officer” means an individual designated by and required to report to an official outside of the adult county correctional facility administration to hear and adjudicate inmate violations of prohibited acts.

“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.

“Indigent inmate” means an inmate who 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 who has been verified as having no outside source from which to obtain funds.

“Internal Affairs unit” means the unit responsible for conducting investigations at the discretion of the adult county correctional facility Administrator.

“Involuntary protective custody” means confinement in Protective Custody which was not requested by the inmate.

“Lawfully confined” means custodially confined in a detention facility, adult county correctional facility or other facility of the Department of Corrections.

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

1. An attorney of this State or any other state when properly identified as such on the outside of the envelope;
2. Offices of the Federal or State Public Defender;
3. The Office of the Attorney General;
4. Federal, State, county and municipal courts;
5. Federal, State, county and municipal court judges;
6. Offices of legal services;
7. Legal assistance clinics managed by accredited law schools of this or any other state;
8. The Administrative Office of the Courts;

9. Offices of the Federal, State or county prosecutor;

10. Other Federal, State, county or municipal governmental agencies; and

11. The Office of Administrative Law.

“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.

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

“Multiple occupancy sleeping unit” means an area, room, or cell housing no less than two and no more than 64 inmates.

“Non-contact visit” means a visit between an inmate and a visitor where there is a barrier, such as, but not limited to, a window or wall between the inmate and the visitor.

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

“Objective classification” means the standardized evaluation and custody assignment score of an inmate based on the following criteria:

1. Severity of current offense;
2. Prior assaultive offense history;
3. Escape history;
4. History of correctional facility violence;
5. Balance of term to be served to expiration of sentence (initial only);
6. Alcohol/drug abuse (initial only);
7. Current detainer/open charges;
8. Prior felony convictions (initial only);
9. Education (initial only);
10. Employment (initial only);
11. Age;
12. Number of disciplinary reports (reclassification only);
13. Most severe disciplinary infraction received (reclassification only);
14. Program participation (reclassification only);
15. Balance on parole eligibility date (reclassification only); and
16. System overrides.

“On-the-Spot Correction” means the immediate imposition of a sanction upon an inmate for a minor rule violation.

“Open Public Records Act” or “OPRA” means N.J.S.A. 47:1A-1 et seq. as amended and supplemented.

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

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

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

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

“Productive occupation” means any assignment exclusive of a work release assignment, which involves work carried on by the governing body or by any board, commission or institution that receives funding from the county.

“Protective custody” means confinement to a secure unit designated to restrict or limit an inmate’s activities and contacts with others, in order to provide protection to the inmate from injury or harm actually threatened, or reasonably believed to exist based on events, investigative reports, informants’ reports or other reliable sources of information.

“Publication” means a book, booklet, pamphlet, or similar document, or an issue of a magazine, periodical, newsletter, newspaper, plus such other materials addressed to a specific inmate such as advertising brochures, flyers, and catalogs.

“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.

“Reasonable suspicion” means a belief that an action is necessary based upon specific and articulable facts that, taken together with rational inferences from those facts, reasonably support a conclusion.

“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 a supervisory rank who has been designated by the Administrator or designee as being responsible for the maintenance of security during a tour of duty in an adult county 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 that exposes those persons to a substantial risk of harm.

“Unencumbered space” means usable space that is not hindered by furnishings or fixtures.

“Voluntary protective custody” means confinement in Protective Custody which was requested by the inmate.

Amended by R.1994 d.182, effective April 4, 1994.

Sec: 26 N.J.R. 727(a), 26 N.J.R. 1506(a).

Amended by R.1994 d.484, effective September 19, 1994.

Sec: 26 N.J.R. 2841(a), 26 N.J.R. 3863(a).

Amended by R.1995 d.421, effective August 7, 1995.

Sec: 27 N.J.R. 1728(a), 27 N.J.R. 2928(a).

Amended by R.2000 d.206, effective May 15, 2000.

Sec: 31 N.J.R. 3908(a), 32 N.J.R. 1772(a).

Inserted “Objective classification”.

Amended by R.2000 d.332, effective August 7, 2000.

Sec: 32 N.J.R. 1894(a), 32 N.J.R. 2945(a).

Rewrote the section.

Amended by R.2006 d.59, effective February 6, 2006.

Sec: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

Rewrote definition “Adult county correctional facility Administrator”, added definitions “Central control,” “Contact visit,” “Custodian of a government record,” “Deadly force,” “Foreign national,” “Government record,” “Imminent danger,” “Legal correspondence,” “Mechanical restraints,” “Non-contract visit,” “Non-deadly force,” “Open Public Records Act,” “Reasonable belief,” “Reasonable suspicion,” “Roving patrol,” “Shift commander” and “Substantial risk.”

Amended by R.2007 d.64, effective February 20, 2007.

Sec: 38 N.J.R. 4622(b), 39 N.J.R. 652(b).

Added definition “Personal information”.

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

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

In the introductory paragraph, substituted a colon for the period at the end; in definition “Detainer”, substituted “state” for “State” and “U.S. Immigration and Customs Enforcement (ICE)” for “U.S. Immigration Department”.

Amended by R.2008 d.118, effective May 5, 2008.

Sec: 40 N.J.R. 84(a), 40 N.J.R. 2278(a).

Added definition “Electronic communication device”.

Amended by R.2008 d.141, effective June 2, 2008.

Sec: 39 N.J.R. 5043(a), 40 N.J.R. 3309(a).

Added definitions “Legitimate public official” and “Publication”.

10A:31-1.4 Forms

(a) A government records request form may be obtained from the record custodian (see definition of "custodian of a government record" at N.J.A.C. 10A:31-1.3).

(b) Adult County Correctional Facility, Request For Rule Exemption (Form 31—100) is available from the Department of Corrections, Office of County Services (see, N.J.A.C. 10A:31-1.7).

New Rule, R.2006 d.59, effective February 6, 2006.
See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

10A:31-1.5 Rulemaking and exemption authority

(a) Pursuant to N.J.S.A. 30:1B-10, the Commissioner of the Department of Corrections is authorized to establish minimum standards for adult county correctional facilities.

(b) The Commissioner is authorized to determine matters related to rules establishing the minimum standards regarding the administration of adult county correctional facilities and to modify rules so that such rules can function effectively.

(c) The Commissioner may exempt an adult county correctional facility from adherence to a rule or certain provisions or requirements of a rule in instances when strict compliance would result in:

1. An undue hardship;
2. An inability to meet a therapeutic, rehabilitative or medical need; or
3. A security risk to the overall management, safe or orderly operation of an adult county correctional facility.

New Rule, R.2006 d.59, effective February 6, 2006.
See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

10A:31-1.6 Rule exemption effective, extension and expiration dates

(a) The effective date of a rule exemption shall be the date of the Commissioner's signature on Form 31—100 Request for Rule Exemption.

(b) Except as set forth in (c) and (d) below, all rule exemptions shall expire two years from the date of approval by the Commissioner.

(c) A rule exemption may be terminated prior to the expiration date when:

1. The special circumstances exempting the rule no longer exist; or

2. The Commissioner no longer approves the rule exemption.

(d) A rule exemption may be extended beyond the expiration date when:

1. The adult county correctional facility Administrator or designee reapplies for the rule exemption by submitting Form 31—100 indicating a request for an extension and attaching a copy of the original approved and signed Form 31—100; and

2. The Commissioner signs the copy of Form 31—100 requesting the extension.

(e) Upon expiration or termination of a rule exemption, an adult county correctional facility shall return to compliance with the New Jersey Administrative Code.

New Rule, R.2006 d.59, effective February 6, 2006.
See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

10A:31-1.7 Procedure for requesting a rule exemption

(a) A request for a rule exemption may be submitted by inmates, staff or committees to the adult county correctional facility Administrator for review in accordance with internal management procedures.

(b) The adult county correctional facility Administrator shall review and determine, based on criteria set forth in N.J.A.C. 10A:31-1.5, whether to submit a Form 31—100 to the Commissioner for consideration.

(c) Designees of the Commissioner shall review the request for rule exemption and recommend whether to approve or disapprove a rule exemption, based on the criteria set forth in N.J.A.C. 10A:31-1.5. The Commissioner shall approve or disapprove the rule exemption by selecting the appropriate box, signing and dating the request, and returning the request to the adult county correctional facility Administrator.

New Rule, R.2006 d.59, effective February 6, 2006.
See: 37 N.J.R. 3201(a), 38 N.J.R. 995(a).

10A:31-1.8 Adult County Correctional Facility Request for Rule Exemption Form 31—100

The following Adult County Correctional Facility Request for Rule Exemption, Form 31—100 shall be utilized for submission of a request for a rule exemption pursuant to related provisions of this subchapter.