

(b) As soon as practicable, when a State of New Jersey, Firearms Unit Weapons Card, official photo identification card or badge of the New Jersey Department of Corrections is believed to have been lost or stolen, the employee shall notify the local law enforcement authorities and the Superintendent/Unit Chief or their designee.

(c) Except as outlined in N.J.A.C. 10A:3-4.3(b)1 through 3, the employee shall immediately and without exception report to the local law enforcement authorities and the correctional facility Superintendent/Unit Chief or their designee:

1. Any incident where the employee displayed, drew or fired his or her off-duty firearm; or
2. Any incident or injury which occurred from the use of the employee's firearm.

(d) On the next working day after any incident as described in this section, the employee shall report in writing to the Superintendent /Unit Chief or their designee the incident and identifying particulars of the incident. The Superintendent/Unit Chief or their designee shall then forward the report for review to the Chief of Staff, the Office of Public Information, and the Central Office Internal Affairs Unit.

(e) The employee shall, within three days, report to the correctional facility Superintendent/Unit Chief, or their designee in writing whenever a registered authorized off-duty firearm has been sold or is no longer in use.

Recodified from 10A:3-4.11 and amended by R.1997 d.41, effective January 21, 1997.

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

Substantially amended section. Former rule recodified to N.J.A.C. 10A:3-4.13.

10A:3-4.13 Penalties for violation

(a) Employee actions which do not conform to the provisions of this subchapter and any post orders or procedures implemented in connection with this subchapter may result in the following:

1. Disciplinary action pursuant to N.J.A.C. 4A:2;
2. Personal, civil or criminal liability;
3. Denial of indemnification; and/or
4. Refusal by the Office of the Attorney General to represent the officer.

(b) Decisions regarding (a)3 and 4 above will be made by the Attorney General after reviewing the facts of the case.

Recodified from 10A:3-4.12 and 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), 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.

10A:3-4.14 Post orders and procedures

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

(b) All written post orders and procedures shall be forwarded to the Office of the Chief of Staff 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).

SUBCHAPTER 5. SEARCH 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.

10A:3-5.2 Search plan

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

(b) Each correctional facility shall appoint an officer, at a rank no less than captain, as Institutional Search Plan Coordinator.

(c) The Institutional Search Plan Coordinator shall submit a monthly written report, on the appropriate implementation of the Institutional Search Plan, to the Superintendent.

(d) The Superintendent of each correctional facility shall submit, in the first calendar week of January and July, a written report on the appropriate implementation of the Institutional Search Plan to the Assistant Commissioner, Division of Operations.

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).

10A:3-5.3 Searches of inmates and facilities

(a) All inmate residential, work, training areas and other areas to which inmates have access shall be searched thor-

oughly 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 by each correctional facility's Standard Operating Procedures, 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).

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 supervisor for review by the Director of Custody Operations.

10A:3-5.5 Metal detector searches

(a) Searches of inmates by the use of metal detectors may be done routinely where necessary for security purposes. This may be a walk-through device or a handheld device which is passed over the fully clothed body of the inmate. The metal detector may also be utilized in conjunction with a strip search, as, for example, to pass the detector over the inmate's anal area.

(b) Metal detector searches may be conducted by male or female officers.

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 correction officer'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 officers regardless of the sex 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.

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 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 an officer 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 in private at a location where the search cannot be observed by persons not conducting the search. The number of officers present shall be only that number reasonably necessary to provide security. No member of the opposite sex shall be present during strip searches except as set forth in (d) below.

(d) Strip searches of inmates may be conducted by officers of the opposite sex under emergent conditions as ordered by the Superintendent, 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, Internal Affairs Investigator(s) or SOG Unit members required to be present who are not conducting the search and who may be of the opposite sex 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.

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

(a) Under no circumstances shall a body cavity search be conducted on an inmate unless the correction officer in charge is satisfied that a reasonable suspicion exists that contraband will be found in the inmate's body cavity.

(b) In the event an officer in charge is reasonably satisfied that contraband is being concealed in the inmate's body cavity, the inmate shall be escorted immediately to the

hospital or medical department in the correctional facility and the following procedure shall be followed for examination of the inmate and removal of contraband.

1. A body cavity search shall be conducted:
 - i. Under sanitary conditions;
 - ii. At a location where the search cannot be observed by unauthorized person;
 - iii. By a physician or registered nurse of either sex;
 - iv. In the presence of only those correction officers deemed necessary for security, who are of the same sex as the inmate; and
 - v. In a professional and dignified manner, with maximum courtesy and respect for the inmate's person.

2. The inmate may:

- i. Remove the object in the presence of the physician or registered nurse and a correction officer(s) of the same sex as the inmate; or
- ii. Be examined by the physician or registered nurse who may remove the object without the use of force.

3. If a correction officer in charge determines there is a reasonable suspicion to believe that a foreign object which contains metal is present in the inmate's body cavity, such object may be removed only by the physician with or without the use of force.

4. In the event the officer in charge, the physician or the registered nurse has determined that nonmetal contraband is being concealed in the inmate's body cavity, and the inmate refuses to permit contraband removal, the inmate shall receive appropriate disciplinary charges and may be placed in prehearing detention or medical isolation. During prehearing detention, medical isolation or disciplinary detention, if any, the inmate may be kept under visual surveillance to detect removal or elimination of the contraband.

(c) A written report of the results of a body cavity search shall be made part of the inmate's record and shall include, but not be limited to, the following information:

1. A statement of facts indicating reasonable suspicion for the search;
2. The name of the officer in charge who authorized the search;
3. The name(s) of the correction officer(s) present during the search and the reason 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 necessary.

10A:3-5.9 Canine searches

(a) All correctional facilities and properties under the jurisdiction of the Department of Corrections are subject to random searches by canine teams, trained to discover narcotics.

(b) Before any canine search is conducted, inmates and/or visitors shall be removed from the immediate area to be searched.

(c) There shall be no canine searches of persons.

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.

10A:3-5.10 Urine monitoring

(a) Urine monitoring may be conducted for the purpose of deterring and controlling the introduction of contraband or to detect the presence of any drug not authorized for possession or use by the inmate.

(b) Inmates shall be required to submit urine for analysis when:

1. A correction officer of the rank of Sergeant or above or an Internal Affairs Officer believes, based upon his or her education and experience, that there is a reasonable factual basis to suspect the inmate of using or possessing drugs;

2. A supervising staff member or a licensed medical staff person in residential contract facilities and/or other community residential facilities 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 drugs;

3. The Superintendent, Assistant Superintendent or the Director of Custody Operations orders all inmates of a particular housing unit, work detail or other functional unit to submit urine samples. Such orders shall be in writing and this authority may not be delegated;

4. A correction officer of the rank of Sergeant or above orders urine samples to be taken upon any inmate's return from furlough or other unsupervised temporary release from custody; or,

5. A Disciplinary Hearing Officer/Adjustment Committee orders a urine sample to be taken as part of a sanction for a drug related infraction.

Recodification: this section was recodified from N.J.A.C. 10A:3-5.8.
See: 19 N.J.R. 1175(a), 19 N.J.R. 1813(a).
Recodified from 10A:3-5.9 and amended by R.1997 d.41, effective January 21, 1997.
See: 28 N.J.R. 4840(a), 29 N.J.R. 356(a).

Substituted a general reference to drug use for more specified references, in (a); substituted "use by the inmate" for "use by the correctional facility staff"; and in (b), substituted "shall" for "may". Former rule recodified to N.J.A.C. 10A:3-5.11.

Case Notes

Evidence of chain of custody of inmate's urine sample met constitutional requirements. *Elkin v. Fauver*, C.A.3 (N.J.)1992, 969 F.2d 48, rehearing denied, certiorari denied 113 S.Ct. 473, 506 U.S. 977, 121 L.Ed.2d 379.

Sanctions against prison officials for violation of court ordered chain-of-custody requirements unwarranted. *Elkin v. Fauver*, C.A.3 (N.J.)1992, 969 F.2d 48, rehearing denied, certiorari denied 113 S.Ct. 473, 506 U.S. 977, 121 L.Ed.2d 379.

Inmate not entitled to compensation for prison's failure to comply with court-ordered chain-of-custody requirements. *Elkin v. Fauver*, C.A.3 (N.J.)1992, 969 F.2d 48, rehearing denied, certiorari denied 113 S.Ct. 473, 506 U.S. 977, 121 L.Ed.2d 379.

Random urinalysis program did not violate due process. *Laird v. McBride*, N.D.Ind.1993, 858 F.Supp. 822.

Failure to follow chain of custody procedures set forth on random urinalysis program form did not violate due process. *Laird v. McBride*, N.D.Ind.1993, 858 F.Supp. 822.

10A:3-5.11 Collection, storage and analysis of urine samples

(a) Each time a urine specimen is collected for the reasons stated in N.J.A.C. 10A:3-5.10, Form 172-I Continuity of Evidence—Urine Specimen shall be completed and submitted with the urine sample to the Internal Affairs Officer or the staff member responsible for maintaining custody over the specimen until transfer to the testing facility.

(b) Urine samples taken from inmates shall be voided directly into an approved specimen bottle in the presence of at least one correction officer or staff member of the same sex as the inmate.

1. A minimum of 50 milliliters (two ounces) must be voided in order to provide an adequate sample.

2. The specimen bottle shall immediately be closed, labeled and sealed in the presence of the inmate by the correction officer or staff member.

3. The label shall include the inmate's name and number, the correctional facility to which the inmate is assigned, the name of the correction officer or staff member who witnessed the voiding of the sample, the date and time of the sample, the prescription medication that the inmate is currently taking, and the inmate's signature. Should the inmate refuse to sign, the correction officer or staff member who witnessed the voiding of the sample shall indicate the refusal on the label and on Form 172-I.

(c) The correction officer or staff member who signs the label as witness shall, as soon as reasonably practicable, deliver the urine sample to the Internal Affairs Officer or other officer responsible for maintaining custody over evidence:

1. The urine sample shall be placed in a locked and secure refrigerator or freezer by the officer responsible for maintaining custody over evidence as soon as reasonably practical, but in no event later than eight hours after the sample was voided.

2. The officer who receives custody of the urine sample shall record on Form 172-I the date and time he or she received the sample, the officer from whom it was received, and the date and time of its placement into the evidence locker and/or locked refrigerator.

(d) Inmate urine samples transported out of the correctional facility for drug testing shall be transported, where reasonably practical, in an iced cooler or similar device. The date and time of the removal of the urine sample from the correctional facility, as well as the date and time of its receipt by the testing facility shall be noted on Form 172-I by the person(s) performing these functions.