

CHAPTER 31

ADULT COUNTY CORRECTIONAL FACILITIES

Authority

N.J.S.A. 30:1B-6, 30:1B-10 and P.L.1994, c. 153.

Source and Effective Date

R.1995 d.421, effective August 7, 1995.
See: 27 N.J.R. 1728(a), 27 N.J.R. 2928(a).

Executive Order No. 66(1978) Expiration Date

Chapter 31, Adult County Correctional Facilities, expires on August 7, 2000.

Chapter Historical Note

Rules on County Correctional Facilities were originally codified as N.J.A.C. 10:34, effective October 15, 1975 as R.1975 d.300. See: 7 N.J.R. 506(c). The chapter was repealed by R.1986 d.182, effective May 19, 1986. See: 17 N.J.R. 2525(a), 18 N.J.R. 1103(a).

Chapter 31 became effective November 1, 1979 as R.1979 d.438. See: 11 N.J.R. 284(a), 11 N.J.R. 627(e). Subchapter 4 was originally filed and became effective under the emergency provisions of the Administrative Procedure Act. See: 13 N.J.R. 467(a). The subchapter was subsequently readopted, effective August 21, 1981 as R.1981 d.358. See: 13 N.J.R. 434(b), 13 N.J.R. 596(a). Subchapter 5 became effective May 17, 1982 as R.1982 d.149. See: 14 N.J.R. 227(a), 14 N.J.R. 474(a). Chapter 31 expired on November 1, 1984 pursuant to Executive Order 66(1978) and a new rule was established on February 4, 1985 as R.1985 d.17. See: 16 N.J.R. 3284(a), 17 N.J.R. 312(a). Subchapter 6, Work Release Program, became effective July 7, 1986 as R.1986 d.261. See: 18 N.J.R. 604(a), 18 N.J.R. 1386(a).

Chapter 31 was repealed and new rules adopted as R.1990 d.140, effective March 5, 1990. Pursuant to Executive Order 66(1978), Chapter 31, Adult County Correctional Facilities, expired on March 5, 1995.

Chapter 31, Adult County Correctional Facilities, was adopted as new rules by R.1995 d.421, effective August 7, 1995. See: Source and Effective Date.

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SUBCHAPTER 1. INTRODUCTION**10A:31-1.1 Purpose**

(a) The purpose of this chapter is to:

1. Establish the minimum criteria for the planning, design and construction of new adult county correctional facilities or renovation of existing facilities;
2. Establish the minimum criteria for the administration of adult county correctional facilities;
3. Establish guidelines for the provision of programs and services to inmates in adult county correctional facilities;
4. Establish guidelines which permit correctional officials at county and State levels to analyze and evaluate

the performance and adequacy of services provided to inmates by adult county correctional facilities, and delineate the deficiencies which require improvement;

5. Establish guidelines whereby inmates employed in productive occupations while confined in adult county correctional facilities shall receive compensation for such employment in the form of cash or remission of time from sentence or both;

6. Establish guidelines for the participation of inmates in the Work Release Program; and

7. Establish the abatement process in all cases where conditions or procedures are discovered in adult county correctional facilities which are in violation of the rules of this chapter and where a county has willfully and continuously failed to initiate corrective action in response to notice.

10A:31-1.2 Scope

This chapter shall be applicable to the New Jersey Department of Corrections, the Bureau of County Services and all adult county correctional facilities.

10A:31-1.3 Definitions

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

“Adult county correctional facility” means any place, under the jurisdiction of a county, where adult persons convicted or accused of crimes are confined.

“Body cavity search” means the visual inspection or manual search of a person’s anal or vaginal cavity.

“Classification Committee” means a group of staff members who have been designated to make decisions related to the needs of inmates from the time of admission until the time of release.

“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; and/or

2. 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.

“Detainer” means a warrant or formal authorization to hold an inmate for prosecution or detention by a Federal, State or local law enforcement agency or the U.S. Immigration Department. 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 Jail 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.

“Facility” means an adult county correctional facility.

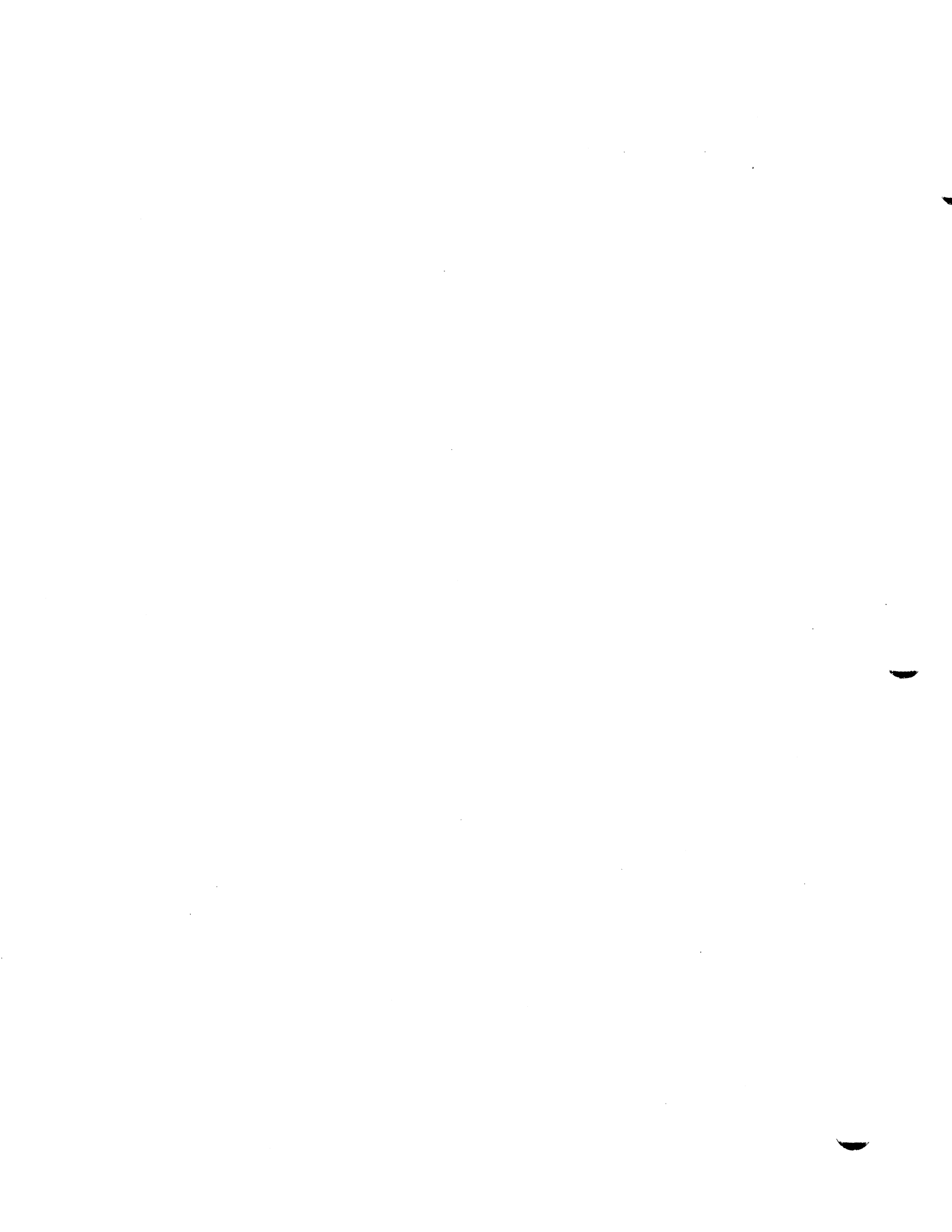
“Handbook on Discipline” means a publication that is provided to inmates which contains the inmate’s rights and responsibilities, the acts and activities which are prohibited, and the disciplinary procedures and sanctions imposed.

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

“Jail Administrator” means a Sheriff, Warden or any other person who serves as the Chief Executive Officer of an adult county correctional facility.

“Multiple occupancy sleeping unit” means an area, room, or cell housing more than two, but less than 50, inmates.

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



“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.

“Strip search” means the removal or rearrangement of clothing and the visual inspection of the person’s undergarments, buttocks, anus, genitals, or breasts.

“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.
See: 26 N.J.R. 727(a), 26 N.J.R. 1506(a).
Amended by R.1994 d.484, effective September 19, 1994.
See: 26 N.J.R. 2841(a), 26 N.J.R. 3863(a).
Amended by R.1995 d.421, effective August 7, 1995.
See: 27 N.J.R. 1728(a), 27 N.J.R. 2928(a).

SUBCHAPTER 2. ENFORCEMENT PROCEDURES

10A:31-2.1 Authority of the Commissioner, New Jersey Department of Corrections

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

(b) The Commissioner may, in accordance with the Administrative Procedure Act, P.L.1968, c. 410 (N.J.S.A. 52:14B-1 et seq.) promulgate such rules and regulations as are deemed necessary to establish minimum standards for the care, treatment, government and discipline of inmates in adult county correctional facilities.

(c) The Department of Corrections takes note of the fact that a number of older adult county correctional facilities operate under the handicap of certain physical deficiencies. Such facilities will be allowed to make reasonable accommodations to meet this chapter. However, in the areas of renovation and/or new constructions of adult county correctional facilities, the Department of Corrections will insist that there be conformity to this chapter.

10A:31-2.2 Physical inspection and/or program evaluation

(a) The physical inspection and/or programmatic evaluation of adult county correctional facilities shall be conducted by the Bureau of County Services, New Jersey Department of Corrections.

(b) A report of the findings of the physical inspections and/or the programmatic evaluations, listing all violations shall be submitted to the Freeholder Director or County Executive with copies to the Sheriff or Jail Administrator and the County Assignment Judge.

(c) The report shall contain notice that corrective action must be effected or initiated within 60 days, and a date for re-inspection shall be scheduled.

10A:31-2.3 Re-inspection

(a) A re-inspection shall be conducted noting the abatement status of all violations.

(b) If additional violations are discovered during the re-inspection, a separate addendum will be attached to the original list of violations.

(c) A letter indicating the findings of each re-inspection shall be submitted to the parties listed in N.J.A.C. 10A:31-2.2(b).

(d) A date shall be scheduled for final re-inspection prior to any enforcement action.

10A:31-2.4 Extension of time to correct violations

(a) At any time prior to enforcement of restrictions, the county may request an extension of time to correct the violations. Said request must be in writing and must specify:

1. The particular violations which the county expects to have difficulty in correcting;
2. The reason(s) for the difficulty;
3. The nature of corrective action being undertaken; and
4. The date by which correction of violations will be completed.

(b) The Commissioner, New Jersey Department of Corrections, may, in his or her discretion, grant, modify or deny the request for an extension after consultation with the Bureau of County Services.

10A:31-2.5 Enforcement action

(a) In the event acceptable corrective action has not been effected or initiated upon final reinspection, notice shall be forwarded, by certified mail, to the county stating that:

1. Effective immediately, the county shall cease to admit persons sentenced to State correctional facilities;

2. Effective 30 days after receipt of notice, the county shall cease to admit persons sentenced to terms in said adult county correctional facility; and

3. Effective 90 days after receipt of notice, the county shall cease to accept all persons sent to said adult county correctional facility.

(b) The notice of restrictions in (a) above shall contain a statement of reasons for imposition of restrictions, based on:

1. The number, seriousness and duration of the violations cited; and

2. The willful, continuous disregard of the county in abating the violations.

(c) Restrictions imposed on a county pursuant to this subchapter shall continue until such time as the Commissioner shall determine that the violations specified have been corrected, or that the adult county correctional facility has initiated actions which will ensure the correction of said violations.

(d) During the pendency of restrictions imposed pursuant to this subchapter, location of inmates and payments therefor shall be governed by N.J.S.A. 30:8-57, 58 and 59.

(e) The Commissioner shall initiate such legal action as may be deemed necessary to ensure the enforcement of this subchapter.

Case Notes

Chancery judge was empowered to direct county to build additional facilities to remedy unconstitutional overcrowding and other conditions in county jail, but it was unnecessary to determine whether power was exercised pursuant to court's authority to implement remedy following declaration of unconstitutional conditions at jail or whether trial court was merely directing implementation of plan prepared by commissioner of Department of Corrections pursuant to commissioner's statutory jurisdiction, where county acknowledged its obligation to construct adequate county correctional facilities. *Morales v. County of Hudson*, 236 N.J.Super. 406, 566 A.2d 191 (A.D.1989).

SUBCHAPTER 3. PLANNING AND DESIGN

10A:31-3.1 Notification

(a) A letter of intent to construct, remodel or renovate any adult county correctional facility shall be submitted to the Chief, Bureau of County Services, Department of Corrections, by the governing body responsible for the facility prior to the initiation of any planning actions. The notification shall specify the proposed action to be taken and the estimated period of construction.

(b) Upon receipt of the letter of intent, the Chief, Bureau of County Services, shall furnish technical assistance throughout the planning process to assure that such planning complies with this subchapter.

10A:31-3.2 Submission of plans and specifications

(a) All plans and specifications shall be submitted to the Chief, Bureau of County Services, New Jersey Department of Corrections to ensure compliance with the requirements set forth in this subchapter.

(b) Contracts shall not be awarded until approval of final documents is received by the appropriate county administrator in writing from the Chief, Bureau of County Services, and other applicable regulatory agencies.

Recodified from 10A:31-3.3 and amended by R.1995 d.421, effective August 7, 1995.

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

10A:31-3.3 Construction principles

All adult county correctional facility construction or renovations shall comply with the regulations required by State and local building and fire codes.

Recodified from 10A:31-3.4 and amended by R.1995 d.421, effective August 7, 1995.

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

10A:31-3.4 General conditions

(a) The requirements within this subchapter shall apply to all areas of the adult county correctional facility with equal importance and shall be considered in the planning process.

(b) The facility should be geographically accessible (such as, but not limited to, public transportation and parking) to the public and to the facility staff, as well as to the officers of the court, attorneys and law enforcement officers.

(c) Staff work stations and control rooms shall be situated to provide the greatest degree of observation of traffic flow and supervised internal activities. The staff work stations and control rooms shall provide access to toilet facilities.

(d) The facility shall be so designed that sections or parts can be closed off for varied use to meet changing needs.

(e) Exit and entry control stations shall be separated from the public and inmates by security barriers and shall be protected from direct observation from outside of the facility.

(f) The design of the correctional facility shall provide for the secure confinement of inmates and for adequate separation of inmates of one classification from inmates of another (see N.J.A.C. 10A:31-22.2).

(g) The design of the facility shall provide for the segregation of certain types of inmates from the living areas of the general population, such as disciplinary detention, protective custody, etc.

SUBCHAPTER 22. CLASSIFICATION

10A:31-22.1 Written classification policies and procedures

(a) Each adult county correctional facility shall develop written policies and procedures for classifying inmates which include the following:

1. The composition and responsibilities of the Classification Committee;
2. The initial classification of inmates;
3. The review of the classification of inmates; and
4. The reassignment or transfer of inmates from one program and/or facility to another.

10A:31-22.2 Separation of inmates

(a) The following types of inmates shall be maintained separately insofar as space permits:

1. Male and female inmates;
2. Aggressive and passive/dependent inmates;
3. Inmates with special problems, such as alcoholics, sex offenders, drug addicts, etc., and inmates who do not have such problems;
4. Physically or mentally ill inmates and healthy inmates;
5. Serious offenders and less serious offenders; and
6. Sentenced inmates and detainees.

(b) The classification of inmates in the categories in (a) above may be modified based on the direct observation and supervision of individual inmates, and in such instances each classification decision shall be fully documented.

Amended by R.1991 d.143, effective March 18, 1991.
See: 22 N.J.R. 3714(c), 23 N.J.R. 860(a).

Changed terms from "misdemeanors" and "felons"; also changed "first offenders" and "habitual criminals".

10A:31-22.3 Segregation of inmates based upon race, color, creed or national origin

Segregation of inmates by race, color, creed, or national origin shall be prohibited.

10A:31-22.4 Male and female inmates' access to programs and activities

Male and female inmates, depending on their custody levels, shall have equal access to all programs and activities, but integrated participation by male and female inmates in programs and activities is not required.

10A:31-22.5 Initial classification

(a) Initial classification of sentenced inmates shall be completed within two weeks after admission from court or

transfer from another institution, except where there are clear and convincing reasons to do otherwise.

(b) Wherever possible, inmates shall initially be assigned to an intake area until appropriately classified and medically screened pursuant to N.J.A.C. 10A:31-13.9.

Amended by R.1995 d.421, effective August 7, 1995.
See: 27 N.J.R. 1728(a), 27 N.J.R. 2928(a).

10A:31-22.6 Classification hearing

All sentenced inmates shall be given 48 hours notice prior to their classification hearing and shall have the opportunity to appear and participate in their hearing.

10A:31-22.7 Appeal of Classification Committee decision

All sentenced inmates shall be given the opportunity to appeal the decision of the Classification Committee to the Jail Administrator or his or her designee.

SUBCHAPTER 23. REMISSION OF TIME FROM SENTENCE

10A:31-23.1 Eligibility for cash or remission of time from sentence

(a) Inmates who are employed in productive occupations while incarcerated in an adult county correctional facility may receive compensation for such employment in the form of cash or remission of time from sentence or both (see N.J.S.A. 30:4-92).

1. An inmate employed under this section may receive remission of time from sentence not to exceed one day for each five days of productive occupation, but remission granted under this section shall not affect deductions for good behavior as otherwise provided by law.

2. In addition, all inmates classified as minimum security and who are considered sufficiently trustworthy to be employed in honor camps, farms or details, shall receive further remission of time from sentence at the rate of three days per month for each month of such employment.

(b) Inmates in adult county correctional facilities, who are employed in the community pursuant to N.J.A.C. 10A:31-25, Work Release Program, are eligible for diminution of sentence as set forth in N.J.S.A. 30:8-50. The inmate may be granted a diminution of not more than one-quarter of his or her term if the inmate's conduct, diligence and general attitude meet such diminution.

(c) Inmates who are receiving credits while participating in a Work Release Program under (b) above may also, in appropriate circumstances, receive work credits under (a) above. Such additional credits may be granted only where

the inmate engages in a productive occupation in the adult county correctional facility in addition to the inmate's participation in the Work Release Program.

(d) Any remission of time shall in no way affect deduction for good behavior as otherwise provided in N.J.S.A. 2A:164-24.

10A:31-23.2 Records and audits

(a) The New Jersey State Department of Corrections shall periodically audit records pertinent to the remission of time or cash payments for periodic occupation or minimum security status of inmates. Such audits shall be conducted not less than annually.

(b) The remission of time or cash payment records shall indicate the following:

1. The dates the inmate was placed upon and removed from productive occupation and/or minimum security status;
2. The reason for removal from productive occupation or minimum security status;
3. The time the inmate earned while in productive occupation or on minimum security status; and
4. The cash remuneration, if any, the inmate received while in productive occupation.

(c) Individual records shall be maintained for each inmate placed in productive occupation or classified on minimum security status.

10A:31-23.3 Reports

(a) The Jail Administrator of the adult county correctional facility shall submit an annual report to the New Jersey State Department of Corrections, Bureau of County Services.

(b) The annual report shall contain, but not be limited to, the following:

1. The operation of the remission of time for productive operations and minimum security status; and/or
2. The payment of cash to inmates for employment in productive occupations.

(c) In counties electing to provide cash payments for employment in productive occupations, the schedule of payments shall be filed with the New Jersey State Department of Corrections, Bureau of County Services.

10A:31-23.4 Consultations

The New Jersey State Department of Corrections will provide the consultative services of staff members with respect to questions, issues or problems arising out of the interpretation of the Statutes or from operational procedures.

SUBCHAPTER 24. INMATE WORK PROGRAM

10A:31-24.1 Inmate work plan

(a) The adult county correctional facility shall develop and maintain a written inmate work assignment plan that provides for inmate employment, subject to the availability of work opportunities and the security considerations of the facility.

(b) The inmate work plan shall include provision for inmate employment in facility maintenance and operations such as:

1. Cleaning;
2. Painting;
3. Food service; and
4. Laundry operations.

(c) The inmate work plan shall include provisions for inmate employment in public works projects such as construction work, conservation projects, county road work, and cleaning and maintenance tasks in local government buildings.

(d) The inmate work plan shall include provisions for the employment of handicapped inmates.

10A:31-24.2 Pretrial and unsentenced detainees

Pretrial and unsentenced detainees shall not be required to work except to do personal housekeeping.

10A:31-24.3 Inmate volunteers

Any inmate may volunteer for work assignments or adult county correctional facility programs.

10A:31-24.4 Compensation

(a) Inmates employed in inmate work programs shall receive compensation for employment in the form of cash or remission of time from sentence or both (see N.J.A.C. 10A:31-23).

(b) Any remission of time shall in no way interfere with the reduction for good behavior time.

(c) State sentenced inmates who are being housed in adult county correctional facilities shall be compensated in accordance with N.J.A.C. 10A:9-5.6.

SUBCHAPTER 25. WORK RELEASE PROGRAM

10A:31-25.1 Authority

N.J.S.A. 30:8-44 authorizes the operation of a County Work Release Program in the counties in which the Board of Freeholders has approved the establishment of this type of program.