

LAW AND PUBLIC SAFETY

JUVENILE JUSTICE COMMISSION

Secure Facilities

Proposed Re-adoption with Amendments: N.J.A.C. 13:95  
Proposed Repeals: N.J.A.C. 13:95-1.3, 2 and 3.  
Proposed New Rules: N.J.A.C. 13:95-1.2, 1.4 and 2 through 21.

Authorized By: Executive Board of the Juvenile Justice Commission, by the Honorable Peter C. Harvey, Attorney General and Chair, Markus Green, Attorney General's Designee.

Authority: N.J.S.A. 2A:4A-60; 2C:39-6a(9); 9:17A-1 and 4; 30:4-27.2; 30:4-27.24; N30:4-82.4; 30:4-123.53a; 47:1A-1; 52:17B-170e(14) and (22); 52:17B-170e(8) and (9); 52:17B-171; 52:17B-174, 52:17B-175 and 52:17B-176.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2005-329.

Comments with respect to this proposal must be received on or before November 18, 2005, and must be submitted in writing. One copy must be directed to following addresses, as indicated:

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The agency proposal follows:

Summary

N.J.A.C. 13:95, currently headed Security and Control, is scheduled to expire on August 7, 2005. The expiration date has been extended to February 3, 2006 pursuant to N.J.S.A. 52:14B-5.1(c) by the filing of this proposal. The Juvenile Justice Commission (Commission) has reviewed the rules and has determined that they continue to be necessary, reasonable and proper for the purpose for which they were originally promulgated. However, the Commission has determined that the rules should be reorganized and that additional new rules are necessary.

The existing chapter is limited to use of force and firearms. These provisions have been reorganized and updated to conform to the Attorney General's Use of Force Policy (April 1985, as revised June 2000). In addition, the Commission proposes to add new subchapters that address a number of other operational areas to create a comprehensive regulatory framework governing major operational areas in secure facilities. These include keep separate status; searches of juveniles and facilities; contraband and disposition of contraband; institutional classification; transportation of juveniles; security procedures for administrative transfers of juveniles from secure facility satellite units and community programs; protective and temporary close custody; juvenile orientation and handbook; juvenile hygiene and grooming, prohibition of tobacco products, juvenile identification photographs, housekeeping and sanitation, clothing, bedding and laundry; juvenile access to courts; suicide prevention; pregnant juveniles and critical injury or death of juveniles; mail, correspondence, legal correspondence, publications and packages; visits and telephone, and reports. The proposal also makes a number of technical amendments to the rules' general provisions.

The rules proposed for re-adoption with amendments and proposed repeals and new rules will establish a comprehensive set of regulations addressing operational issues relevant to secure facilities. The rules proposed for re-adoption with amendments and proposed repeals and new rules represent a completion of the transition begun in 1995, when responsibility for operating juvenile secure facilities was transferred from the New Jersey Department of Corrections to the Commission. Accordingly, the rules proposed for re-adoption with amendments and proposed repeals and new rules reflect the specialized function of the Commission in addressing juvenile corrections.

The rules proposed for re-adoption with amendments and proposed repeals and new rules encompass 21 subchapters. Three of these subchapters, Subchapters 7, 13 and 19 are reserved. Two of the other 20 subchapters, Subchapters 3 and 4, cover use of force and firearms, subject areas that are covered in the current N.J.A.C. 13:95. The remaining 15 subchapters are new.

A subchapter-by-subchapter description follows

Subchapter 1, N.J.A.C. 13:95-1, includes general provisions covering purpose, scope, definitions, forms, and confidentiality.

N.J.A.C. 13:95-1.1, Purpose and Scope, has been amended to address the chapter's purpose only, and to match the expanded subjects covered by the amended chapter. The list of juvenile correction officers titles to which the chapter is applicable in subsection (b) has been deleted because it is redundant with the definition of "custody staff officer" in proposed N.J.A.C. 13:95-1.3 and therefore is unnecessary here. Proposed new subsection (b) lists various procedure and policy subjects set forth in the amended chapter.

The scope of the Chapter, that is, being applicable to Commission secure facilities unless otherwise indicated in the chapter, is set forth in proposed new N.J.A.C. 13:95-1.2.

Some changes to the definitions in proposed N.J.A.C. 13:95-1.3 have been made for clarification and to reflect reorganizations within the Commission. In addition, the definitions section has been expanded to reflect the many new subchapters being added. With respect to specific amendments being proposed:

A definition for “facility” has been added to clarify that for the purpose of the rule, the term applies to places that house juveniles, but not to Commission administrative and operational offices.

The definition “Director of Operations” has been changed to reflect that the position no longer involves oversight of non-secure facilities and also to clarify that the actual in-house title of the manager serving in the position may be other than Director of Operations. In the recent past, the in-house title of the appropriate manager was “Director of Resident Care” and currently is “Director of Secure Care.”

In the proposed rules, the term “juvenile inmate” has been deleted as harmful in furtherance of the Commission’s policy to avoid stigmatizing juvenile offenders unnecessarily. Incarcerated juveniles are now identified more appropriately simple as “juveniles” and a definition of “juvenile” has been added. The Commission’s Office of Internal Affairs has been renamed Office of Investigations and this change is reflected in the definitions.

The reference to the “boot camp” (now called the Life Skills and Leadership Academy or LS & LA) has been deleted from the definition of “shift supervisor” because it is superfluous. The definition describes a shift supervisor as the custody staff member responsible for maintaining security during a tour of duty at a “secure facility or secure facility satellite unit.” The SL & SA is a secure facility and does not need to be identified separately.

The definition of " juvenile corrections officer" has been deleted and replaced with the definition "custody staff member."

Proposed new N.J.A.C. 13:95-1.4 sets forth a list of forms related to secure facilities used throughout the chapter.

The confidentiality section, N.J.A.C. 13:95-1.4 ( recodified as 1.5), has been amended to cite the Open Public Meetings Act, N.J.S.A. 47:1A-1 et seq.

Proposed N.J.A.C. 13:95-2 governs "keep separate" procedures, the process for identifying and maintaining a separation among specific juveniles, when separation is necessary for the maintenance of security and orderly operation of a facility. Examples of situations where keep separate procedures might be invoked are various and include situations where juveniles are co-defendants in a pending adjudication or criminal matter, where the welfare of a juvenile may be a threatened by another, and where one juvenile has been subpoenaed to testify with respect to the conduct of another. The proposed rules are closely modeled after N.J.A.C. 10A:3-2, with only contextual and definitional changes.

Proposed Subchapters 3 and 4 contain rules governing, respectively, use of force and firearms applicable to custody staff members.. These two subchapters contain substantive provisions that are substantially the same as those in existing Subchapters 2 and 3 with two important differences.

Firstly, they are structured so that one subchapter, Subchapter 3, addresses all use of force issues, both for on-duty custody staff members and for off-duty custody staff members, while the other, Subchapter 4, addresses all firearms issues, again for both on-duty and off-duty custody staff members. The Commission believes this is a much clearer presentation than exists in the existing rule, in which Subchapter 2 sets out all

on-duty rules for both use of force and firearms and Sunchapter 3 does the same thing for off-duty custody staff members..

More importantly, the existing rules do not reflect progressive use of force requirements set out in the June 2000 revisions to the 1985 Attorney General's Use of Force Policy and the proposed rule corrects this. The revisions in the Attorney General's Policy strongly emphasize the importance of using only the minimum force necessary to control a given situation, beginning with "constructive authority," meaning the exercise of authority that does not involve actual physical contact with an individual.

The Commission believes that control over and elimination of excessive use of force is especially relevant to juvenile corrections and has included within the proposed rules a requirement that a custody staff member report all situations where excessive force is used by anyone against a juvenile. See proposed N.J.A.C. 13:96-3.1(c). In the same vein, under the proposed rules, deadly force is not permitted to thwart an escape and bringing weapons into Commission facilities is not allowed.

N.J.A.C 13:95-5 sets out proposed rules governing searches of juveniles and searches of secure facilities; it closely tracks N.J.A.C. 10A:3-5, the Department of Corrections' rules governing searches in adult facilities. The Commission's proposed rules are more restrictive, however. Approval of secure facility management is required before an invasive search such as a body cavity search, can be undertaken. In another restriction added to the proposed Commission rules, pat searches generally are permitted only by personnel of the same gender as the juvenile to be searched.

Proposed N.J.A.C 13:95-6 addresses issues of contraband and the disposition of contraband after it is discovered. It closely tracks N.J.S.A. 10A:3-6. The proposed rules place restrictions on bringing money or other currency into a secure facility. For security

reasons, juveniles are not permitted to receive cash. In addition, allowed forms of payment to a juvenile, such as money orders or certified checks, can be made only by mail, and not in person. All payments to juveniles must be logged-in and tracked. Accepting money, in whatever form, during visiting hours diverts staff from other necessary functions.

N.J.A.C 13:95-7 is reserved.

Proposed N.J.A.C 13:95-8 covers institutional classification, the procedures governing (a) the monitoring and review of a juvenile's progress within a secure facility, for purposes of assigning the juvenile to appropriate programs or activities, and (b) the process for determining when it is necessary or appropriate to transfer a juvenile to another Commission facility or program, including reviewing juvenile requests for transfer. Transfers of a juvenile within a secure facility and among Commission programs, can be initiated by secure facility staff. In addition, a juvenile has the right to make a request for a transfer at any time in writing. The processing of such requests would be governed under the Commission's proposed classification rules, proposed N.J.A.C. 13:100, which were published in the New Jersey Register on April 18, 2005 at 37 N.J.R. 1168(a). Proposed Subchapter 8 cross-references N.J.A.C. 13:100 accordingly.

Proposed N.J.A.C 13:95-9 governs procedures for the transportation of juveniles, and is closely based on the Department of Corrections' N.J.A.C. 10A:3-9. The proposed rules address a variety of transportation issues germane to secure facilities, such as differing custody levels of the juveniles requiring transport, equipment required in vehicles used for juvenile transport, provisions for interstate transport of juveniles, and transportation related to court visits.

Proposed N.J.A.C 13:95-10 establishes security procedures to be used in connection with administrative transfers of juveniles to secure facilities from other

Commission facilities and programs. These transfers often are in the context of behavioral issues with respect to the juvenile being transferred; hence, the concern for security procedures. The proposed rules are closely modeled after the Department of Corrections' N.J.A.C. 10A:3-10.

Proposed N.J.A.C 13:95-11 covers procedures for assigning juveniles to protective and temporary close custody, for reviewing the progress of juveniles so assigned, and for releasing juveniles from protective and temporary close custody. It also contains provisions for managing housing units to which residents in protective and temporary close custody are assigned. It closely tracks corresponding portions of the Department of Corrections' N.J.A.C. 10A:5

Temporary close custody refers to a non-punitive removal of a juvenile from the general population for a period not to exceed 72 hours for special observation or investigation, for example, when it is suspected that a juvenile has ingested contraband to avoid detection. Protective custody refers to the assignment of a juvenile to a designated housing unit that restricts or limits the juvenile's activities and contacts with others, in order to protect the juvenile from injury or harm actually threatened, or reasonably believed to exist based on events, investigative reports, informants' reports or other reliable sources of information.

Proposed N.J.A.C 13:95-12 establishes provisions for the orientation required for all juveniles entering a secure facility. The rules require each juvenile to be informed as to the rules, procedures, units, services and programs of the secure facility to which they are assigned, and establishes the requirement for publishing, maintaining and distributing a resident handbook in each secure facility. It is modeled after the Department of Corrections' N.J.A.C. 10A:8.



N.J.A.C 13:95-13 is reserved.

Proposed N.J.A.C. 13:95-14 covers a number of administrative and housing related issues: juvenile hygiene and grooming, a prohibition against the possession and use of tobacco products, juvenile identification photographs, housekeeping and sanitation, and clothing, bedding and laundry. The proposed rules are modeled on the Department of Corrections' N.J.A.C. 10A:14. They differ from the Department of Corrections' rules by establishing an absolute ban on all tobacco products within the perimeter of any area of a secure facility, including recreational yards and other outdoor areas. This ban applies to staff as well as to juveniles.

Other subjects include the standard personal hygiene kit provided to a juvenile upon admission to a secure facility, a requirement that juveniles generally are to shower daily, mandatory housekeeping schedules, coordinating inspections of facilities by the State Department of Health and Senior Services, basic clothing issue and use of DEPTCOR, State Use Industries, and central laundry services.

Proposed Subchapter 15, Juvenile Access to Courts, defines the legal materials and related administrative services that must be made available for juveniles, in connection with court proceedings. Under the proposed rules, the Commission is responsible for a number of activities designed to ensure juvenile access to legal materials and related services, necessary to ensure access to judicial process. These activities include identifying necessary legal resources, stocking law libraries and ensuring the availability of Notary Publics and other necessary administrative resources.

Proposed N.J.A.C. 13:95-16 sets out guidelines for the identification, placement and monitoring of juveniles who are deemed to be at risk for suicide. The rules establish a system for identifying and reporting potential suicidal behavior, and for placing at risk

juveniles in special observation status and removing them from such status. Procedures established by the proposed rules require an initial psychological/psychiatric interview within 24 hours of a juvenile being placed on special observation status, daily status interviews thereafter, and graduated levels of observation, dependent upon the facts and dangers of each individual case.

Proposed N.J.A.C. 13:95-17 covers two distinct areas: procedures to be followed when a juvenile is determined to be pregnant; and second, when a critical injury or death of a juvenile occurs. The proposed rules on pregnant juveniles are modeled after provisions in the Department of Corrections' N.J.A.C. 10A:16-6, but differ in some respects. Due to the age of the mother, in addition to her incarceration, the rules involve State child protective services (currently, the Division of Youth and Family Services) in decisions related to custody of a newborn.

The proposed rules on critical illness and death of a juvenile are based on the Department of Corrections' N.J.A.C. 10A:16-7. Topics covered include procedures for notifying next of kin upon illness or death, proper disposition of remains upon death, and distribution of money and property. The rules differ from N.J.A.C. 10A:16-6 by requiring parental or guardian involvement in connection with advanced medical directives and property distributions, where a juvenile has not yet reached 18.

Subchapter 18 is reserved.

Proposed Subchapter 19 establishes guidelines permitting juveniles to correspond with persons or entities outside the secure facility, for processing their legal correspondence, and for sending and receiving publications and packages. The proposed rules are largely based on the Department of Corrections' N.J.A.C. 10A:18-2, 3, 4 and 5. However, the rules have been substantially reformatted to increase clarity and to eliminate

redundancies that are contained in the Department of Corrections' rules.

Proposed N.J.A.C. 13:95-20 covers visits with juveniles, bedside visits to a dying relative, private viewing and funeral visits by a juvenile to a deceased relative, and juvenile access to and use of the telephone. It is modeled on the Department of Corrections' N.J.A.C. 10A:18-6, 7 and 8.

Proposed Subchapter 21, Reports, establishes guidelines for:

- Providing reports to officials within the Commission and, when necessary, to outside law enforcement agencies;
- Allowing observers from outside law enforcement or other agency access in an unusual incident or event;
- Providing written reports regarding the release, critical illness or death of a juvenile;
- Handling reportable and non-reportable suspected violations of criminal statutes; and
- Reporting requirements for the Commission's Office of Investigations.

The subchapter contains 15 sections. The first four and the last four sections, N.J.A.C. 13:95-21.1 through 21.4 and 21.12 through 21.15, are based closely on corresponding provisions in the Department of Corrections' N.J.A.C. 10A:21. These sections address (a) the purpose of the subchapter, (b) written reports required upon the release of a juvenile from secure custody and upon the death or serious injury of a juvenile, and (c) roles of various law enforcement agencies upon actual or suspected criminal activity by a juvenile and the reports required.

The middle seven sections, N.J.A.C. 13:95-21.5 through 21.11, were drafted anew. These provisions set out the process for reporting unusual incidents and events, and

roughly correspond to the Department of Corrections' rules found at N.J.A.C. 10A:21-5. These were substantially modified in the proposed rules primarily for purposes of clarity and precision of language.

Because the Commission has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

### Social Impact

The rules proposed for readoption with amendment and the proposed repeals and new rules will have a positive social impact. Incarcerated juveniles are not merely under-aged adult inmates. Rather, they are troubled children, often with unique educational, vocational and social needs. The challenge is to design rehabilitative programs that address these needs, while at the same time preserving the security and control essential to the orderly administration of a correctional facility. The rules proposed for readoption with amendment and the proposed repeals and new rules take the special needs of juveniles into consideration while preserving the safety and security of the facility and staff.

Proposed N.J.A.C. 13:95-3 and 4 incorporates the Attorney General's Use of Force Policy, which was the product of the collective efforts and judgment of the New Jersey Use of Force Advisory Committee. It is the State of New Jersey's policy that law enforcement officers will use only the force which is objectively reasonable and necessary and that in using force, the utmost restraint will be used. These rules follow those guidelines.

Proposed N.J.A.C. 13-95-3 also restricts the use of force in certain correctional situations in consideration of the juvenile population. For example, N.J.A.C. 13:95-3.4 (c) 2

provides that deadly force may not be used to thwart an escape. Further, N.J.A.C. 13:95-3.9 generally prohibits the use of chemical sprays within a secure facility, due to concerns for asthma among youth. This is appropriate and has a positive social impact.

Likewise, in consideration of the juvenile population, invasive searches such as body cavity searches are significantly restricted by N.J.A.C. 13:95-5.8. Under this rule, a body cavity search may only be conducted when the highest ranking custody staff member is satisfied that a reasonable belief exists that contraband will be found in the juvenile's body cavity and approval for the search has been given by the Superintendent of the facility or designee. Such limitations ensure that such searches will only be conducted when necessary to the safety and security of the juveniles, staff and facility.

N.J.A.C. 13:95-14.10 bans the use of tobacco products by residents and staff at the facility. This is a health measure with a positive social impact.

Further, Subchapter 16 provides for enhanced suicide risk identification and monitoring. At risk juveniles will receive a psychiatric interview within 24 hours of being placed on special observation status pursuant to N.J.A.C. 13:95-16. Suicidal behavior is a serious risk to incarcerated juveniles and the proposed rule addresses what is required to recognize and address juveniles at risk for suicide.

Other provisions of the ruleS address legal access (N.J.A.C. 13:95-11 .), grooming and hygiene (N.J.A.C. 13:95-14.) and mail (N.J.A.C. 13:95-19). The grooming and hygiene as well as the provisions regarding mail help to order daily life within the secure facility and have a positive social impact.

#### Economic Impact

The rules proposed for readoption with amendment and the proposed repeals and new rules will not result in any economic impact because additional funding is not

necessary to implement these rules. The cost of meeting and maintaining the requirements established by these rules will be met by the Commission through the budgetary process with monies allocated by the State.

#### Federal Standards Statement

The rules proposed for readoption with amendment and the proposed repeals and new rules are not subject to any Federal standards or requirements. Therefore, a Federal standards analysis is not required.

#### Jobs Impact

The New Jersey Juvenile Justice Commission does not anticipate that the rules proposed for readoption with amendment and the proposed repeals and new rules will result in the generation or loss of jobs.

#### Agriculture Industry Impact

The rules proposed for readoption with amendment and the proposed repeals and new rules will have no impact on the agriculture industry in New Jersey.

#### Regulatory Flexibility Statement

The rules proposed for readoption with amendment and the proposed repeals and new rules do not impose reporting, record keeping or other compliance requirements on small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Therefore, a regulatory flexibility analysis is not required. The rules proposed for readoption with amendment and the proposed repeals and new rules impact juveniles incarcerated in secure facilities of, and employees of, the New Jersey Juvenile Justice Commission, and have no affect on small businesses.

#### Smart Growth Impact

The Juvenile Justice Commission does not anticipate that the rules proposed

for readoption with amendment and the proposed repeals and new rules will have any impact on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 13:95.

Full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 13:95-1.3, 2 and 3.

Full text of the proposed amendments and new rules follows (additions indicated in boldface, thus; deletions indicated in brackets [thus]).

## CHAPTER 95. [SECURITY AND CONTROL] SECURE FACILITIES

### SUBCHAPTER 1. GENERAL PROVISIONS

#### 13:95-1.1 Purpose [and scope]

(a) The purpose of this chapter is to establish [policies and procedures regarding the use of force by juvenile corrections officers employed in the New Jersey Juvenile Justice Commission's secure facilities, secure facility satellite units and Stabilization and Reintegration Program (Boot Camp), both on-duty and off-duty. Policies and procedures regarding the use of force by juvenile corrections officers in juvenile parole officer and Internal Affairs' investigator titles are set forth in N.J.A.C. 13:96 and 13:97, respectively] a

comprehensive regulatory framework governing the operation of secure facilities under the jurisdiction of the Commission, as those terms are defined in N.J.A.C. 13:95-1.3.

[(b) This chapter shall be applicable to juvenile corrections officers employed in the New Jersey Juvenile Justice Commission's secure facilities, secure facility satellite units and Stabilization and Reintegration Program (Boot Camp), in the following titles: Director of Custody Operations 1, Juvenile Justice Commission; Director of Custody Operations 2, Juvenile Justice Commission; Correction Captain, Juvenile Justice; Correction Lieutenant, Juvenile Justice; Correction Sergeant, Juvenile Justice; Senior Correction Officer, Juvenile Justice; and Correction Officer Recruit, Juvenile Justice. (b) Among the policies and procedures established by this chapter are rules addressing:

1. The use of force by custody staff members, both on-duty and off-duty;
2. The use of firearms on-duty and off-duty;
3. Searches of juveniles and facilities in order to control and deter contraband;
4. Contraband and its seizure and disposal;
5. Testing for prohibited substances;
6. The transportation of juveniles outside the secure facility and from one

jurisdiction to another;

7. Assignment of juveniles to housing, education, treatment, work and other

programs;

8. Placement of juveniles in temporary close custody and protective custody;
9. Handling of juveniles' mail, visits to and by juveniles and juvenile access to

courts;

10. Juvenile hygiene and grooming;
11. Housekeeping, sanitation, bedding and laundry; and



12. Issuance and updating of a juvenile handbook in each secure facility.

13:95-1.2 Scope

This chapter shall be applicable to Commission secure facilities unless otherwise indicated in this chapter.

13:95-[1.2] 1.3 Definitions

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

"Assistant Superintendent" means the ranking assistant to a Superintendent of a secure facility.

"Attorney General" means the Attorney General of the State of New Jersey.

"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.

"Center Control" means the unit which coordinates the security and communication functions within a secure [juvenile] facility.

"Classification Committee" means either a juvenile reception classification committee, or a juvenile reclassification committee, as those terms are defined in N.J.A.C. 13:100, an institutional classification committee, within the meaning of N.J.A.C. 13:95-8, or other classification committee responsible for:

1. Monitoring a juvenile's progress within a secure facility and for assigning the juvenile to appropriate programs or activities, or

2. Determining the secure facility or other Commission facility to which a juvenile is assigned and for approving requests for transfer from one Commission facility to another.

"Close observation" means intermittent monitoring of a juvenile either in person or by video monitor at 15 minute intervals.

"Commission" means the New Jersey Juvenile Justice Commission.

"Community program" means any community residential, substance abuse, assessment and treatment or similar program run by the Commission.

"Constant observation" means uninterrupted surveillance of one juvenile who is on special observation status that shall be conducted in person and that may be supplemented by video monitoring;

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

"Contraband" means:

1. Any item, article or material found in the possession of, or under the control of, a juvenile 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 secure 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 secure 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 juveniles, 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 secure 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 secure 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 secure facility regulations; hazardous or poisonous chemicals and gases; unauthorized drugs and medications; medicines dispensed or approved by the secure 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.

"Correspondence" means communication by the exchange of letters.

"Custody staff member" means any juvenile corrections officer working in a job title authorized under the provisions of N.J.S.A. 52:17B-174, or successor thereto. Such titles include, but are not limited to:

1. Director of Custody Operations 1, Juvenile Justice Commission;
2. Director of Custody Operations 2, Juvenile Justice Commission;
3. Correction Captain, Juvenile Justice;
4. Correction Lieutenant, Juvenile Justice;
5. Correction Sergeant, Juvenile Justice;
6. Senior Correction Officer, Juvenile Justice; and
7. Correction Officer Recruit, Juvenile Justice.

"Custody status" means the degree of supervision that is assigned to a juvenile in a Commission facility.

“Department of Corrections” means the New Jersey Department of Corrections.

“Department of Human Services” means the New Jersey Department of Human Services.

“Director of Administration” means the Commission staff member, by whatever name or title, in charge of the Commission’s Office of Administration.

“Director of Custody Operations” means the Director of Custody Operations employed at each secure facility of the [New Jersey Juvenile Justice] Commission responsible for supervising the custody work force.

“Director of Education” means the Commission staff member, by whatever name or title, having overall responsibility for developing and administering educational programs for juveniles.

“Director of Operations” means the [Director of Operations] responsible Commission staff member, by whatever name or title, charged with oversight and management[responsible]responsibilities for the overall operation and supervision of the Commission’s secure [and non-secure] facilities [of the New Jersey Juvenile Justice Commission].

“Disciplinary sanction” means a prescribed penalty that is imposed for violation of a prohibited act.

“Emergency protective custody” means confinement of a juvenile to protective custody in a situation where the threat of injury or harm to the juvenile is reasonably believed to be immediate.

“Executive Director” means the Executive Director of the [New Jersey Juvenile Justice] Commission.

“Facility” means a facility of the Commission used to house, train or educate juveniles; it does not refer to the central or other administrative or operational offices of the Commission.

“Facility Classification Office” means the office within a secure facility responsible for institutional classification functions.

"Handbook on Discipline" means a handbook prepared by the Commission and provided to juveniles that contains a juvenile's rights and responsibilities, the acts and activities which are prohibited and the disciplinary procedures and sanctions imposed.

"Health care provider" means the individual or the entity that is providing the medical, dental and/or mental health services to juveniles.

"Housing unit" means a cell, room, dormitory or other type of sleeping area within a secure facility.

“ICC” means institutional classification committee.

"Identification process" means the investigative method of operation to include, but not limited to, the gathering and accumulation of evidence and information used by the Office of Investigations to reasonably identify juveniles appropriate for protective and temporary close custody.

“Immediate corrective action” means those disciplinary sanctions set forth at N.J.A.C. 13:101-5.3, which may be imposed on a juvenile who has committed a minor violation.

"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.

"Indigent juvenile" means a juvenile who has no funds in his or her account and is not able to earn juvenile wages due to prolonged illness or other justifiable circumstances beyond the juvenile's control, 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 within the Commission at the direction of the Executive Director.]

"Interoffice correspondence" means the exchange of correspondence between offices within the Commission.

"Juvenile" means, for the purpose of this chapter, an individual who has been adjudicated delinquent and sentenced to a term of incarceration to be served under the custody of the Commission, and who is residing in or being transferred to a secure facility.

["Juvenile corrections officer" means, for purposes of this chapter only, persons employed in the following titles utilized by the Commission, who have been sworn as peace officers:

1. Director of Custody Operations 1, Juvenile Justice Commission;
2. Director of Custody Operations 2, Juvenile Justice Commission;
3. Correction Captain, Juvenile Justice;
4. Correction Lieutenant, Juvenile Justice;
5. Correction Sergeant, Juvenile Justice;
6. Senior Correction Officer, Juvenile Justice; and
7. Correction Officer Recruit, Juvenile Justice.

"Juvenile inmate" means an individual who has been adjudicated delinquent and sentenced to a term of incarceration to be served under the custody of the New Jersey Juvenile Justice Commission. For the purpose of this chapter, "Juvenile inmate" shall only

refer to those individuals residing in a New Jersey Juvenile Justice Commission facility.]

"Juvenile paralegal" means a juvenile who has been approved by a Classification Committee to render assistance to other juveniles in disciplinary or classification matters, other proceeding before a treatment team or matters pending before the family court.

"Keep separate status" means the intentional assignment of certain juveniles to different secure facilities or different units within a secure facility to maintain a separation between these juveniles to prevent the possibility of retaliation because of a previous act or occurrence.

"Legal correspondence" means the exchange of letters between a juvenile 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 and State courts;
5. Federal and State 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 or State Prosecutor;
10. The Bureau of Risk Management, New Jersey Department of the Treasury;
11. The Office of Investigations;
12. The Office of the Child Advocate
13. The Office of Administrative Law; and
14. The New Jersey Division of Youth and Family Services.

"Legal material" means papers or documents that are required to be filed with the court and served upon opposing parties. Legal material includes:

1. Orders required by their terms to be served;

2. Written notices;

3. Written motions;

4. Demands, or answers to demands which the juvenile is required to serve, such as, for the production of documents or interrogatories;

5. Offers of judgment;

6. Designations of records on appeal;

7. Briefs;

8. Petitions;

9. Summons; and

10. Complaints.

"Legitimate public official" means the following:

1. An elected or appointed national, state, county or municipal government official;

or

2. A director of a national, state, county or municipal government agency.

"Notary service" means service provided by a notary public authorized by law to certify or attest documents, take affidavits, administer oaths, and perform other services ordinarily performed by a notary public.

"Notice of violation" means a form on which the violation of a prohibited act is recorded along with other pertinent information

"Office of Administration" means the office of administration located in the Commission's central office.



“Office of Education” means the unit within the Commission established pursuant to N.J.S.A. 52:17B-178 responsible for developing, implementing and evaluating educational programs for juveniles.

“Office of Classification” means the unit within the Commission responsible for implementing procedures through which juveniles are assigned to custody levels, facilities and treatment programs, based on assessments of the juveniles' supervision requirements and service needs.

“Office of Investigations” means the unit within the Commission responsible for conducting internal investigations.

“Ombudsman” means the individual(s) within the Commission responsible for resolving complaints made by juveniles about the facility, the action or inaction of staff or any other matter of concern to the juvenile.

“Orientation” means a program including one or more meetings or group sessions provided at a secure facility to familiarize juveniles with rules, procedures, units, services and programs.

“Program Separation Unit” means an area within a secure facility designated for assigning juveniles who are removed from the general population for disciplinary or administrative reasons.

“Public Information Officer” means a staff member of the Commission designated by the Executive Director or designee to disseminate information to authorized persons or agencies.

“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.

"Relative" means:

1. Parent;

2. Legal guardian;

3. Spouse;

4. Child; or

5. Sibling.

"Resident handbook" means a booklet that is provided to juveniles which contains site-specific secure facility rules and procedures and information about services and programs. A resident handbook may also mean a handbook specific to a unit within a secure facility when identified as such.

"Room restriction" means confining a juvenile for disciplinary or administrative reasons, either in the room in which he or she usually sleeps, or in a room in a program separation unit.

"Secure facility" means any Commission facility which houses juveniles and employs custody personnel (N.J.S.A. 52:17B-174) to provide security.

"Shift supervisor" means the [juvenile corrections officer] custody staff member responsible for the maintenance of security during a tour of duty in a secure [Juvenile] facility or [,] or secure facility satellite unit [and boot camp].

"Special observation status" means monitoring the activities, emotional status and behavior of juveniles who are identified as emotionally troubled, mentally disturbed or otherwise deemed likely to inflict physical injury or death upon themselves.

"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, with respect to the discharge of a firearm, that there exists some risk of an unintended outcome. It exists when a custody staff officer disregards a foreseeable likelihood that innocent persons will be endangered.

"Superintendent" means the chief executive officer of [any] a secure [Juvenile] facility [in the New Jersey Juvenile Justice Commission].

"Temporary close custody" means the non-punitive removal of a juvenile from his or her regularly assigned housing and to a close custody or other designated housing unit for a period not to exceed 72 hours, for purposes of special observation or investigation.

"Treatment Team" means the committee in a secure facility responsible for conducting disciplinary proceedings ( see N.J.A.C.13:10-6.1),

"Truck mail" means interoffice mail that is exchanged among Commission facilities, units and the Commission Central Office. Truck mail does not include mail sent by the United States Postal Service.

"Unusual incident or event" means any occurrence that has the potential of jeopardizing or disrupting the secure and orderly operation of a secure facility, including, but not limited to, escape or attempted escape, homicide or attempted homicide, suspicious death, serious injury to juvenile or staff member, suicide or suicide attempt, serious threat to the life of a juvenile or group of juveniles, taking of a hostage, riot, melee, acute medical emergency, use of a weapon or other use of force, introduction into the facility of a controlled substance, use of a controlled substance, commission of a crime, staff work stoppage, fire or natural disaster, and failure of heating, ventilation and air conditioning (HVAC), power, plumbing or other major mechanical systems.

13:95-1.4    Forms

(a) The following forms related to secure facilities shall be reproduced by each facility from originals that are made available through the office of the Director of Custody Operations:

1. J156-I Oath of Office;

2. J171-I Seizure of Contraband Report;

3. J171-II Juvenile Receipt, Contraband Seizure;

4. J171-III Notice of Decision on Appeal, Contraband Seizure (Non-

Disciplinary)

5. J173-I Placement In Keep Separate Status;

6. J173-II Removal From Keep Separate Status;

7. J173-III Transfer of Keep Separate Status juvenile;

8. J285-II Prohibited Substance Testing Request Summary;

9. J301 Use of Force Report Form;

10. Trip Authorization Form

11. J146-I Voluntary-Protective Custody Consent;

12. J146-II Notice of Protective Custody Hearing-Involuntary;

13. J146-III Protective Custody Hearing Adjudication;

14. J146-IV Protective Custody Release;

15. J360-I Remedial Action Plan Report;

16. JJC CO-1 Notice of Special Observation Status;

17. JJC CO-2 Notice of Change in Special Observation Status;

18. JJC CO-3 Special Observation Status Monitoring Report;

19. JJC CO-4 Daily Observation Status Monitoring Report;

20. JJC CO-5 Release from Special Observation Status;

21. JJC CO-6 Disciplinary Report from Mental Health Services;

22. Form 101-Request to Transfer to the New Jersey Department of Corrections;

23. J292-I Request for Attorney-Client Contact Visit; and

24. J081 Special Classification Request Form.

13:95-[1.4] 1.5 Confidentiality of information

All information contained in the master lists or reports maintained or submitted by employees of the Commission pursuant to the requirements of [this chapter] N.J.A.C. 13:95-3 and 4 shall be confidential and such master lists and reports shall not be subject to public inspection or copying pursuant to the ["Right to Know Law,"] Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

## SUBCHAPTER 2. KEEP SEPARATE STATUS

13:95-2.1 Recommending placement of a juvenile in keep separate status

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

(b) The staff person recommending that a juvenile be placed in keep separate status shall complete the recommendation section of Form J173-I Placement in Keep Separate Status, and submit Form J173-I to the Superintendent indicating the reason(s) for the recommendation.

(c) The Superintendent may order an immediate investigation be undertaken by the Office of Investigations and that a report of that investigation be submitted as soon as possible, but in no event more than one week after the request has been made, determining whether the information received is accurate and placement of the juvenile in keep separate status is warranted.

13:95-2.2 Authorization of placement of juvenile in keep separate status

(a) The Superintendent or designee shall authorize the placement of a juvenile in keep separate status in instances when the Superintendent or designee determines that such placement is warranted for safety of the juvenile, for the maintenance of security or for the orderly operation of the secure facility.

(b) If the Superintendent or designee authorizes that a juvenile be placed in keep separate status, the completed Form J173-I, along with supporting documents, shall be forwarded to:

1. The Facility Classification Office to be filed in the juvenile's classification folder; and

2. The secure facility housing the other juvenile(s) involved in this assignment of keep separate status.

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

13:95-2.3 Procedures for tracking transfers of juveniles in keep separate status

(a) A classification committee shall authorize the transfer of a juvenile in keep separate status to another secure facility when such transfer is determined to be warranted and appropriate. Emergency transfer procedures shall be followed in accordance with N.J.A.C. 13:100.

(b) Prior to the transfer of any juvenile in keep separate status, the Facility Classification Office shall:

1. Use the Commission's Juvenile Information Management System to confirm the juvenile's current location and the current location of other correlated juveniles in keep separate status;

2. Complete Form J173-III Transfer of Keep Separate Status for the juvenile who is to be transferred;

3. Advise by telephone and fax a copy of Form J173-III to the Superintendent of each secure facility housing the other correlated keep separate status juvenile(s); and

4. Forward, within three days, a hard copy of Form J173-III to each secure facility housing the other correlated keep separate status juvenile(s).

(c) The original Form J173-III along with supporting documentation, shall be filed in the chronological section of the transferred juvenile's classification folder and shall be attached to Form J173-I. A copy of Form J173-III shall be added to the chronological section of each correlated juvenile's classification folder, and shall be attached to Form J173-I.

(d) Information recorded on Form J173-III shall be entered and maintained on a computerized bed-check or comparable system, in order to ensure that separation of juveniles on keep separate status is maintained at all times.

13:95-2.4     Recommending removal from keep separate status

(a) Any staff person may recommend that a juvenile be removed from keep separate status.

(b) Any staff person recommending that a juvenile be removed from keep separate status shall complete the removal recommendation section of Form J173-II Removal From Keep Separate Status, and submit Form J173-II to the Superintendent indicating the reason(s) for the recommendation.

(c) The Superintendent may order that an investigation be undertaken by the Office of Investigations and a report of that investigation be submitted determining whether the information received is accurate and removal of the juvenile from keep separate status is warranted.

13:95-2.5     Authorization for removal from keep separate status

(a) The Superintendent may authorize the removal of a juvenile from keep separate status when a review of the factors in the juvenile's case indicates that the keep separate status is no longer appropriate.

(b) Whenever a decision is made to remove a juvenile from keep separate status, the original Form J173-II along with the supporting documents shall be forwarded to the Facility Classification Office to be filed in the juvenile's classification folder.

(c) A copy of the removal notice Form J173-II shall be sent to the Facility Classification Office of the facility at which the other juvenile(s) involved in the keep separate status is housed.

(d) Computerized juvenile information record-keeping systems shall be updated when a decision to remove a juvenile from keep separate status has been authorized by



the Superintendent.

### SUBCHAPTER 3. USE OF FORCE

#### 13:95-3.1 Custody staff member authority

(a) Custody staff members are authorized to use appropriate means to enforce secure facility rules and regulations. Such means include, but are not limited to:

1."Constructive authority," which means authority that does not involve actual physical contact with the individual, but involves the use of the custody staff member's authority to exert control over the individual. Examples of constructive authority include, but are not limited to, verbal commands, gestures and warnings; and

2. "Physical contact," which means routine or procedural contact with an individual necessary to effectively accomplish a legitimate law enforcement objective. Examples of physical contact include, but are not limited to, holding an individual's arm while escorting the individual, handcuffing an individual, maneuvering or securing an individual for a search, and guiding the individual into a vehicle.

(b) Custody staff members are encouraged to interrupt the flow of events to help ensure that a fellow custody staff member does not resort to employing an inappropriate or excessive use of force.

(c) Custody staff members are required to report all situations in which inappropriate or excessive force is used by anyone against a juvenile.

#### 13:95-3.2 Use of force

(a) In any case that a custody staff member uses force while on-duty, the custody staff member shall only use that force that is objectively reasonable and necessary under the totality of the circumstances as known by the custody staff member at the time force is used.

(b) A custody staff member may use the amount of force reasonably necessary to accomplish the law enforcement objective. If the individual resists, the custody staff member may increase the degree of force as necessary to accomplish the law enforcement objective, but as soon as the individual submits, the custody staff member shall reduce the degree of force used.

#### 13:95-3.3 Non-deadly force; when justified

(a) A custody staff member may use non-deadly force against persons only under the following circumstances:

1. To protect self or others against the use of unlawful force;
2. To protect self or others against death or serious bodily harm;
3. To prevent damage to property;
4. To prevent escape;
5. To prevent or quell a riot or disturbance;
6. To prevent a suicide or attempted suicide; or
7. To enforce secure facility regulations where expressly permitted by Commission regulations or in situations where a custody staff member with the rank of Sergeant or above believes that the juvenile's failure to comply constitutes an immediate threat to security of the secure facility or personal safety.

(b) Non-deadly force includes, but is not limited to, the use of the following:

1. "Physical force" which means contact with an individual beyond that which is generally utilized to effect a law enforcement objective. Physical force is employed when necessary to overcome an individual's physical resistance to the exertion of the custody staff member's authority, or to protect persons or property. Examples of physical force include, but are not limited to, wrestling a resisting individual to the ground, using wrist locks or arm locks, striking with the hands or feet, or other similar methods of hand-to-hand confrontation; and

2. "Mechanical force" which means the use of some device or substance, other than a firearm, to overcome an individual's resistance to the exertion of the custody staff member's authority. Examples of mechanical force include, but are not limited to, the use of a baton or other object, canine physical contact with an individual, or use of a chemical or natural agent spray.

(c) Chemical or natural agent spray shall be used when appropriate to avoid having to use deadly force, and for no other purpose.

13:95-3.4 Deadly force; when deadly force is justified and when restricted; restrictions on issuance and use of firearms

(a) Deadly force includes, but is not limited to, the use of firearms and other lethal weapons.

(b) Deadly force may be used under limitations consistent with the provisions of the New Jersey Code of Criminal Justice, N.J.S.A. 2C:1-1 et. seq, and with any applicable guidelines issued by the Attorney General, under the following circumstances:

1. When the custody staff member reasonably believes that deadly force is immediately necessary to protect the custody staff member or another person from imminent danger of death or serious bodily harm.

i. Deadly force is not justifiable if the custody staff member can otherwise secure his or her complete safety or the complete safety of the protected person.

(c) Within a secure facility, a firearm shall be issued to a custody staff member only in an emergency situation and only upon the authorization of the superintendent, or a higher ranking official of the Commission.

1. Upon any such issuance of a firearm, the custody staff member shall also be issued Commission approved chemical or natural agent spray.

2. Under no circumstances shall prevention of an escape of a juvenile constitute independent grounds justifying use of deadly force

3. Where feasible, before using a firearm, the custody staff member shall attempt to identify himself or herself as a custody staff member and state his or her intent to shoot. A custody staff member shall not discharge a firearm as a signal for help or as a warning shot.

(d) The custody staff member shall not discharge a firearm if there is a substantial risk of injury to innocent persons.

(e) A custody staff member shall not engage in any vehicle pursuit. A custody staff member shall not fire his or her firearm from a moving vehicle or at the driver or occupant of a moving vehicle or engage in any vehicle contact action, such as ramming, unless the custody staff member reasonably believes that:

1. There exists an imminent danger of death or serious bodily harm to the custody staff member or another person; and

2. No other means are available at that time to avert or eliminate the danger.

(f) A custody staff member shall not fire a weapon solely to disable a moving vehicle.

(g) Whenever feasible, the custody staff member shall contact Center Control to request assistance before engaging in any use of force that reasonably could result in serious bodily harm.

(h) A custody staff member is under no obligation to retreat or desist when resistance is encountered or threatened. However, a custody staff member shall not resort to the use of deadly force if the custody staff member reasonably believes that an alternative to the use of deadly force will avert or eliminate an imminent danger of death or serious bodily harm, and achieve the law enforcement objective at no increased risk to the custody staff member or another person.

(i) A custody staff member shall not use deadly force to subdue persons whose actions are only destructive to property.

(j) Deadly force shall not be used against persons whose conduct is injurious only to themselves.

(k) The discharge of any projectile from a firearm is considered to be deadly force, including less lethal means such as, but not limited to, bean bag ammunition or rubber bullets. For that reason, these and similar less lethal means of deadly force can only be used when a custody staff member reasonably believes such action is immediately necessary to protect the custody staff member or another person from imminent danger of death or serious bodily harm.

(l) Written post orders shall govern the use of deadly force by custody staff

members.

13:95-3.5 Use of force against persons other than juveniles; duties outside the secure facility security perimeter

(a) While engaged in roving patrol or other duty outside the secure facility security perimeter, appropriate force may be used against persons other than juveniles when a custody staff member observes what he or she believes to be a violation of the law and when there is also imminent peril of bodily harm to any individual or destruction of property.

(b) Whenever possible, the custody staff member shall contact Center Control to request assistance before engaging in any use of force.

(c) In situations where a violation of law is suspected, but no imminent danger is present, the custody staff member shall immediately contact Center Control.

(d) Non-deadly force may be used upon or toward persons other than juveniles only under the following circumstances:

1. To protect self or others against the use of unlawful force;
2. To protect self or others against death or serious bodily harm;
3. To thwart the commission of a crime involving or threatening bodily harm or damage to property;
4. To prevent a suicide or attempted suicide;
5. To prevent escape, or flight from arrest for a crime; and/or
6. To effect an arrest for any offense or crime.

(e) Deadly force may be used when the custody staff member reasonably believes that the person presents an imminent threat of death or serious bodily harm.

(f) The custody staff member shall not discharge a firearm if there is substantial risk of injury to innocent persons.

13:95-3.6 Use of force while off-duty

(a) Although N.J.S.A. 52:17B-174(d) authorizes custody staff members to exercise law enforcement powers, custody staff members are not required to exercise those powers or to carry firearms during off-duty hours.

(b) Custody staff members, while off-duty, should not become involved with routine law enforcement duties that are under the jurisdiction of local law enforcement agencies. When a custody staff member observes what he or she believes to be a violation of the law, he or she should take note of the vehicle description, license plate numbers, identifying characteristics of persons involved and other relevant information, and report such information to the local law enforcement agency having jurisdiction and to the Director of Custody Operations. Custody staff should avoid stopping or detaining vehicles or persons.

(c) The utmost discretion shall be exercised by the custody staff member to determine when and under what conditions to use force. Whenever he or she believes that possible criminal action is taking place and that a reasonable alternative to use of force exists, the custody staff member must take the action which is calculated to be least dangerous or harmful to persons or property.

(d) A custody staff member shall be deemed to have acted within the scope of his or her employment or in the law enforcement interest of the State of New Jersey if he or she exercises police powers in accordance with the provisions of this subchapter and post orders promulgated in connection therewith.

13:95-3.7 Reports

(a) A custody staff member shall immediately contact his or her shift supervisor and shall complete a J301 Use of Force Report when he or she participated in, or witnessed, any incident in which:

1. A firearm was discharged outside of the firing range;
2. Physical force, mechanical force or deadly force is used;
3. An individual alleges that serious bodily harm has been inflicted; or
4. Such a report is required by either the Superintendent or the Director of

Custody Operations.

(b) The J301 Use of Force Report shall contain the following information:

1. A description of the events leading up to the use of force;
2. A description of the incident;
3. The type of force used;
4. The reason(s) for employing force;
5. A list of all participants and witnesses to the incident;
6. A description of the injuries suffered, if any, and medical treatment given; and
7. Other relevant facts or comments about the incident or conduct of employees

or juveniles.

(c) The shift supervisor shall forward, as soon as possible, all such reports to the Office of Investigations and the Director of Custody Operations for review. The Director of Custody Operations shall forward all reports to the Superintendent. The Superintendent shall then report the incident to the Director of Operations.



13:95-3.8 Use of mechanical restraints

(a) On authorization of the shift supervisor, mechanical restraints may be used in the following instances:

1. When transporting a juvenile from one place to another;
2. When the juvenile's history, disciplinary record, behavior or present emotional state indicates a likelihood that bodily injury to any person, damage to property or escape by the juvenile may occur; or
3. On current medical advice, to prevent the juvenile from attempting suicide, self-inflicted injury, or injury to others.

(b) Mechanical restraints shall not be used as punishment, or in any way that causes undue physical discomfort, inflicts physical pain or restricts the blood circulation or breathing of the juvenile.

(c) Mechanical restraints shall be removed promptly when the reason for their initial use has ceased to exist or has sufficiently abated.

(d) A juvenile in restraints shall be under continuous observation by a custody staff member.

13:95-3.9 Use of chemical or natural agents; storage

(a) Except when issued under the provisions of N.J.A.C. 13:95-3.4(c), chemical or natural agents shall not be used within a secure facility.

(b) Whenever chemical or natural agents are used other than in a secure facility as a means of control, custody staff members shall comply with the reporting procedures set forth in N.J.A.C. 13:95-3.7.

(c) A custody staff member shall not carry or use chemical or natural agents unless he or she has received appropriate training and semi-annual retraining in chemical or natural agent use and effects.

(d) After each instance of use, individuals who have been exposed to chemical or natural agents shall be referred to the medical staff for any necessary examination and treatment.

(e) Chemical or natural agents shall be safely stored, legibly labeled to show the chemical or natural name and expiration date, and properly inventoried to ensure security and an adequate unexpired supply.

(f) No chemical or natural agent shall be used by a custody staff member, except for those expressly approved and issued by the Commission.

#### 13:95-3.10 Training

(a) Training in proper methods and techniques of using force and in the lawful and appropriate use of force shall be provided as part of the Basic Course for Juvenile Correction Officers provided by the Commission's Office of Training or equivalent.

(b) All security and custodial personnel shall receive semi-annual training in proper methods and techniques of using force and in the lawful and appropriate use of force. In addition to semi-annual training, retraining may be repeated as needed.

#### 13:95-3.11 Penalties for violation

(a) Custody staff action that does not conform to the provisions of this subchapter and any internal management 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 custody staff officer.

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

13:95-3.12 Secure facility internal management procedures

(a) Each secure facility shall prepare suitable written post orders and internal management procedures to govern the use of force and storage of chemical agents, consistent with this subchapter.

(b) All written post orders and internal management procedures developed in accordance with this subchapter shall be submitted to the Executive Director or designee for approval before implementation.

SUBCHAPTER 4. USE OF FIREARMS WHILE ON-DUTY AND USE OF PERSONAL FIREARMS WHILE OFF-DUTY

13:95-4.1 Custody staff members authorized to carry firearms while on-duty

(a) Prior to being permitted to carry a firearm on-duty, custody staff members shall:

1. Have taken and successfully completed the Police Training Commission (PTC) approved basic course for State juvenile correction officers as set forth in N.J.S.A.

52:17B-66 et seq;

2. Have taken and successfully completed the firearms training course at the Commission's Office of Training; and

3. Have been sworn as peace officers by taking the oath of office.

13:95-4.2 On-duty firearms training, qualification and re-qualification

(a) As required by N.J.S.A. 2C:39-1 et seq., all custody staff members shall be initially trained and shall qualify in the use and handling of approved on-duty firearms.

(b) Custody staff members shall requalify in accordance with the New Jersey Attorney General's Semi-Annual Qualification and Re-qualification Standards for New Jersey Law Enforcement.

(c) Only those custody staff members who achieve and maintain the required level of proficiency during range qualification and re-qualification shall be authorized to possess firearms while on-duty.

(d) Once a custody staff member has qualified on his or her Commission approved firearm, the custody staff member shall receive the official State of New Jersey, Firearms Unit Weapons Card. Custody staff members shall be required to carry the weapons card, the official badge and photo identification card of the Commission while on-duty.

(e) The Director of Custody Operations, or designee, at each secure facility shall be responsible for preparing and maintaining a current list of each custody staff member authorized to carry a firearm, from a Commission-wide master list provided for that purpose by the Commission's Office of Training.

1. The master list shall be maintained by the Director of Custody Operations or designee to indicate the custody staff member's firearm qualification date (new or expired).

2. In the event that a custody staff member is assigned to a post that requires the issuance of a firearm for that custody staff member's exclusive use while on-duty, the Director of Custody Operations or his or her designee shall maintain a list that indicates the

custody staff member's issued firearm, model name and number, and serial number of the firearm.

13:95-4.3 On-duty firearm

(a) The authorized on-duty firearm shall be the responsibility of the custody staff member at all times.

(b) The custody staff member shall not draw or exhibit his or her firearm except for one of the following circumstances:

1. For maintenance of the firearm;

2. To secure the firearm;

3. When commanded by the firearms staff during training exercises, range practice, qualification or re-qualification with the firearm, or by a supervisor for purposes of inspection;

4. When circumstances create a reasonable belief that it may be necessary to use the firearm in the performance of the custody staff member's duties; or

5. When circumstances create a reasonable belief that display of a firearm as an element of constructive authority will help establish or maintain control in a potentially dangerous situation in an effort to discourage resistance and ensure custody staff safety.

(c) A custody staff member, if required to carry a firearm while on-duty, shall carry his or her on-duty firearm, together with Commission approved chemical or natural agent spray, on his or her person at all times unless otherwise instructed by a superior. The firearm shall:

1. Remain in the holster while in a rest room; and

2. Not be left in a motor vehicle or other unauthorized location except when necessary, such as when a custody staff member must remove his or her on-duty firearm and another authorized staff member is unavailable to take custody of the firearm. When necessary, a firearm may be stored in a Commission approved vehicle lock box.

(d) The custody staff member entering any facility of the Commission either shall temporarily transfer custody of his or her firearm to an authorized custody staff member, or shall store his or her firearm at the main secure facility, at a Commission authorized weapons storage unit or secrete it in a Commission approved vehicle lock box.

1. Except when firearms are issued under the provisions of N.J.A.C. 13:95-3.4(c), custody staff members are prohibited from carrying a firearm into any Commission facility beyond any posted weapons prohibited area, and into any area routinely dedicated for use by juveniles, including but not limited to areas for sleeping, living, eating, recreation, training, and education.

(e) When an authorized firearm is believed to have been lost or stolen, or is otherwise missing, the custody staff member shall immediately report this fact to local law enforcement authorities and to the Center Control supervisor at the secure facility to which he or she is assigned .

(f) When a State of New Jersey Firearms Unit Weapons Card, official photo identification card or badge of the Commission is believed to have been lost or stolen, or is otherwise missing, the custody staff member shall notify the local law enforcement authorities and the Director of Custody Operations or his or her designee as soon as practicable.

(g) Pursuant to N.J.S.A. 2C:58-15, a custody staff member who knows or reasonably should know that a minor or unauthorized adult is likely to gain access to a loaded firearm at a premises under the custody staff member's control shall:

1. Store the firearm in a securely locked box or container; and
2. Secure the duty firearm with a Commission approved trigger locking device.

13:95-4.4 Personnel authorized to carry firearms while off-duty

(a) Firearms may be carried off-duty only by custody staff members holding the rank of Senior Correction Officer, Juvenile Justice and higher who:

1. Have taken and successfully completed the Police Training Commission (PTC) approved basic course for State juvenile correction officers as set forth in N.J.S.A. 52:17B-66 et seq;
2. Have qualified in the use and handling of approved off-duty firearms at the firearms training course of the Commission's Office of Training; and
3. Have been sworn as a peace officer by taking the oath of office.

13:95-4.5 Authorized off-duty firearms, ammunition, holsters and security

(a) Eligible custody staff members who are trained and meet qualification specifications shall be permitted to possess and carry one authorized firearm for off-duty use.

(b) A firearm intended for use as an off-duty weapon must have been obtained and registered pursuant to State and local laws of the State in which the custody staff member lives. Custody staff members may not loan or improperly transfer personal firearms.

(c) Only off-duty firearm makes and models approved and authorized by the Commission may be carried while off-duty.

(d) Ammunition for an off-duty firearm shall be approved and authorized by the Commission.

(e) Only shoulder, waist and ankle holsters shall be used for off-duty use. A holster must hold the firearm firmly when inverted and have no internal clips. An off-duty firearm shall be carried in the approved holster on the body. No purse holsters or holstered firearms in purses are approved.

(f) The waist holster is the only holster approved for use while qualifying with the off-duty firearm.

(g) Personnel who elect to use a shoulder or ankle holster for off-duty use shall demonstrate proficiency in the use of that holster during firearms requalification but need not qualify while using the holster.

(h) The custody staff member shall be responsible for assuming the cost of the off-duty firearm, ammunition, holsters and for maintaining his or her firearm in a safe, secure and serviceable condition.

(i) Pursuant to N.J.S.A. 2C:58-15, a custody staff member who knows or reasonably should know that a minor or unauthorized adult is likely to gain access to a loaded firearm at a premises under the custody staff member's control shall:

1. Store the off-duty firearm in a securely locked box or container; and
- 2.. Secure the off-duty firearm with a Commission approved trigger locking device.



(a) The authorized off-duty firearm shall be the responsibility of the custody staff member at all times.

(b) The custody staff member shall not draw or exhibit his or her firearm except for one of the following circumstances:

1. For maintenance of the firearm;

2. To secure the firearm;

3. When commanded by the firearms staff during training exercises, range practice, qualification, or requalification with the firearm; or

4. When circumstances create a reasonable belief that it may be necessary to use the firearm.

13:95-4.7            Firearm instructors

(a) Only those persons who have successfully completed a Police Training Commission (PTC) approved firearms instruction course and are PTC certified as Firearm Instructors shall instruct in the Firearms Training Program at the Commission's Office of Training.

(b) All firearms training instructors engaged by the Commission for semi-annual and re-qualification firearms training shall satisfy at least one of the following requirements:

1. Be certified by the PTC;

2. Possess training equivalent to the PTC approval firearms instructor course and are able to demonstrate a knowledge of and skill with a firearm; or

3. Have successfully completed some other recognized firearms instructor course as determined by the Executive Director.

13:95-4.8 Off-duty firearms training, qualification and re-qualification

(a) All personnel authorized by the Commission to carry firearms off-duty must be initially trained and shall qualify in the use and handling of approved off-duty firearms.

(b) Custody staff members who carry off-duty firearms shall requalify semi-annually on a range approved by the Commission.

(c) Only those custody staff members who achieve and maintain the required level of proficiency during range qualification and re-qualification shall be authorized to carry firearms while off-duty.

(d) Once an individual has qualified on his or her approved personal off-duty firearm, he or she shall receive the official State of New Jersey, Firearms Unit Weapons Card. The off-duty firearm he or she carries must be identified on the off-duty weapons card. Authorized personnel shall be required to carry their off-duty weapons card, the official badge and photo identification card of the Commission at all times while carrying their off-duty firearm.

(e) The Director of Custody Operations, or designee, at each secure facility shall be responsible for preparing and maintaining a current master list of each custody staff member authorized to carry an off-duty firearm, from a Commission-wide master list provided for that purpose by the Commission's Office of Training.

1. The master list shall indicate the custody staff member's firearms qualification date (new or expired), model name and number, and serial number of the authorized off-duty firearm.

2. Each time the custody staff member registers a firearm, the Director of Custody Operations, or designee, is responsible for comparing the firearms qualification date, firearm model name and number, and firearm serial number contained on the master

list against the State of New Jersey, Firearms Unit Weapons Card accompanying the personal firearm.

(f) Should a personal firearm become unusable, stolen or unserviceable and the custody staff member selects a personal off-duty firearm different from the one originally qualified for use, he or she must requalify on the different firearm before it can be used. This qualification may be completed prior to the next semi-annual qualification period.

(g) Should the custody staff member wish to change his or her authorized personal off-duty firearm as a matter of preference, the custody staff member shall notify the Commission's Office of Training to arrange for qualification in the use and handling of his or her authorized personal off-duty firearm.

#### 13:95-4.9 Storage of off-duty firearms while on-duty

(a) A custody staff member entering a Commission facility grounds while armed with an off-duty firearm must proceed directly to the weapons collection station of the facility. The off-duty firearm shall be turned in fully loaded, in its holster, with the State of New Jersey, Firearms Unit Weapons Card with any extra loaded magazines or speedloaders.

(b) The custody staff member must present his or her official photo identification card of the Commission when checking the firearm and authorized ammunition out of the weapons collection station.

(c) Custody staff members are prohibited from storing off-duty weapons or ammunition in their personal vehicles while on Commission property.

(d) Custody staff members assigned to secure facility satellite units must store their firearms at the main secure facility or an approved authorized weapons storage unit.

(e) An off-duty firearm shall be checked in and out on the custody staff member's own time. It is the custody staff member's responsibility to allow sufficient time for this procedure so that he or she will be on time to work.

(f) Under no circumstances may any Commission employee carry an off-duty firearm into a weapons prohibited area of any Commission facility, or into any area routinely dedicated for use by juveniles, including, but not limited to, areas for sleeping, living, eating, recreation, training, and education. Personally owned firearms shall not be carried or used while on-duty except when authorized by the Superintendent and approved by the Director of Operations. In those instances, only firearms approved by the Commission may be used by qualified custody staff members.

13:95-4.10 Unauthorized use of personal weapons while off-duty

(a) A custody staff member shall not be authorized to carry an off-duty firearm in the following instances:

1. Where N.J.S.A. 2C:39-7 (Persons Convicted of Certain Crimes) is applicable;
2. When a custody staff member has been suspended from duty for any violation by the Superintendent or a higher official of the Commission;
3. When there are pending charges or ongoing investigations of alleged incidents involving the misuse of a firearm;
4. When otherwise prohibited by law or regulation; or
5. Any other situation where the Superintendent or Director of Custody Operations, or their designee, may exercise their authority to withdraw off-duty firearms privileges, subject to the review of the Director of Operations, Deputy Executive Director, or Executive Director.

(b) In any of the instances in (a) above, the State of New Jersey, Firearms Unit Weapons Card shall be turned in to the Superintendent or Director of Custody Operations, or their designee.

13:95-4.11 Possession of firearms within a casino or casino simulcasting facility

Pursuant to N.J.A.C. 19:45-1.13, a custody staff member shall not possess or be permitted to possess a firearm within a casino or casino simulcasting facility.

13:95-4.12 Reporting incidents

(a) When a custody staff member believes, or has reason to believe, that an authorized off-duty firearm or ammunition is lost, stolen, or is otherwise missing, the custody staff member shall immediately report this fact to the local law enforcement authorities and to the Center Control supervisor at the secure facility to which he or she is assigned .

(b) As soon as practicable, when a State of New Jersey, Firearms Unit Weapons Card, official photo identification card or badge of the Commission is believed to have been lost or stolen, or is otherwise missing, the custody staff member shall notify the local law enforcement authorities and Director of Custody Operations, or his or her designee.

(c) Except as outlined in N.J.A.C. 13:95-4.6(b)1 through 3, the custody staff member shall immediately and without exception report to the local law enforcement authorities and to either the Superintendent or Director of Custody Operations or their designee the occurrence of any of the following:

1. Any incident where the custody staff member displayed, drew or fired his or her off-duty firearm; or

2. Any incident or injury which occurred from the use of the custody staff member's firearm.

(d) No later than the next working day after any incident as described in this section, the custody staff member shall report in writing to the Superintendent or Director of Custody Operations or their designee the incident and identifying particulars of the incident. The Superintendent or Director of Custody Operations or their designee shall then forward the report for review to the Executive Director or designee, the Director of Operations, and the Office of Investigations.

(e) The custody staff member shall, within three days, report to the secure facility Superintendent or Director of Custody Operations or their designee in writing whenever a registered authorized off-duty firearm has been sold, transferred to another person or is no longer in use.

#### 13:95-4.13 Penalties for violation

(a) Custody staff member actions which do not conform to the provisions of this subchapter and any post orders or internal management 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 custody staff member.

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

13:95-4.14 Post orders and procedures

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

(b) All written post orders and procedures developed in accordance with this subchapter shall be submitted to the Executive Director or designee for approval before implementation.

SUBCHAPTER 5. SEARCHES OF JUVENILES AND FACILITIES

13:95-5.1 Purpose

Secure facilities and juveniles 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. 13:95-6, Contraband and Disposition of Contraband, are fully applicable to this subchapter.

13:95-5.2 Search plan

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

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

(c) The Institutional Search Plan Coordinator shall submit monthly data to the Superintendent. The data shall include, but not be limited to, information regarding searches completed and contraband recovered. The reported data shall be included in the Superintendent's Monthly Report.

13:95-5.3 Searches of juveniles and facilities

(a) All secure facility housing, work, educational, training, visitation and other areas to which juveniles 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 secure facility Superintendent or designee to be promulgated pursuant to the search plan required by N.J.A.C. 13:95-5.2. Such procedures may provide that a juvenile may be excluded from entry into an area being searched to facilitate the safe and effective performance of the search.

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

(d) No juvenile shall be searched as punishment or discipline.

13:95-5.4 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 once every calendar quarter 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.

#### 13:95-5.5 Use of scanning/testing devices

(a) Searches of juveniles, 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 juvenile. A scanning/testing device may also be utilized in conjunction with a strip search.

(b) Scanning/testing device searches of juveniles may be conducted by male or female custody staff members or scanning/testing device operators subject to the limitations set forth for strip searches and body cavity searches in N.J.A.C. 13:95-5.7 and 5.8.

#### 13:95-5.6 Pat search

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

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

1. Prior to the departure or return of the juvenile to or from any area where the juvenile 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 juveniles 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 juvenile 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 juvenile as indicating the possession of contraband; or

2. Information received from a third party who is believed to be reliable.

(d) Pat searches shall be conducted by custody staff members of the same gender as the juvenile, except in emergency situations when ordered by the Superintendent, Assistant Superintendent or the highest ranking custody supervisor on duty.

#### 13:95-5.7 Strip searches

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

(b) Strip searches of juveniles may be conducted in any of the following circumstances:

1. After a contact visit;
- 2 Before a juvenile enters the facility from the community, a minimum security facility or other area outside the secure facility;
3. Before a juvenile leaves the facility to go to the community, a minimum security facility or other area outside the secure facility;
4. Prior to the departure of the juvenile from any area where the juvenile has had access to dangerous or valuable items;
5. Upon entering or leaving any close custody unit;
6. During housing unit/wing searches;
7. Before placement of a juvenile under psychological observation or suicide watch;
8. In preparation for a body cavity search, under the provisions of N.J.A.C. 13:95-5.8; or
9. When a custody staff member with a rank of Sergeant or above is satisfied that there is a clear indication that a juvenile is carrying or concealing contraband on his or her person, or in the juvenile'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 juvenile's person;
3. By the number of custody staff members deemed reasonably necessary to provide security; and

4. Only by custody staff of the same gender as the juvenile and may include a scanning/testing device operator or operators of the same gender as the juvenile except as set forth in (d) below.

(d) Strip searches of juveniles may be conducted by custody staff and with a scanning/testing device operator or operators of the opposite gender only 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 Ombudsman or Investigators from the Office of Investigations 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 record-keeping regarding the emergent circumstances and incident; and

3. That the strip search is conducted in a professional and dignified manner, with maximum courtesy and respect for the juvenile'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. 13:95-5.8.

#### 13:95-5.8 Body cavity searches of juveniles

(a) A body cavity search shall not be conducted on a juvenile unless:

1. The highest ranking custody staff member on duty is satisfied that a reasonable suspicion exists that contraband will be found in the juvenile's body cavity; and

2. Approval for the specific search has been granted by the Superintendent or designee.

(b) In the event the highest ranking custody staff member on duty has reasonable suspicion to believe that contraband is being concealed in the juvenile's body cavity, the juvenile shall immediately be escorted to the infirmary or comparable facility of the secure facility and ordered to remove the contraband. The highest ranking custody staff member on duty shall advise the juvenile that medical assistance is available to the juvenile for removal of the contraband.

(c) The health care provider at the secure facility shall provide assistance to the juvenile under the following conditions:

1. The juvenile has requested assistance from the health care provider staff in order to remove the contraband from the juvenile's body cavity; or

2. If during or after removal of the contraband by the juvenile, the health care provider staff determines that the juvenile is in need of medical assistance, medical treatment shall be rendered to the juvenile unless the juvenile refuses such treatment.

(d) If the juvenile refuses to remove the contraband from his or her body cavity, the juvenile shall receive appropriate disciplinary charges and shall be:

1. Isolated and kept under constant visual surveillance until the contraband is eliminated from the juvenile'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 juvenile, or the safe, secure and orderly operation of the secure facility. The health care provider staff at the secure 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 juvenile's body cavity without the use of force, a court order may be sought if the following circumstances exist:

1. The juvenile cannot be confined to a dry room until the contraband is eliminated from the juvenile's body, because the nature of the suspected contraband presents a safety or security risk to the juvenile, staff, other juveniles or the facility; or

2. Suspected contraband has been secreted in a juvenile's vaginal cavity, the juvenile has been confined to a dry room for a 48-hour time period, and the juvenile 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 Executive Director or designee. If approval by the Executive Director or designee has been granted, the Superintendent or designee of the secure facility in which the juvenile is housed shall contact the Division of Law. The Superintendent 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 highest ranking custody staff member on duty at the time the cavity search was authorized shall prepare a written report of the results of the body cavity search. A copy of the report shall be made part of the juvenile's record, and a copy shall be submitted to the Superintendent or designee. The report shall include, but shall not be 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), and any other persons, 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 secure facility health care providers shall document the medical assistance rendered or offered to the juvenile in the juvenile's medical record. The documentation shall include, but shall not be 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 juvenile's body cavity; and
4. A description of the medical assistance that was offered or provided to the

juvenile.

(i) If the juvenile has been transported to an outside hospital or medical facility, the health care provider staff of the secure 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 juvenile's medical record. The report from the hospital or medical facility health care provider staff shall include, but shall not be 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.

#### 13:95-5.9 Canine searches

Juveniles' possessions and all secure facilities, areas, objects and properties under the jurisdiction of the Commission 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.

13:95-5.10 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 juvenile.

(b) Juveniles shall be tested:

1. As part of the intake process for either a newly committed juvenile or juvenile parolee returning to secure care on a parole warrant;

2. When the name of the juvenile appears on a computer-generated randomly selected list of names, regardless of how often the name of the juvenile is randomly selected;

3. During the seven day period prior to a juvenile's release from custody on parole or upon expiration of a maximum sentence;

4. In accordance with drug treatment program requirements;

5. When a custody staff member of the rank of Sergeant or above or an Investigator with the Office of Investigations believes, based upon his or her education and experience, that there is a reasonable factual basis to suspect the juvenile of using or possessing a non-alcoholic prohibited substance;

6. Randomly or for cause, when the Superintendent, Assistant Superintendent or the Director of Custody Operations orders all juveniles from a particular housing unit, work detail or other functional unit to be tested;



7. Upon a juvenile's return from any unsupervised temporary release from custody; and

8. When a treatment team orders testing as part of a sanction for a prohibited substance related infraction.

(c) A juvenile's refusal to submit to testing, or failure to comply with an order to submit a specimen, shall subject the juvenile to disciplinary action under the provisions of N.J.A.C. 13:101.

13:95-5.11 Collection, storage and analysis of specimens

(a) Testing shall be conducted by staff who have been trained to perform the test(s).

(b) Specimens shall be collected, labeled, handled and, when necessary, sealed, stored, and transported in accordance with the instructions/standards provided by the manufacturer of the test.

(c) Testing shall be conducted using methods deemed reliable by the Commission.

(d) If the initial test result is positive, the specimen shall be subject to a confirmation test of equal or greater sensitivity than the initial test.

(e) Each time a specimen is collected for the reasons stated in N.J.A.C. 13:95-5.10, a New Jersey Department of Health and Senior Services drugs of abuse urine (DAU) chain of custody form (Form LAB-45) and a shipping log (Form LAB-46) shall be completed and maintained with the specimen. Proper chain of custody procedures shall be observed at all times..

(f) If testing is conducted through urinalysis, specimens taken from juveniles shall be voided directly into an approved specimen container and immediately labeled in the

presence of the juvenile and at least one custody staff member or other authorized staff member of the same gender as the juvenile.

1. A minimum of 50 milliliters must be voided to ensure a sufficient quantity for all required testing.

2. Urine specimen testing shall be performed on-site or at a licensed laboratory as determined by the Executive Director or designee.

3. For initial on-site and confirmatory on-site testing of a urine specimen, the labeled specimen shall be tested and handled in accordance with the instructions/standards provided by the manufacturer of the on-site test. Chain of custody of the specimen shall be maintained.

4. For initial laboratory and confirmatory laboratory testing of a urine specimen, the labeled specimen shall immediately be closed and sealed in the presence of the juvenile by the custody staff member or other authorized staff member. Chain of custody of the specimen shall be maintained.

5. The specimen label shall include the juvenile's name and number, the secure facility to which the juvenile is assigned, the name of the custody staff member or other authorized staff member who witnessed the voiding of the specimen, the date and time the specimen was voided, the current use or non-use of prescription medication by the juvenile, and the juvenile's signature. Should the juvenile refuse to sign, the custody staff member or other authorized staff member who witnessed the voiding of the specimen shall indicate the refusal on the label and on the continuity of evidence form.

6. For laboratory confirmatory testing, the urine specimen shall be placed in a locked and secure refrigerator or freezer by the custody staff member or other authorized

staff member responsible for maintaining custody over evidence as soon as reasonably practical, but in no event later than eight hours after the specimen was voided.

7. The custody staff member or other authorized staff member who receives custody of the urine specimen shall record on the continuity of evidence form, the date and time the specimen was received, the name of the staff member from whom it was received, and the date and time of specimen placement into the evidence locker and/or locked refrigerator.

8. Juvenile urine specimens transported out of the secure facility for laboratory testing shall be transported, where reasonably practical, in an iced cooler or similar device. The date and time of the removal of the urine specimen from the secure facility, as well as the date and time of specimen receipt by the testing facility shall be noted on the continuity of evidence form by the person(s) performing these functions.

9. Laboratory testing of urine specimens shall be conducted only when the urine specimen arrives at the testing facility in a sealed and approved urine specimen container.

(g) Juveniles charged with the use of prohibited substances not prescribed by the medical staff based upon the results of testing shall be advised of the results of any tests at least 24 hours prior to any disciplinary hearing ordered because of those charges.

(h) All testing shall be accomplished in a professional and dignified manner with maximum courtesy and respect for the juvenile's person.

(i) No juvenile shall be disciplined for refusing to provide a specimen or failing to comply with an order to submit a specimen unless that juvenile has been given a reasonable physical opportunity to comply with such order.

1. For the purposes of urine testing, a reasonable physical opportunity shall constitute a two-hour period from the time of the initial order, during which time the juvenile

shall be offered water in amounts not to exceed eight ounces per 60-minute period. The juvenile may be required to remain in room restriction during this two-hour period.

2. The juvenile shall not be deemed to have complied with the order to submit a specimen unless he or she provides a specimen in the presence of a custody staff member or other authorized staff member.

13:95-5.12 (Reserved)

13:95-5.13 Staff orientation and training

(a) Each Superintendent shall be responsible for ensuring that the requirements and guidelines set forth in this subchapter are followed.

(b) Post orders developed in accordance with this subchapter shall be made available to all custody staff members and support staff. All personnel shall receive training in the interpretation and applicability of post orders, so as to ensure effective and safe search techniques.

## SUBCHAPTER 6. CONTRABAND AND DISPOSITION OF CONTRABAND

13:95-6.1 Procedures for handling contraband upon discovery

(a) Whenever an item, article or material is determined to be contraband, it shall be immediately seized.

1. The custody staff member or other staff making the seizure shall submit the contraband to the shift supervisor who shall submit it to the Office of Investigations or Center Control of the secure facility, together with a fully completed Form J171-I Seizure of

Contraband Report. The contraband report must be submitted no later than the end of the shift during which the contraband was seized.

2. Care shall be taken at all times to accurately record the chain of possession of the contraband.

3. The custody staff member or staff member shall give the juvenile from whose control or possession contraband is taken, an itemized, signed and dated receipt (Form J171-II Juvenile, Receipt, Contraband Seizure), a copy of which shall also go to the Office of Investigations or to the secure facility Center Control. The contents of this form shall be either read or explained to the juvenile, if necessary.

4. When contraband is removed from mail, such as, letters or packages, the custody staff member or staff member making the seizure shall send the juvenile to whom the mail was addressed a completed copy of Form J171-II indicating that the specified items were removed.

5. The juvenile shall have three business days to appeal the seizure to the Superintendent or designee.

(b) The Office of Investigations and secure facility Center Control shall maintain logs of all Seizure of Contraband and Juvenile Receipt forms (Forms J171-I and J171-II). It shall be the responsibility of these units to record the disposition of the contraband on the Seizure of Contraband Report (Form J171-I).

(c) All contraband seized shall be clearly and appropriately marked and securely stored by the Office of Investigations or the secure facility Center Control.

(d) If disciplinary charges are issued in connection with the seizure of contraband, the Office of Investigations or the secure facility Center Control shall present evidence of the contraband at the disciplinary hearing unless the contraband was seized pursuant to

N.J.A.C. 13:95-6.5. If the contraband was seized pursuant to N.J.A.C. 13:95-6.5, the Treatment Team shall arrange to view the contraband outside the juvenile's presence.

(e) Contraband shall be disposed of by the Office of Investigations or by the secure facility Center Control in accordance with this subchapter.

13:95-6.2 Disposal of contraband personal property seized in reception units

(a) When a juvenile arrives at a Commission reception unit with items of personal property not authorized for retention or possession, the items shall be seized.

(b) The staff member making the seizure shall give the juvenile an itemized, signed and dated receipt for the property seized, and shall notify the juvenile that such items are contraband, and that the juvenile has three business days, from the date of the seizure of the contraband, to appeal the classification of any or all items as contraband to the Superintendent or designee.

1. If the Superintendent or designee determines that any or all of the items are not contraband, they shall be returned to the juvenile.

2. If the Superintendent or designee determines that any item is contraband, the juvenile shall be given two business days to indicate which of the following means of disposal should be used with respect to the property. The contraband shall be:

i. Mailed to a designated relative or friend of the juvenile at the juvenile's expense;

ii. Given to a visitor for disposal;

iii. Donated by the juvenile to a charitable organization at the juvenile's expense; or

iv. Destroyed at the juvenile's request.

3. If the juvenile fails to indicate the desired disposition, the property shall be disposed of at the option of the Superintendent of the secure facility in which the reception unit is located.

(c) Disciplinary reports shall not be issued to a juvenile entering a reception unit for possession of unauthorized or excessive personal property.

13:95-6.3 Disposal of contraband personal property seized within a secure facility

(a) When contraband is seized within a secure facility, appropriate disciplinary reports shall be written and issued pursuant to N.J.A.C. 13:95-6.7.

(b) The staff member making the seizure shall give the juvenile an itemized, signed and dated receipt (Form J171-II) for the property seized and shall notify the juvenile that such items are contraband and that the juvenile has the right to appeal the classification of any or all items as contraband through the disciplinary process.

1. If the Treatment Team determines that any or all items are not contraband or if the Superintendent or designee, on appeal, determines that an item is not contraband it shall be returned to the juvenile.

2. If the Treatment Team determines that any or all items are contraband, the contraband shall be retained and shall not be disposed of until all appeal proceedings, including any appeal to the Appellate Division of the New Jersey Superior Court where appropriate, are exhausted. Otherwise, the juvenile shall be given two business days following receipt of the Treatment Team decision, or the decision of the Superintendent or designee if the disciplinary decision is appealed, to indicate to the Office of Investigations or Center Control which of the following means shall be used to dispose of the contraband.

The contraband shall be:

- i. Mailed to a designated relative or friend of the juvenile at the juvenile's expense;
- ii. Donated by the juvenile to a charitable organization at the juvenile's expense; or
- iii. Destroyed at the juvenile's request.

3. Where the juvenile fails to indicate the desired disposition, the property shall be disposed of at the option of the Superintendent or designee.

4. For verifiable cases of juveniles who have no family and no visitors, special arrangements to store property at the facility in which the juvenile is housed may be approved on a case-by-case basis by the Superintendent or designee.

#### 13:95-6.4 Disposal of contraband, State-issued property

Where State-issued personal property is confiscated as contraband, the juvenile shall not have any option with respect to its disposition. It shall be returned to the source for redistribution or subsequent disposal. Commissary items seized as contraband may be distributed among needy juveniles as determined by the Superintendent or designee.

#### 13:95-6.5 Disposal of contraband threatening to security or disruptive to operations

(a) All contraband determined to pose a threat to security or to be disruptive to the orderly running of a secure facility shall be taken into the custody of the secure facility and under no circumstances shall be returned to the juvenile.

1. The staff member making the seizure shall immediately turn the contraband over to the Office of Investigations or Center Control of the secure facility, together with the completed Seizure of Contraband Report Form J171-I and Juvenile Receipt Form J171-II.



2. Appropriate disciplinary reports shall be written and issued, pursuant to N.J.A.C. 13:95-6.7.

(b) Suspected contraband narcotics or dangerous drugs may be forwarded to an approved laboratory for chemical analysis or, where appropriate, field tested at the secure facility. All weapons, ammunition, explosives, chemicals, liquor or items altered from original status may be sent to the laboratory for analysis. After analysis, the contraband shall be claimed at the laboratory and secured at the facility.

(c) Precautions shall be taken to assure the continuity of possession of contraband that will be used as evidence in accordance with accepted legal procedures. Unauthorized items determined to pose a threat or to be disruptive to the operations of a facility may be destroyed or properly disposed of by the facility only under the following circumstances:

1. With the permission of the Superintendent;
2. Upon completion of all disciplinary action; and
3. With the prior approval of the appropriate county prosecutor's office.

13:95-6.6 Confiscation and disposal of unauthorized currency or money

(a) All unauthorized money or currency found in a juvenile's possession shall be immediately seized and turned over to Center Control, Office of Investigations together with reports required by this subchapter.

1. Any juvenile found to be in possession of or to have control over such money or currency shall receive a disciplinary report.

2. A determination as to the manner in which the money or currency has been acquired shall be made by the Treatment Team at the disciplinary hearing from the reports against the juvenile.

3. If the Treatment Team concludes that the money or currency is unauthorized or has been acquired through improper means, the Treatment Team shall recommend to the Superintendent that the money or currency shall be forfeited by the juvenile, deposited in the General Treasury Fund and recorded in Commission accounts, as directed by the Executive Director or designee.

4. Subsequent to the Treatment Team conclusion, the money or currency shall be turned over to the secure facility Business Manager with a copy of the adjudicated disciplinary report. The Business Manager will be responsible for depositing and recording the funds to the appropriate account.

5. Money or currency forfeited by the juvenile which is not the subject of a disciplinary action as determined by the Treatment Team or the Superintendent shall be deposited in the juvenile's account.

(b) All cash, checks, money orders or other form of payment or currency brought into a secure facility by a visitor shall be deemed contraband, and will not be accepted by a secure facility for deposit into juvenile accounts.

(c) Money orders and certified checks shall be the only approved form of money received through the mail which can be accepted by the secure facility for deposit in juvenile accounts.

(d) All cash and personal checks shall be deemed contraband and shall not be accepted by the facility for deposit in juvenile accounts.

(e) The following procedures shall be utilized for disposing of the personal checks and cash determined to be contraband:

1. All personal checks and cash shall be refused if brought in by a visitor. Personal checks received through the mail shall be returned to the sender, at the secure

facility's expense. Personal checks returned via the mail shall include a note to the sender indicating that Commission policy prohibits acceptance. In addition, Form J171-I Seizure of Contraband Report shall be filled out and a copy sent to the juvenile.

2. All cash received through the mail shall be sent to the facility's Business Office whereupon a check, for each amount of cash received, shall be issued to the sender and mailed to the sender at the facility's expense. Accompanying the check shall be a note to the sender indicating that Commission policy prohibits the acceptance of cash through the mail and explaining that the money is being returned in check form to protect against theft. In addition, Form J171-I Seizure of Contraband Report shall be filled out and a copy sent to the juvenile.

13:95-6.7     Disciplinary reports

When disciplinary reports are issued resulting from application of this subchapter, such reports shall be issued and adjudicated in accordance with the provisions of N.J.A.C.

13:101-4.3.

13:95-6.8     Introduction or discharge of contraband into or from a facility by a visitor

(a) Any visitor present within the secure facility or on its ground shall surrender any item, article, or material which the Superintendent or designee shall determine to be contraband.

1. The custody staff member or staff member seizing any item, article or material determined to be contraband shall give the visitor an itemized, dated and signed receipt. When possession of the seized item, article or material does not appear to violate any

Federal or State statute and the visitor exits the facility, the custody staff member shall, in return for the receipt, return the item to the visitor.

2. If there shall be reason to believe that possession of the contraband violates a Federal or State statute, the custody staff member shall detain such a visitor and notify the Office of Investigations.

(b) If there shall be reason to believe that a visitor has willfully introduced or was attempting to introduce contraband into the facility, such person shall be detained in the facility and the secure facility Office of Investigations shall be notified.

(c) Visitors may be subject to denial of future visits as specified by the Superintendent because of the presence of contraband in their possession or under their control. Where warranted, the case may be referred to the appropriate law enforcement authority for criminal prosecution.

#### 13:95-6.9 Introduction or discharge of contraband into or from a facility by the mail

(a) Incoming correspondence and publications shall always be inspected for contraband. Any discovery of contraband in correspondence or publications shall be handled in accordance with N.J.A.C. 13:95-19.

(b) Unauthorized money or currency found in correspondence or publications shall be handled in accordance with N.J.A.C. 13:95-6.6.

#### SUBCHAPTER 7. (RESERVED)

#### SUBCHAPTER 8. INSTITUTIONAL CLASSIFICATION

(a) Each secure facility, except for the Juvenile Reception and Assessment Center and the Life Skills and Leadership Academy, shall have one or more institutional classification committee (ICC). The jurisdiction of each individual ICC shall be subject to the discretion of the Executive Director, or designee. Each ICC shall be composed of the following personnel:

1. The Superintendent or designee;
2. The Director of Custody Operations or designee;
3. The Director of Social Services or designee;
4. The Director of the Commission's Office of Education or designee; and
5. Such other personnel, as may be designated by the Superintendent.

(b) An ICC shall:

1. Make determinations, as applicable, with respect to the assignment and reassignment of juveniles to:
  - i. Housing;
  - ii. Education;
  - iii. Treatment;
  - iv. Work; and
  - vi. Any other programs to which juveniles may be assigned; and
2. Monitor and review the progress of all juveniles on a periodic basis, by reviewing and evaluating relevant reports from staff and by meeting with each juvenile, and shall make such changes to the juvenile's assignments as are deemed necessary or appropriate.

(c) A juvenile's request for transfer to another facility or program shall be considered

by an ICC in accordance with the provisions of N.J.A.C. 13:95-8.5(b) and 13:100-2.7.

13:95-8.2                    Juvenile classification files

Juvenile classification files shall be maintained at each secure facility with respect to the juveniles housed therein, or at such other location as may be determined by the Executive Director. An electronic back up file shall be kept at the Commission's Office of Classification.

13:95-8.3                    Classification decisions

(a) Classification decisions by an ICC shall be made only after consideration of all factors relevant to the particular juvenile. Such factors shall include, but shall not be limited to, the juvenile's:

1. Age;
2. Expressed needs and interests;
3. Adjustment to facilities;
4. Educational needs and history;
5. Vocational needs and history;
6. Present offense, including its nature and circumstances;
7. Prior offense record;
8. Family history;
9. Records from previous confinements;
10. Detainers on file or pending;
11. Substance abuse assessment;
12. Escape history;

13. Current psychological and psychiatric reports;

14. Medical history and recommendations; and

15. Information provided by the State Parole Board.

13:95-8.4            Classification upon assignment to a secure facility

The classification officer at the secure facility to which a juvenile is assigned shall obtain the juvenile's existent classification evaluations and reports. These evaluations and reports shall be available at the juvenile's initial appearance before an ICC, which shall occur within 15 days after admission to the secure facility.

13:95-8.5            Special reviews; juvenile requests for transfer to another Commission program or facility

(a) A juvenile has the right to make a request for a change in any assignment or status under the jurisdiction of an ICC. All such requests shall be submitted on a Special Classification Request Form, Form J081, and directed to a social worker. Upon receipt of the Form J081, the social worker shall forward it to other personnel, as appropriate.

(b) Requests for transfers to another Commission program or facility shall be processed in accordance with N.J.A.C. 13:100-2.7.

13:95-8.6    Early review

A juvenile's case may be scheduled for review by an ICC, prior to a regular review date, when referred for such review by secure facility staff.

13:95-8.7            Work assignments

(a) An ICC shall be responsible for confirming the assignment or approval of work details for juveniles. Decisions on work assignments shall be made based upon the availability of jobs, and upon the juvenile's:

1. Physical condition;
2. Mental and mechanical aptitudes;
3. Work experience;
4. Occupational interests; and
5. Needs and opportunities upon release.

13:95-8.8                      Education assignments

(a) An ICC shall be responsible for confirming the assignment or approval of juveniles to participate in vocational, social or educational programs. Determining factors in assigning a juvenile to these programs shall include:

1. Recommendations of the Office of Education;
2. Relevant test results;
3. The interests and aptitude of the juvenile;
4. The length of the juvenile's sentence; and
5. The plan for community employment.

13:95-8.9                      Counseling assignments

An ICC shall be responsible for confirming the assignment or approval of juveniles to counseling services based upon a review of all relevant factors. This review shall include, but shall not be limited to, review of the juvenile's psychological examination, predisposition report, identified risk factors and needs, and observation of the juvenile by staff.



13:95-8.10 Written procedures

The Superintendent or his or her designee shall be responsible for developing written procedures consistent with this subchapter, which procedures shall be reviewed and updated annually.

SUBCHAPTER 9. TRANSPORTATION OF JUVENILES

13:95-9.1 Use of State-owned and privately owned vehicles

(a) Transportation of juveniles shall be done only in State-owned vehicles, except when emergencies or other unusual circumstances require the use of privately-owned vehicles.

(b) If it is necessary for a juvenile to ride in an employee's private vehicle, the employee must secure approval from the Superintendent or designee of the facility responsible for the juvenile prior to such transportation.

1. If approval is granted, the employee shall be made aware of Commission policy regarding the use of private vehicles and the applicable liability provisions established by the Department of the Treasury, Division of Budget and Accounting.

2. When operating a private vehicle, the employee shall be in possession of a valid drivers license and proof that the vehicle is properly registered and insured.

3. The use of an employee's vehicle may be authorized, but not required, by the secure facility.

(c) Employees escorting juveniles shall carry in their possession a valid drivers license.

13:95-9.2    Transporting juveniles by aircraft

(a) When necessary to transport a juvenile by aircraft, the Director of Operations shall either:

1. Submit a request for assistance to Office of Interstate Services of the Department of Corrections; or
2. Select an alternative appropriate means of transport.

13:95-9.3    Transport of medium, maximum or close custody juveniles

(a) State-owned vehicles used to transport medium, maximum or close custody juveniles shall be equipped with protective screening devices to separate juveniles from the driver. Opening devices on the inner rear doors and windows of passenger sedans shall be made inoperable. The rear door locking mechanism shall be modified so that it is redirected, making it accessible to the custody staff member only when the front door is open.

1. All vehicles used to transport juveniles shall be equipped with first aid kits and with bloodborne pathogen protection kits

(b) The standard passenger sedan or van shall be used only in lieu of more secure but unavailable vehicles. Use of such vehicles to transport medium, maximum or close custody juveniles shall be in accordance with written secure facility internal management procedures.

(c) Vans or buses shall be used to transport groups of juveniles. Those vehicles used to transport groups of medium, maximum or close custody juveniles shall comply with the following:

1. Windows or small ports must be protected by security screens or metal bars;
2. Security screen barricades with gates and locks must be located between driver and juveniles;
3. A section of the rear of the bus must be screened off for baggage storage;
4. Transportation custody staff members must be seated with a clear view of the bus compartment; and
5. The vehicle must be equipped with one 10 pound fire extinguisher (ABC Class).

(d) Vehicles used to transport medium, maximum or close custody juveniles shall be thoroughly searched for contraband by the escorting custody staff members before being used.

(e) Custody staff members escorting juveniles shall be provided by the secure facility as appropriate, with necessary mechanical restraints.

1. The use of mechanical restraints shall be governed by the use of force rules found in N.J.A.C. 13:95-3.

2. Federal Aviation Administration regulations and individual airline rules govern the use of mechanical restraints while in aircraft flight.

(f) Upon arrival at a courthouse, leg restraints shall not be removed until the juvenile has been placed in a secure area of the facility. Restraint belts and handcuffs shall not be removed unless otherwise ordered by the court. Immediately at the conclusion of the hearing, handcuffs and restraint belts that were removed by order of the court shall be replaced on the juvenile.

(g) Custody staff members escorting medium, maximum or close custody juveniles shall always be armed with State issued weapons, ammunition and Commission approved

chemical or natural agent spray. Any use of deadly force shall be governed by the use of force rules found in N.J.A.C. 13:95-3.

(h) When escorting medium, maximum or close custody juveniles, the ratio of escorting custody staff members to juveniles shall be two custody staff members to transport from one to five juveniles unless security issues, such as, but not limited to, a juvenile's propensity to acts of violence or escape, require a larger number of escorting custody staff members.

(i) When transporting groups of more than five medium, maximum or close custody juveniles, the appropriate shift supervisor, sending secure facility Superintendent or designee shall determine the number of escorting custody staff members based upon a careful review of staffing and security needs.

(j) Written internal management procedures shall be developed by each secure facility regarding the security and staffing arrangements required when transporting juveniles.

(k) When transporting juveniles outside of a secure facility, at least one custody staff member shall be of the same gender as the juvenile being escorted. Additional custody staff members may be assigned regardless of gender.

(l) Only properly trained escorting custody staff members may transport medium, maximum or close custody juveniles. Such escort custody staff members shall have been fully trained in the following areas:

1. Use of weapons, restraint equipment and chemical or natural agent spray;
2. Effective search for contraband of juveniles, their personal property and transportation vehicles.
3. The use of Commission supplied bloodborne pathogen protection kits; and

4. Any other activities required for successful completion of a transportation assignment.

(m) A juvenile shall be strip searched by escorting custody staff members prior to the trip and at any time after the juvenile has been out of their sight. Strip searching upon return to the secure facility or delivery to the receiving secure facility is the responsibility of that secure facility. See N.J.A.C. 13:95-5.

(n) The strip search of a juvenile, as part of the transportation process, shall be conducted in compliance with the provisions of N.J.A.C. 13:95-5.

#### 13:95-9.4 Transport of reduced custody juveniles

(a) The Superintendent or designee shall make a determination with respect to the specific staffing and security arrangements required when transporting a reduced custody juvenile. In these cases, a careful review shall be made of the individual case to determine the most appropriate staffing and security arrangements for each trip.

(b) The searching of juveniles shall be in accordance with the requirements of N.J.A.C. 13:95-5

#### 13:95-9.5 Transportation documents

(a) Prior to accepting escort responsibility for any juvenile, escorting custody staff members shall be informed of the following: juvenile's name and number, destination, custody designation, unusual medical, emotional, or mental conditions for which there is a need to know. Escorting custody staff members shall also be provided appropriate medical information setting forth any prescribed medication or instructions for special handling when transporting juveniles with medical or psychiatric conditions.

(b) Prior to escort to court and on inter-facility transfers, the escorting custody staff members shall ensure that they have all documents necessary to obtain custody and/or to effect delivery of the juvenile being escorted.

(c) Custody staff members escorting a juvenile on court trips shall ensure that the order to produce and trip authorization form are completed by the member of the court and returned to the parent secure facility.

(d) All escorting custody staff members shall carry the official badge and photo identification card of the Commission and the official State of New Jersey Firearms Unit Weapons Card.

#### 13:95-9.6 Recall to court

(a) A juvenile shall only be produced in court by a writ of habeas corpus, writ of habeas corpus ad testificandum, post conviction relief order, or other order to produce which is to be received by the Commission's Centralized Intake Unit 48 business hours prior to the scheduled court appearance.

1. It shall be improper to produce a juvenile in court on a subpoena only.

2. Writs of habeas corpus must be signed by either a New Jersey State Superior Court judge or a Federal court judge. No other writs to produce shall be honored.

3. Questions concerning the validity of any writ shall be referred to the Office of the Director of Operations.

4. Any requests for exception to this policy shall be referred to the Office of the Director of Operations.

(b) A county may send its own county escorting custody personnel to pick up a juvenile at any time provided the county escorting custody personnel have with them an appropriate writ for the juvenile.

13:95-9.7 Juvenile supervision

(a) During escort, juveniles shall be carefully guarded to prevent escape and receipt of contraband.

(b) No communication between juvenile and public shall be permitted at any time during escort.

(c) A juvenile's special requests during escort not related to the purpose of the trip shall not be honored. The juvenile shall be immediately returned to the secure facility upon completion of the trip's purpose.

(d) If, while at court, the judge approves an interview of the juvenile with an attorney, the escorting custody staff member shall be present during the interview. The escorting custody staff member shall not monitor the attorney-client conversation, and shall not discuss with the attorney any matter that involves custody staff operations.

(e) In accordance with N.J.A.C. 13:95-20, a juvenile shall be taken directly to the bedside of an ill relative, private viewing, or funeral visit. Side trips for any purpose shall not be permitted. A juvenile on such a trip shall not be allowed out of sight of the escorting custody staff member.

13:95-9.8 Emergencies

Escorting custody staff members shall immediately notify the Superintendent, or designee, if an emergency arises during the transportation of a juvenile. If time or other

considerations makes it impossible to contact the Superintendent, the local law enforcement authorities may be notified by the escorting custody staff members without prior clearance by the Superintendent.

13:95-9.9    Transporting parole violators and escapees with physical injuries

(a) Prior to accepting responsibility for an injured parole violator or escapee to be escorted, the escort custody staff members shall make every effort to obtain written information on how the injury occurred and whether medical aid was administered. A copy of a medical report shall be obtained to aid medical authorities at the receiving secure facility.

(b) If a medical report is not available, the escort custody staff members shall request the supervisor on duty at the sending secure facility to provide a brief written statement that the injury was received prior to turning over the custody of the parole violator or escapee.

(c) Upon arrival at the receiving secure facility, Center Control shall be notified so that the parole violator or escapee may be promptly seen by staff in the medical department.

(d) The physical condition of the injured parole violator or escapee shall be photographed by the receiving secure facility. A full and accurate written description of the injury shall be provided.

(e) A brief written report of the injury shall be submitted to the shift supervisor.

13:95-9.10    Clothing



(a) Escorting custody staff members shall wear civilian clothing when going to any Federal court or when directed by the supervisor. All other escorting custody staff members shall wear uniforms.

(b) Juveniles shall wear civilian clothing on court trips.

#### 13:95-9.11 Medical transportation

(a) In emergency situations when a non-ambulatory medium, maximum or close custody juvenile is in need of hospitalization or treatment outside of the secure facility, he or she shall be transported by ambulance, or by a State-owned vehicle if an ambulance is unavailable. A State-owned vehicle shall be used to transport an ambulatory juvenile who is in need of hospitalization or treatment outside of the facility.

(b) When a juvenile is transported by ambulance, a custody staff member shall accompany him or her in the ambulance and another custody staff member shall follow the ambulance in a back-up car. When a juvenile is transported by a State-owned vehicle, the ratio of escorting custody staff members to juveniles shall be governed by N.J.A.C. 13:95-9.3(h).

(c) The use of mechanical restraints and equipment when transporting a juvenile for hospitalization or treatment shall be governed by the use of force rules found in N.J.A.C. 13:95-3 and the nature of the illness or injury.

(d) When a reduced custody juvenile requires medical transport, the Superintendent or designee shall make a determination with respect to specific staffing and security arrangements required. In these cases, a careful review shall be made of the individual case to determine the appropriate vehicle, staffing and security arrangements for each trip.

13:95-9.12 Transportation costs in a civil action

(a) The costs of transporting a juvenile to court for civil action will be paid by the Commission when:

1. The cause of action is related to the juvenile's confinement;
2. The cause of action is a Family Court matter such as, but not limited to, matrimonial and child custody; or
3. The juvenile is a defendant and the plaintiff is a governmental entity.

(b) The cost of transporting a juvenile to court for a civil action other than those listed in (a) above shall be paid in advance of the transportation by:

1. The juvenile or the juvenile's legal guardian;
2. The juvenile's attorney or representative; and/or
3. The person bringing the civil action against the juvenile or that person's representative.

(c) The secure facility Business Office shall prepare a detailed written statement of expenses using the following criteria to determine the cost of transportation due:

1. The number of custody staff members and/or supervisors required for the juvenile's custody status handled in accordance with this subchapter;
2. The fee per custody staff member/supervisor which is the maximum salary of each representative title at time and a half;
3. The State vehicle mileage cost which is established by the Director, Division of Budget and Accounting, Department of Treasury. The overall State vehicle cost shall be based on the mileage rate times the sum of the number of miles to and from the destination;
4. The cost of meals;

i. The projected number of meals for juveniles and custody staff members which shall be established in accordance with the State of New Jersey Travel Regulations, Department of Treasury.

ii. The fee charged for each meal (breakfast, lunch and/or dinner) which shall be based on the rate in the current State of New Jersey Travel Regulations, Department of Treasury.

iii. The cost of meals which shall be the projected number of meals times the per meal fee established by the State of New Jersey Travel Regulations, Department of Treasury; and

5. All tolls and parking expenses.

(d) The total costs of transporting a juvenile to court for civil actions must be received in the form of a certified check made payable to the "Treasurer, State of New Jersey" and submitted for processing to the secure facility Business Office.

13:95-9.13 Written internal management procedures

Each secure facility responsible for juvenile transportation shall prepare written internal management procedures governing the transportation of juveniles outside of the secure facility, consistent with the requirements of this subchapter. These procedures shall be made available to all personnel involved in transporting juveniles and shall be reviewed at least annually and updated as necessary.

#### SUBCHAPTER 10. SECURITY PROCEDURES FOR ADMINISTRATIVE TRANSFERS OF JUVENILES FROM SECURE FACILITY SATELLITE UNITS AND COMMUNITY PROGRAMS

13:95-10.1 Use of mechanical restraints

(a) Secure facility satellite units and community programs shall notify the Office of Investigations and the appropriate secure facility when a decision has been made to remove a juvenile from a program. Either the Office of Investigations or the secure facility shall assign escorting custody staff personnel to make the transfer. The escorting custody staff personnel shall routinely carry restraint equipment in order that the transfer will be made in a safe and secure manner.

(b) The juvenile shall not be informed of his or her impending removal from the program prior to the arrival of escorting custody staff personnel responsible for making the transfer. Upon arrival of the escorting custody staff personnel, the juvenile to be transferred shall be identified and he or she shall immediately be secured with mechanical restraints in accordance with the use of force rules in N.J.A.C. 13:95-3.

(c) When a juvenile is to be returned to a secure facility for any reason that creates an increased likelihood of an escape attempt, staff members of the secure facility satellite unit or community program shall put into effect the security measures necessary to prevent an escape.

(d) Juveniles assigned to secure facility satellite units and community facilities may be transported to medical or dental appointments, approved interviews, Parole Board hearings and other similar destinations without the use of mechanical restraints, such as handcuffs and security belts.

#### 13:95-10.2 Juvenile personal property

(a) All personal property of a handcuffed juvenile shall be packed in his or her presence to ensure an accurate inventory.

(b) In instances where the juvenile's behavior becomes disruptive while his or her personal property is being packed, and the disruption poses a threat to the orderly operation of the unit, the juvenile shall be removed from the facility and his or her personal property shall be forwarded to the receiving secure facility immediately following the transfer.

### 13:95-10.3 Juvenile supervision

Escorting custody staff personnel and/or custody staff members from the receiving secure facility shall be in the presence of the juvenile during the entire transfer process.

## SUBCHAPTER 11. PROTECTIVE AND TEMPORARY CLOSE CUSTODY

### 13:95-11.1 Forms

(a) The following forms are related to protective and temporary close custody. (see also N.J.A.C. 13:95-1.4):

1. J146-I Voluntary-Protective Custody Consent;
2. J146-II Notice of Protective Custody Hearing-Involuntary;
3. J146-III Protective Custody Hearing Adjudication; and
4. J146-IV Protective Custody Release.

### 13:95-11.2 Admission to protective custody

(a) A juvenile may be placed in protective custody by any of the following means:

1. On the recommendation of the Office of Investigations;

2. On the recommendation of a sentencing court or prosecutor, subject to approval of the Superintendent. The recommendation must be accompanied by a statement of justifiable reasons to support such placement;

3. On the recommendation of a secure facility non-custody staff person or a custody staff member of the rank of Sergeant or above. Emergency placement shall be reviewed and approved within 24 hours by the shift supervisor;

4. On the order of the Superintendent; Director of Operations; Deputy Executive Director; or Executive Director; or

5. Voluntarily, on the juvenile's request.

(b) If a juvenile voluntarily requests placement in protective custody, he or she shall fill out and sign Form J146-I Voluntary-Protective Custody Consent in which the reasons for requesting protective custody are stated.

1. If the juvenile's reasons cannot be verified or are deemed to be frivolous by the Superintendent or designee, placement in protective custody may be denied or the juvenile released from protective custody.

(c) In all cases of involuntary placement in protective custody, the Superintendent or designee shall gather facts, information and available documentation to support or reject the placement and shall order such additional investigation as is deemed necessary for a clear understanding of the case.

### 13:95-11.3 Hearing procedure for involuntary placement to protective custody

(a) A juvenile under consideration for placement in protective custody shall be given written notice on Form J146-II Notice of Protective Custody Hearing Involuntary as soon as practicable.

(b) A juvenile in emergency protective custody shall be given written notice on Form J146-II within 24 hours of his or her placement in emergency protective custody, including weekends and holidays, unless there are exceptional circumstances, unavoidable delays or reasonable postponements.

(c) The written notice shall be given to the juvenile at least 24 hours prior to the in-person hearing provided for below. The notice shall be signed by the staff person delivering it and the date and time of delivery shall be noted.

(d) The notice shall include the following:

1. A statement of reasons utilized by the administration to initiate the protective custody hearing procedure;

2. The date of the protective custody hearing; and

3. Notification that the juvenile may present any relevant evidence supporting or contesting placement in protective custody.

(e) Evidence may consist of:

1. Witnesses' written statements;

2. Documents bearing on the nature of threat of harm involved; or

3. Other facts relevant to the need or lack of need for placement in protective custody.

(f) At the time of receipt of the notice, the juvenile shall be given the opportunity to present the basis for any opposition to involuntary placement in protective custody. The juvenile shall not, however, be required to make any statement at this time. The information contained in the notice, together with any statement or evidence provided by the juvenile at the time of receipt of the notice, shall be reviewed by the Superintendent or designee immediately to determine whether, pending the completion of a thorough investigation,

there is a reasonable basis to conclude that the juvenile is in need of protective custody.

(g) Illiterate juveniles or juveniles otherwise unable to adequately collect and present the facts shall receive the assistance of a juvenile paralegal assigned by the Treatment Team or Superintendent. An interpreter shall be utilized, if needed.

(h) The Treatment Team shall have the discretion to keep the hearing within reasonable limits and to refuse to permit the collection and presentation of evidence which is not necessary for an adequate understanding of the case. The Treatment Team may order further investigation and reports where deemed necessary and shall exercise control over all presentations to prevent lack of relevancy, harassment, abuse or repetitiveness and to ensure that the hearing does not develop into an adversarial proceeding.

(i) Juveniles placed in emergency protective custody or under consideration for placement in protective custody shall receive a hearing within three business days after receipt of the notice served on the juvenile in accordance with 13:95-11.3(c) above unless there are exceptional circumstances, unavoidable delays or reasonable postponements.

(j) At the hearing, the juvenile shall be informed of all information bearing on the juvenile's case, with the exception of information designated confidential.

(k) When reviewing confidential informant information, the Treatment Team shall inquire into the reliability of the informant and the information, and shall utilize such information only after satisfied that it is reasonably reliable. Whenever informant information is used, the juvenile shall be informed of the general character of the information, if practicable. The details of the informant information shall be withheld on grounds of confidentiality.

1. In any case in which the Treatment Team's decision is based on evidence that includes confidential information, the adjudication shall contain:



i. A concise summary of the facts on which the Treatment Team concluded either that the informant was credible or that the informant's information was otherwise reliable; and

ii. A summary of the material facts presented by the informant and the basis upon which the informant has knowledge of those facts.

2. The Treatment Team is not permitted to disclose the identity of the informant.

(l) Within three business days of the hearing, the Treatment Team shall provide a written notice of decision and a summary of the evidence relied upon on Form J146-III Protective Custody Hearing Adjudication.

#### 13:95-11.4 Appeal procedures for protective custody placement

(a) The juvenile shall be advised of the opportunity to appeal to the Superintendent or designee at the time that the juvenile is provided with the protective custody hearing decision (Form J146-III Protective Custody Hearing Adjudication).

(b) The juvenile shall have five business days from the date he or she receives the protective custody decision to submit a letter of appeal.

(c) All appeals shall be reviewed by the Superintendent and the following factors shall be considered:

1. Whether there was compliance with this subchapter;

2. Whether the decision was based on reliable information; and

3. Whether the decision to place the juvenile in protective custody was justifiable considering the juvenile's safety and the continued secure, orderly operation of the secure facility.

(d) Within 10 business days of receipt of the appeal, the Superintendent shall either:

1. Approve the Treatment Team's decision;
2. Modify the Treatment Team's decision; or
3. Order further hearings.

(e) In all cases, the juvenile shall be notified in writing of the Superintendent's decision.

(f) Illiterate juveniles or juveniles otherwise unable to adequately present their appeal shall receive the assistance of a counsel substitute assigned by the Treatment Team or Superintendent. An interpreter shall be utilized, if needed, at the discretion of the Treatment Team.

#### 13:95-11.5 Review of juveniles in protective custody

(a) Each juvenile in protective custody, whether voluntary or involuntary, shall be reviewed at least monthly by the Classification Committee.

(b) A juvenile who is placed in protective custody involuntarily shall, in every case, have an in-person hearing once every three months in accordance with procedures specified in N.J.A.C. 13:95-11.3 and 11.4.

#### 13:95-11.6 Release of juveniles in protective custody units

(a) A juvenile who has voluntarily signed himself or herself into protective custody may sign himself or herself out upon completion of a Form J146-IV, provided the Classification Committee and the Superintendent or designee are satisfied that there is no known danger to the juvenile's well-being.

(b) A juvenile who has been placed in protective custody involuntarily may be released by the Superintendent or designee, upon recommendation by the Classification

Committee when they are satisfied that the conditions giving rise to the juvenile's placement in protective custody have abated or do not exist.

13:95-11.7 Ventilation, heating, lighting, sanitation, observation

(a) When admitted to protective custody, juveniles shall not be placed in housing units that lack cleanliness or have malfunctioning sanitary fixtures or lights. Daily inspections shall be made to ensure the rooms are kept secure, clean and sanitary.

(b) Ventilation and reasonable temperature shall be maintained on a 24-hour basis. Light of sufficient intensity shall be maintained to allow visual observations of juveniles at all times.

(c) Toilets that are flush controlled from outside the rooms shall be flushed as often as is necessary to maintain good sanitary standards.

13:95-11.8 Food

(a) Protective custody juveniles shall be served the regular secure facility meals from the "Menu of the Day" unless a special diet is prescribed by a physician or a religious vegetarian diet has been approved by the secure facility chaplain.

(b) Disposable utensils shall be used when necessary.

13:95-11.9 Grooming, showering and shaving

(a) Barbering and hair care services shall be provided as needed.

(b) Each juvenile in protective custody shall be given the opportunity to shave and shower daily, unless permitting these activities would present an undue security hazard.

### 13:95-11.10 Medical services

(a) A member of the medical staff, which can be a registered nurse, nurse practitioner, doctor or other authorized health care personnel, shall be available on a daily basis to assess medical needs. Any juvenile wishing to see a doctor shall notify the medical staff member or the housing custody staff member of his or her sick call request.

(b) A medical or psychiatric emergency shall be attended to immediately. The response to a request for medical attention for a juvenile in a non-emergency situation shall be made by the physician, or medical person designated by the physician, within 24 hours.

(c) Whenever it appears that a juvenile is suffering from an emotional or psychiatric disturbance, health care staff shall immediately provide appropriate intervention services and shall make arrangements for a psychiatric or psychological evaluation. Documentation of the evaluation findings shall be forwarded to the Superintendent or designee by the health care staff member who conducted the evaluation prior to completion of the shift of the health care staff member on the day the evaluation is conducted. A copy of the findings of the evaluation shall be placed in the juvenile's medical record.

### 13:95-11.11 Personal items

(a) All juveniles admitted to protective custody shall be dressed in clothing issued by the secure facility after a thorough search for contraband.

(b) Each juvenile shall be provided with the following items for use in the room to the same extent as such items are provided for juveniles in the general population:

1. Clothing required for use in the room;
2. Bedding and mattresses;
3. Personal hygiene supplies (including soap, deodorant, toothbrush and

toothpaste, towel, toilet paper, and female sanitary supplies for women);

4. Utensils and supplies for adequately cleaning the room;

5. Eyeglasses;

6. Reading material;

7. Stamps;

8. Religious items;

9. Writing materials; and

10. Legal materials.

(c) The possession and use of radios and other appliances in protective custody shall be subject to the same guidelines as those developed by the Superintendent for the general population.

(d) Written internal management procedures shall be in effect permitting juveniles access to books and periodicals from the secure facility's library.

#### 13:95-11.12 Secure facility clothing, bedding and linen

The issue and exchange of secure facility clothing, bedding, linen, and the laundry service shall be handled on the same basis as is available to the general juvenile population.

#### 13:95-11.13 Juvenile legal services

Juveniles in protective custody shall be afforded legal access to courts pursuant to N.J.A.C. 13:95-15, Juvenile Access to Courts.

#### 13:95-11.14 Correspondence visits and telephone calls

(a) Juveniles in protective custody shall have the same correspondence opportunities that are available to juveniles in the general population.

(b) Juveniles in protective custody shall be provided with the opportunity to receive a minimum of one contact visit per week, unless precluded by security conditions or other extraordinary circumstances.

(c) Juveniles in protective custody shall be provided with the opportunity to make a minimum of one collect telephone call per week in addition to legal telephone calls (see N.J.A.C. 13:95-15.7).

#### 13:95-11.15 Recreation

(a) Where physical facilities permit, each juvenile in protective custody shall be allowed recreation and exercise outside the room at least five hours per week, unless to do so would adversely affect the security or orderly operations of the secure facility.

(b) Juveniles in protective custody shall be given the opportunity for out-of-doors recreation for a minimum of one hour of the required five hours per week unless to do so would adversely affect the security or orderly operations of the secure facility.

#### 13:95-11.16 Education

(a) A member of the educational staff shall be assigned to develop individualized educational programs for approved juveniles who are assigned to protective custody.

(b) Educational programs and services shall be provided for all juveniles, including juveniles with educational disabilities.

(c) The educational opportunities available to juveniles in protective custody shall be comparable to those available to juveniles in the general population to the extent possible

in accordance with security considerations.

13:95-11.17 Visits by professional and correctional supervisory staff

(a) A member of the secure facility social work staff shall make visits to juveniles in protective custody five days per week and shall be available to interview individual juveniles as soon as administratively possible when requested. When appropriate, referrals to other departments or staff members shall be made.

(b) The secure facility chaplain shall visit a juvenile in protective custody as soon as administratively possible when requested by the juvenile to provide religious counseling or other pastoral services.

(c) The supervisor in charge of a housing unit holding protective custody juveniles shall make daily visits to the unit and shall be available to interview individual juveniles as soon as administratively possible after an interview is requested.

13:95-11.18 Work opportunities

Work opportunities shall be made available to juveniles assigned to a Protective Custody Unit to the extent possible in light of security considerations.

13:95-11.19 Psychological examination

Every juvenile assigned to protective custody shall have a psychological examination every three months or whenever it appears that he or she is suffering from an emotional or psychological disorder.

13:95-11.20 Withdrawal of personal items or activities

(a) Whenever, in the judgment of a custody staff member, there is imminent danger that a juvenile will destroy clothing or any item usually permitted the juvenile in the housing unit, or do injury to self, to another person, or to property with such items, a custody staff member of the rank of Sergeant or above may deprive the juvenile of such items, if practicable. In such case, however, every effort shall be made to supply a substitute for the item or to permit the juvenile to use the item under the supervision of a custody staff member.

(b) Whenever a juvenile is deprived of any usually authorized item or activity, a written report identifying both the juvenile and the item or activity shall immediately be forwarded to the shift supervisor, who shall forward a copy of the report to the Superintendent or designee.

(c) The Classification Committee shall review any such restriction within one week. Any continued restriction shall be permitted only with the written authorization of the Classification Committee.

(d) Such restrictions shall be reviewed on a weekly basis to determine whether there is reasonable certainty that the danger to person or property is no longer imminent and the restriction may be lifted.

### 13:95-11.21 Records

(a) The following information on juveniles confined to protective custody shall be available for the use of appropriate staff members:

1. The juvenile's name and number;
2. Religion;
3. The previous housing location;



4. The room or other housing unit assignment;

5. The date admitted;

6. Special medical or psychiatric problems; and

7. The date on which three month review hearing is required, in accordance with

N.J.A.C. 13:95-11.3(b).

(b) All unusual behavior shall be noted in the unit log book together with the time and date of the incident. Unusual incidents shall also be reported pursuant to N.J.A.C. 13:95-21, Reports.

#### 13:95-11.22 Disciplinary action within Protective Custody Units

To the extent not otherwise covered by provisions of this chapter, the rules set forth in N.J.A.C. 13:101, Discipline, shall be in full force and effect in the Protective Custody Units.

#### 13:95-11.23 Transfers; record maintenance

All transfers into or out of a Protective Custody Unit shall be entered on the juvenile's classification progress record.

#### 13:95-11.24 Secure facility procedures

(a) Every secure facility shall be responsible for developing written unit internal management procedures and/or post orders consistent with this subchapter.

(b) All written post orders and procedures developed in accordance with this subchapter shall be submitted to the Executive Director or designee for approval before implementation.

13:95-11.25 Placement in temporary close custody

(a) A juvenile shall not be placed in temporary close custody for a period in excess of 72 hours unless exceptional circumstances warrant an extension of time. Exceptional circumstances may include, but are not limited to, information received or substantial evidence found.

(b) Criteria for placement of a juvenile in temporary close custody status are:

1. Reasonable suspicion exists to indicate that the juvenile is engaged in, or is planning a serious violation of secure facility rules, on which disciplinary action is considered premature;

2. Reasonable suspicion exists to indicate that the juvenile is in possession of, or plans to obtain, contraband which may pose a danger to the juvenile or others;

3. The juvenile exhibits assaultive, self-mutilating and/or threatening behavior related to a medical or psychiatric condition, in the written opinion of a psychiatrist, psychologist or medical doctor; and/or

4. Any other reason, which, in the opinion of the Superintendent, or designee, requires temporary close custody confinement to protect the juvenile, staff, general public, and/or the security and control of the secure facility.

(c) When placement of a juvenile in temporary close custody is ordered by the Superintendent's designee, the designee shall, as soon as administratively possible within 72 hours, inform the Superintendent and shall provide a written report to the Superintendent setting forth the reason for such placement.

(d) On or before the expiration of the 72-hour period, unless there are emergent reasons for extension, the juvenile shall be released from temporary close custody to:

1. The general population;
2. Prehearing room confinement;
3. Disciplinary room confinement in connection with a disciplinary action pursuant to N.J.A.C. 13:101;
4. Medical or psychiatric housing for continued observation, treatment, or commitment procedures; or
5. Protective custody in accordance with procedures set forth in this chapter.

(e) Release from temporary close custody may be ordered only by the Superintendent or designee.

(f) In consideration of the reason for a juvenile's placement in temporary close custody, the Director of Custody Operations or designee shall determine the personal property and other services, such as, but not limited to, visits and telephone calls, which the juvenile may be afforded while in temporary close custody.

(g) The Superintendent shall forward a monthly written report of all placements and releases from temporary close custody to the Director of Operations.

## SUBCHAPTER 12. JUVENILE ORIENTATION AND HANDBOOK

### 13:95-12.1 Responsibility for orientation

The Superintendent of the secure facility shall designate a staff person to be responsible for orientation of juveniles.

### 13:95-12.2 Scheduling orientation

(a) Juveniles shall be provided an orientation session within one week of admission to a Reception Center, unless compelling security or safety reasons dictate otherwise, or to do so would adversely affect the orderly operations of the secure facility.

(b) When assigned or transferred to another secure facility, juveniles shall be provided an orientation session within one week following admission to the new secure facility unless compelling security or safety reasons dictate otherwise, or to do so would adversely affect the orderly operations of the secure facility.

(c) Ongoing orientation sessions shall be conducted, as needed, to inform juveniles of:

1. New or revised policies and rules;

2. New or revised procedures;

3. Programs;

4. Services; and

5. Activities.

(d) Orientation sessions shall be presented in a foreign language when necessary.

13:95-12.3.           Content of orientation sessions

(a) Each secure facility shall have a resident handbook, the contents of which shall be used as a guide for orientation sessions.

(b) Topics of orientation sessions shall include, but shall not be limited to:

1. Rights and privileges of juveniles:

i. Correspondance;

ii. Visits;

iii. Telephone calls;

- iv. Juvenile savings accounts;
- v. Juvenile legal services;
- vi. Juvenile business activities; and
- vii. Ombudsman.

2. Work opportunities;

3. Secure facility services:

- i. Medical;
- ii. Dental;
- iii. Psychological;
- iv. Psychiatric;
- v. Counseling (individual and group);
- vi. Substance use disorder treatment;
- vii. Social work;
- viii. Educational;
- ix. Religious;
- x. Video conferencing (VTC); and
- xi. Clothing.

4. Recreation and leisure time activities;

5. Grooming and hygiene;

6. Personal property;

7. Housekeeping;

8. Juvenile Disciplinary Program;

9. Time and sentences;

10. Detainers;

11. Community programs; and

12. Parole/expiration of sentence:

i. Financial aid.

13:95-12.4 Staff participation

Staff members from various units within the secure facility may participate in orientation sessions to describe the programs, services and/or activities of their units.

13:95-12.5 Responsibility for secure facility and unit-specific juvenile resident handbooks

(a) The Superintendent shall designate a staff person to be responsible for developing, reviewing, revising, printing and issuing the secure facility resident handbook.

(b) When deemed necessary, the Director of Operations shall designate staff to be responsible for developing, reviewing, revising, printing and issuing unit-specific resident handbooks.

13:95-12.6 Resident handbook distribution

(a) Each juvenile shall be provided a copy of the resident handbook within two business days of admission to the secure facility unless compelling security or safety reasons dictate otherwise, or to do so would adversely affect the orderly operations of the secure facility.

(b) Pursuant to N.J.S.A. 30:4-8.5, a Spanish translation of the resident handbook shall be provided to Spanish speaking juveniles not conversant with the English language.

13:95-12.7 Resident handbook revision

(a) The secure facility resident handbook shall be updated at least every two years and bear the date of the most recent revision.

(b) The resident handbook revision shall provide an overall review of the secure facility's written policies and procedures.

13:95-12.8 Review of secure facility and unit-specific resident handbooks

(a) Prior to printing a revision of the resident handbook, two copies of the draft with the proposed revisions shall be submitted to the office of the Director of Operations for review and written approval.

(b) When the approved draft of the revised resident handbook has been printed, a copy of the revised resident handbook shall be submitted to the Office of the Director of Operations.

13:95-12.9 Secure facility and unit-specific resident handbook content

(a) The secure facility resident handbook shall contain an introduction which explains the philosophy of the secure facility.

(b) The secure facility resident handbook shall include, but shall not be limited to, an explanation and/or description of:

1. The reception process;
2. The classification process;
3. The rights and privileges of juveniles:
  - i. Correspondence;
  - ii. Visits;

- iii. Telephone calls;
- iv. Juvenile accounts;
- v. Juvenile legal services;
- vi. Juvenile business activities; and
- vii. Ombudsman;
- 4. Work opportunities;
- 5. Secure facility services:
  - i. Medical;
  - ii. Dental;
  - iii. Psychological;
  - iv. Psychiatric;
  - v. Counseling (individual and group);
  - vi. Substance use disorder treatment;
  - vii. Social work;
  - viii. Educational;
  - ix. Religious;
  - x. Video conferencing (VTC); and
  - xi. Clothing.
- 6. Recreation and leisure time activities;
- 7. Grooming and hygiene;
- 8. Personal property;
- 9. Housekeeping;
- 10. Community programs;
- 11. Other programs and services; and



12. Parole/expiration of sentence:

i. Financial aid.

(c) Unit-specific resident handbooks shall contain those internal management procedures, provisions, privileges and services specifically related to juveniles assigned to the unit.

SUBCHAPTER 13. (RESERVED)

SUBCHAPTER 14. JUVENILE HYGIENE AND GROOMING; PROHIBITION AGAINST TOBACCO PRODUCTS; JUVENILE IDENTIFICATION PHOTOGRAPHS; HOUSEKEEPING AND SANITATION; CLOTHING, BEDDING AND LAUNDRY

13:95-14.1 Purpose

(a)The purpose of this subchapter is to establish policies and procedures for:

1. The maintenance and practice of good hygiene and grooming habits for juveniles;

2. The purchase and distribution of sanitary, hygienic and grooming supplies to non-indigent and indigent juveniles;

3. The provision of sufficient time for grooming;

4. Provisions for juvenile identification photographs;

5. The establishment of guidelines governing housekeeping and sanitation;

6. The establishment of guidelines governing clothing, bedding and laundry;

7. A juvenile orientation program that includes the provisions of this chapter; and

8. The establishment of secure facility internal management procedures that include the provisions of this chapter.

13:95-14.2 Written secure facility internal management procedures

(a) Each secure facility shall develop written internal management procedures governing juvenile hygiene and grooming, juvenile identification photographs, housekeeping and sanitation, clothing, bedding and laundry. These written procedures shall be incorporated into the secure facility resident handbook (see N.J.A.C. 13:95-12).

(b) New or revised written internal management procedures regarding juvenile hygiene and grooming, juvenile identification photographs, housekeeping and sanitation, clothing, bedding and laundry shall be posted in each area housing juveniles and incorporated into the next publication of the secure facility resident handbook.

13:95-14.3 Juvenile orientation

Secure facility internal management procedures regarding juvenile hygiene and grooming, juvenile identification photographs, housekeeping and sanitation, clothing, bedding and laundry shall be fully explained to all juveniles as a formal part of the secure facility orientation program in accordance with N.J.A.C. 13:95-12.

13:95-14.4 Room restriction and Close Custody provisions

The provisions established in this chapter shall apply to all juveniles, including those in pre-hearing room restriction pursuant to N.J.A.C. 13:101 and in protective custody pursuant to N.J.A.C. 13:95-11, unless otherwise established by internal management procedures for pre-hearing room restriction or protective custody.

13:95-14.5 Sanitary/hygiene/grooming kit

(a) A sanitary/hygiene/grooming kit which includes a minimum of the following items shall be provided at no cost to all juveniles upon initial admission to a secure facility:

1. Soap;
2. Deodorant;
3. A toothbrush and toothpaste;
4. A comb or brush;
5. Shaving supplies;
6. Toilet paper; and
7. Feminine hygiene supplies for women.

13:95-14.6 Grooming, showering and shaving

(a) Juveniles in general population shall be permitted to shower and shave daily, unless an emergency situation or security hazard exists.

(b) All juveniles are expected to maintain an adequate level of personal cleanliness and hygiene in accordance with the internal management procedures established by the secure facility.

(c) Juveniles who do not maintain an adequate level of personal cleanliness and hygiene may be subject to disciplinary action as set forth in N.J.A.C. 13:101.

13:95-14.7 Procedures for purchasing and issuing supplies

(a) General population juveniles shall be permitted to purchase sanitation and grooming articles from the commissary of the secure facility at regularly scheduled times.

(b) Sanitary/hygiene/grooming items shall be provided to all juveniles who have been

determined to be indigent as this term is defined in N.J.A.C. 13:95-1.3.

(c) Personal sanitary/hygiene/grooming needs shall not be denied to juveniles for punitive reasons.

13:95-14.8 Time for grooming

(a) Sufficient time for grooming shall be provided to general population juveniles in the morning, at mealtime, and at bedtime.

(b) Sufficient time for grooming shall be provided to general population juveniles at times deemed necessary by the Superintendent or designee such as, but not limited to, before or after an juvenile's job detail (for example, food, medical, sanitation or mechanical service details).

(c) The time for general population juvenile grooming shall be coordinated with work schedules and other program activities.

13:95-14.9 Hair

(a) Juveniles shall be permitted to have a hair-style of personal choice, including facial hair such as beards and mustaches, provided their hair is kept clean and does not present a safety hazard, health, sanitation or security problem.

(b) When the length, style or condition of a juvenile's hair is found to present a safety hazard, health, sanitation or security problem, the juvenile shall be required to trim or cut his or her hair.

(c) Barbering, shaving and hair care services, for both male and female juveniles, shall be provided as needed. Hair shall be cut under sanitary conditions and in an area that can easily be observed by staff. Hair care equipment shall be stored securely when not in

use. A current inventory of hair cutting equipment shall be maintained.

(d) Juveniles shall not be permitted to possess or wear wigs or artificial hairpieces, unless the Superintendent has authorized use, such as for medical reasons.

#### 13:95-14.10 Tobacco products prohibited

(a) Smoking shall not be permitted in any secure facility building or Commission vehicle, including recreational yards and other outdoor areas, and juveniles are prohibited from possessing any tobacco products of any kind without limitation.

(b) A juvenile who violates rules or secure facility or unit internal management procedures regarding the prohibition against tobacco products shall be subject to disciplinary procedures in accordance with N.J.A.C. 13:101.

#### 13:95-14.11 Juvenile identification (ID) photographs

(a) Replacement identification (ID) photographs shall be taken when:

1. A juvenile intentionally changes his or her appearance such as, but not limited to, a change in hair style, the growth or removal of facial hair, weight gain or weight loss;

2. A juvenile's appearance changes due to circumstances beyond the control of the juvenile such as, but not limited to, hair, weight gain or weight loss due to illness; or

3. A juvenile voluntarily changes his or her appearance in order to comply with a program safety, health or sanitation recommendation.

(b) Juveniles shall reimburse the secure facility for the cost of the ID photograph except when:

1. The juvenile is indigent as this term is defined in N.J.A.C. 13:95-1.3;

2. The juvenile's appearance changes due to circumstances beyond his or her

control; or

3. The juvenile voluntarily changes his or her appearance in order to comply with a program safety, health or sanitation recommendation.

13:95-14.12 Housekeeping

(a) Housekeeping schedules of daily, weekly and periodic cleaning duties shall be developed and maintained by each secure facility. These schedules shall set forth the type and frequency of cleaning assignments necessary to maintain all areas of the facility and grounds in a clean, orderly and safe condition.

(b) Juveniles assigned to use housekeeping equipment shall be trained in the use of the equipment; cleaning activities shall be supervised to help ensure the work performed is appropriate, the equipment is in good working order and supplies are used in accordance with manufacturer instructions.

(c) Juveniles shall keep their immediate living and working areas clean.

13:95-14.13 Waste disposal

(a) Liquid, solid and recyclable wastes shall be appropriately separated, stored, collected and disposed of in a manner that will protect the health and safety of all persons within a secure facility and avoid the creation of a nuisance or hazard.

(b) Garbage shall be stored in durable rust-resistant, watertight, rodent-proof and cleanable containers with tight-fitting lids.

(c) Regulated medical waste shall be handled in accordance with N.J.A.C.7:26-3A.

13:95-14.14 Control of vermin and pests

(a) Each secure facility shall provide for the control of vermin and pests under the direction of licensed pest control specialists.

(b) Pest control inspections shall be conducted on a regular basis.

13:95-14.15 Inspections by secure facility staff members

All areas of the secure facility shall be inspected for cleanliness at least weekly by a designated staff member(s) who shall submit a written report to the Superintendent or designee.

13:95-14.16 Inspections by the State Department of Health and Senior Services

(a) The Office of Administration shall coordinate sanitary inspections to be conducted by the New Jersey Department of Health and Senior Services.

(b) Each secure facility shall be inspected in accordance with a schedule agreed upon by both the Commission and the State Department of Health and Senior Services.

(c) Upon completion of the inspection, each secure facility receiving a rating other than satisfactory shall be required to respond to the cited deficiencies on Form J360-I Remedial Action Plan Report. The completed report shall be submitted to the Director of Administration or designee within 21 calendar days after the completion of the inspection.

(d) Form J360-I Remedial Action Plan Report shall be completed in the following manner:

1. All deficiencies cited in the inspection document shall be entered onto Form J360-I in the order in which the deficiencies appear on the document, together with the appropriate agency code/reference number(s), if indicated, and the area of the secure facility inspected.

2. The specific action(s) taken to correct each deficiency shall be briefly stated along with the scheduled completion date of each. Where work orders are involved, the secure facility shall indicate the scheduled completion date of the action(s) required. Dates of work order submissions are not acceptable as completion dates; and

3. Secure facilities shall schedule completion of all corrective action(s) no later than 21 calendar days subsequent to receipt of the inspection report, except where the needed materials, supplies and/or services are documented to require additional acquisition or completion time. In these cases, the earliest possible completion dates shall be scheduled and entered on the form.

(e) Secure facilities unable to submit a plan within 21 calendar days must forward a justification with a request for a 14-calendar-day extension, in writing, to the Director of Administration or designee.

(f) Facilities receiving a rating other than satisfactory shall be subject to a reinspection within a time frame deemed appropriate by the New Jersey Department of Health and Senior Services.

#### 13:95-14.17 Policies of the Office of Administration

(a) The Facilities Unit within the Commission's Office of Administration shall be responsible to formulate written policies to help ensure compliance with New Jersey health codes, acceptable water supply, waste disposal methods and control of vermin and pests.

1. These policies shall be reviewed annually and updated when necessary.

2. All policy revisions and annual updates shall be sent to each secure facility.

#### 13:95-14.18 Basic clothing issue



(a) The designated reception facility shall provide an initial basic clothing issue to all juveniles, as deemed appropriate based on gender and weather conditions.

(b) The Director of Operations or designee shall be responsible for standardizing the basic clothing issue.

(c) Prior to the last working day of June each year, each secure facility shall submit to the Director of Operations or designee, for review and approval, a current listing of the basic clothing issue of the secure facility.

(d) The Director of Operations or designee shall annually review and authorize the basic clothing issue listing of each secure facility.

(e) During the course of the year, any additions to, deletions of and substitutions to the listed clothing issue shall be approved, in writing, by the Director of Operations or designee.

#### 13:95-14.19 DEPTCOR, State Use Industries

(a) The basic clothing issue, footwear, special issue/work detail clothing, bedding and towels shall be ordered through DEPTCOR, State Use Industries (see N.J.S.A. 30:4-95).

(b) Thirty calendar days prior to the July 1 commencement of each fiscal year, each secure facility shall submit in writing to State Use Industries its estimate of basic issue items needed for the ensuing fiscal year.

#### 13:95-14.20 Replenishing juvenile basic issue

(a) When items of a juvenile's basic issue are lost, stolen or condemned, they shall be replaced without delay.

(b) Previously used basic issue clothing shall not be reissued to juveniles unless the clothing is in good condition.

13:95-14.21 Juvenile accountability for State-issued clothing

(a) Juveniles shall be held accountable for their issue of clothing.

(b) Juveniles who mutilate, destroy or alter basic issue items may be subject to disciplinary action and may be required to make restitution.

13:95-14.22 Special issue/work detail clothing

(a) Each secure facility shall issue appropriate special protective clothing such as caps or hairnets and clothing related to weather conditions to juveniles assigned to specific work details such as, but not limited to, food service, hospital, farm, sanitation, and mechanical services.

(b) Juveniles scheduled for court trips, death bed visits or attendance at funerals in the community shall be provided with authorized civilian clothing when deemed necessary by the Superintendent.

(c) Each secure facility shall, in accordance with written internal management procedures, require juveniles to wear special clothing while working outside the facility perimeter.

(d) Additional work clothing shall be issued if requested by the juvenile and approved by the Superintendent or designee.

13:95-14.23 Clothing handling at juvenile release

(a) Juveniles and/or their families may make arrangements to provide suitable

clothing for juveniles upon release.

(b) When clothing is not otherwise provided, the secure facility shall issue clothing to juveniles being released. The issue of clothing shall be gender and weather appropriate.

#### 13:95-14.24 Personal clothing

Juveniles shall not be permitted to retain and wear personal clothing while confined in a secure facility except for those personal clothing items that are approved for purchase from the secure facility commissary.

#### 13:95-14.25 Marking State-issued clothing

State issued clothing shall be marked and or coded in a legible and uniform manner when deemed necessary in accordance with the internal management procedures of the secure facility.

#### 13:95-14.26 Condemning clothing

A secure facility staff person shall be designated and given the authority to condemn and replace State issued clothing that cannot reasonably be repaired.

#### 13:95-14.27 Clothing storage

Except in unusual circumstances, each juvenile shall be provided with a bureau, locker, closet or shelving that can be used for the storage of clothing.

#### 13:95-14.28 Bedding towels and washcloths

(a) The secure facility shall be responsible for issuing the following clean items to

juveniles in general population in accordance with facility internal management procedures:

1. Bedding, to include a pillow, pillow case, mattress, sheets, and sufficient blankets to provide comfort under existing temperature conditions; and

2. Towels and washcloths.

13:95-14.29 Secure facility/unit laundry services

(a) Unless laundry facilities are provided in housing areas, the secure facility shall be responsible for having juvenile clothing laundered at a central laundry a minimum of once a week.

(b) Linens and towels shall be exchanged on at least a weekly basis.

(c) Blankets shall be processed through a central laundry a minimum of once every six months.

13:95-14.30 Secure facility central laundry policies and procedures

(a) The Superintendent shall be responsible for formulating written guidelines for the operation of any central laundry within a secure facility that shall include, but not be limited to, procedures for:

1. Collecting;

2. Bagging;

3. Counting;

4. Transporting;

5. Preparing a laundry budget;

6. A preventative maintenance of equipment and laundry areas;

7. A cleaning program, such as, but not limited to, routine lint removal from

dryers;

8. Monitoring and reporting laundry activity; and

9. Purchasing and replacing equipment.

(b) The handling of laundry shall be governed by written procedures or post orders, which shall be reviewed annually to determine compliance with any applicable bloodborne pathogen protocols.

#### 13:95-14.31 Records

(a) A clothing and bedding record shall be maintained for each juvenile. This record shall include, at a minimum, the following:

1. The juvenile's name;

2. The juvenile's number;

3. The juvenile's housing area;

4. The juvenile's sizes;

5. The items issued to the juvenile and the date of issue; and

6. A notation as to whether the issued items were new or used.

### SUBCHAPTER 15. JUVENILE ACCESS TO COURTS

#### 13:95-15.1 Juvenile access to courts

(a) Juveniles have a constitutional right of access to the courts and appropriate access to reasonable legal services, which shall include the following:

1. Establishment and use of a juvenile law library or access to legal reference

materials;

2. Photocopying services;

3. Opportunity to make legal telephone calls ( see N.J.A.C. 13:95-15.7);

4. Provision of supplies, such as pens and paper, when needed;

5. Use of word processing resources to the extent that they are available;

6. Notary service;

7. Assistance of juvenile paralegals; and

8. Payment of postage for indigent juveniles.

#### 13:95-15.2 Allocation of legal services

(a) Juvenile legal services are available to all juveniles.

(b) Based on the availability of space, supervisory staff and the security needs of the secure facility, the Superintendent or designee shall determine those juveniles who may have direct personal access to legal reference materials and related services.

(c) Juveniles who, in the discretion of the Superintendent or designee, may not have direct personal access to legal reference materials and related services shall receive legal reference materials and related services from assigned juvenile paralegals.

#### 13:95-15.3 Law library

(a) In consultation with the Director of Education, each secure facility Superintendent or designee shall be responsible for establishing and maintaining a law library and for developing internal management procedures for library use and supervision. The procedures shall specify:

1. Law library hours;

2. The number of juveniles who may use the library at one time;
3. Persons responsible for the supervision of juveniles;
4. Limitation(s) on removal of legal reference materials;
5. The provision of supplies such as pens and paper;
6. The use of word processing resources; and
7. Any additional rules deemed necessary by the Superintendent or designee.

(b) Consideration shall be given to the following factors regarding the use of the law library:

1. Space and staff limitations;
2. The availability of supplies;
3. The availability of word processing resources;
4. The secure and orderly operation of the secure facility; and
5. The verified need of certain juveniles to meet time requirements for filing legal

documents.

(c) The Director of Education is responsible for the initial purchase of legal reference materials.

(d) The initial purchase of legal reference material shall be consistent with law and secure facility needs. established by the

(e) In consultation with the Director of Education, the secure facility Superintendent or designee shall be responsible for the maintenance and updating of the law library.

(f) Maintenance of the law library includes:

1. Annual update costs; and
2. Replacement of lost or damaged volumes.

(g) As part of the annual budget request, the Superintendent or designee shall

include a specific request (line item) for budgeted funds to maintain the law library. An alternative source of funds shall be used for maintenance of the law library if the specified budget request is reduced or eliminated.

13:95-15.4 Legal photocopying services; general provisions

(a) The Commission shall provide photocopies of legal material, as that term is defined in N.J.A.C. 13:95-1.3 to juveniles at the rate of \$.10 per page, in accordance with the guidelines and limitations set forth in this subchapter.

(b) At a minimum, juveniles may submit legal material to be photocopied to a staff member designated by the Supervisor of Education, or a juvenile paralegal under the supervision of a designated staff member, during the hours prescribed by the secure facility. The original and photocopies of the legal material shall be returned to the juvenile within two days of submission unless return of the legal material is prevented by exceptional circumstances. If the second day falls on a weekend or holiday, the legal material shall be returned on the weekday following the weekend or holiday.

13:95-15.5 Legal photocopying services for indigent juveniles

(a) The Commission shall provide photocopies of legal material at no charge to the indigent juvenile as defined in N.J.A.C. 13:95-1.3, in accordance with the guidelines and limitations in this subchapter.

(b) Only legal material which must be photocopied for a legitimate purpose, related to pending litigation challenging an indigent juvenile's sentence, directly or collaterally or challenging the conditions of confinement such as civil rights actions and/or writs of habeas corpus, will be photocopied for indigent juveniles at the expense of the Commission. Such



legal materials may include supporting documents, such as relevant prior correspondence and copies of receipts, which are to be attached to court documents. The legal material submitted for photocopying may be reviewed by the Superintendent, or designee, in order to determine whether the legal material:

1. Falls within the definition of legal material provided in N.J.A.C. 13:95-1.3; or
2. Must be photocopied for a legitimate purpose related to pending litigation.

(c) The Superintendent, or designee, has discretion to determine whether the criteria enumerated in (b) above are fulfilled. Photocopies will be limited in quantity to the number required by the court plus one photocopy for the indigent juvenile.

(d) Exceptional circumstances may dictate that material other than legal material would need to be photocopied. The photocopying of such material is left to the discretion of the Superintendent, or designee.

(e) Denials of access to material and the right to copy material are subject to review by the Ombudsman.

#### 13:95-15.6 Legal photocopying services for non-indigent juveniles

(a) The Commission shall provide photocopies of legal material to non-indigent juveniles in accordance with the guidelines and limitations established in this subchapter.

(b) A non-indigent juvenile shall be charged for the cost of all photocopying of legal material as established at N.J.A.C. 13:95-15.5(a).

(c) If the non-indigent juvenile has temporarily overdrawn his or her account or has a balance in the account, but the balance is not sufficient to pay the cost of all photocopying of legal material, the secure facility shall:

1. Remove from the non-indigent juvenile's account the amount available in

accordance with (g)1 below;

2. Charge the non-indigent juvenile's account the amount owed the secure facility; and

3. Advise the non-indigent juvenile in writing of the amount owed and the reason therefore.

(d) If a non-indigent juvenile has insufficient funds to cover the cost of photocopying, the secure facility shall copy only legal material which must be photocopied for a legitimate purpose related to pending litigation which directly or collaterally attacks a juvenile's sentence, or challenges the conditions of confinement, such as a civil rights action or a writ of habeas corpus. Such legal materials may include supporting documents, such as relevant prior correspondence and copies of receipts, which are to be attached to court documents. The legal material submitted for photocopying may be reviewed by the Superintendent, or designee, in order to determine whether the legal material falls within the definition of legal material provided in N.J.A.C. 13:95-1.3, and must be photocopied for a legitimate purpose related to pending litigation.

(e) The Superintendent, or designee, has discretion to determine whether the criteria set forth in (c) above are fulfilled. Photocopies will be limited in quantity to the number required by the court plus one photocopy for the juvenile.

(f) Exceptional circumstances may dictate that material other than legal material would need to be photocopied. The photocopying of such material is left to the discretion of the Superintendent, or designee.

(g) Until the secure facility has been reimbursed in full for the photocopying of legal material, the Business Manager or designee shall:

1. Remove from the non-indigent juvenile's account any amount of funds in

excess of the one time monthly amount of \$15.00 after deductions to pay court ordered penalty assessments, restitution, fines or other revenue obligations;

2. Note in the non-indigent juvenile's account each removal of funds from the juvenile's account;

3. Provide to the non-indigent juvenile a monthly account statement to include each removal of funds for photocopying legal materials from the non-indigent juvenile's account; and

4. Reimburse to the secure facility the funds collected from juveniles for the cost of photocopying legal material. Reimbursements shall be made in accordance with applicable internal management policies.

(h) In the event a non-indigent juvenile is transferred to another facility within the Commission or within the Department of Corrections, the Business Manager or designee of the sending secure facility shall notify the Business Manager of the receiving facility in writing of the remaining amount due the sending secure facility for photocopying of legal materials. The notification shall also request that funds continue to be removed from the non-indigent juvenile's account at the receiving institution until reimbursement has been made in full. The receiving facility shall handle the collected funds in accordance with (g)4 above and shall transfer to the sending secure facility the funds collected from the juvenile.

(i) Whenever a non-indigent juvenile's account exceeds a \$25.00 negative balance, the Superintendent or designee shall be notified.

(k) Photocopying costs are regarded as collectable, if a non-indigent juvenile is paroled or released prior to making full reimbursement of funds owed for photocopying of legal materials.

(l) The Business Manager or designee shall notify in writing the Central Office fiscal

Unit of the remaining amount due the secure facility.

13:95-15.7 Legal telephone calls

(a) The Superintendent or designee shall establish written procedures by which juvenile paralegals and/or professional staff members may place telephone calls to the following individuals or agencies requesting assistance in legal research or preparation of legal documents:

1. The Office of the Public Defender;
2. Regional Legal Services;
3. Court Clerks; and
4. Attorneys.

(b) Legal telephone calls shall not be monitored, except to determine the identity of the party called.

13:95-15.8 Legal services

(a) Legal supplies such as paper, envelopes and pens shall be provided in reasonable amounts as needed to all juveniles who request them for legal purposes. All juveniles may be required to justify the need for unusually large amounts of legal supplies.

(b) Frequently used legal forms and applications shall be made available through the law library.

(c) Access to computers or other electronic word processors shall be provided, to the extent possible consistent with orderly operations of the secure facility.

13:95-15.9 Notary public service

(a) Each Superintendent is responsible for ensuring that juveniles have reasonable access to notary public services.

(b) Juveniles shall not be permitted to be notary publics, to perform notary public services or possess notary public equipment, such as a seal or stamp.

#### 13:95-15.10 Juvenile legal material

(a) Each juvenile shall be permitted to retain personal legal material in his or her room. This legal material shall be subject to contraband search only.

(b) The Superintendent may establish regulations which limit the accumulation of personal legal materials in a juvenile's housing unit. Any limitation on the accumulation of personal legal materials should be based on the amount in relation to:

1. Security;
2. Sanitation;
3. Fire hazard considerations; and
4. Space available in the housing unit.

#### 13:95-15.11 Juvenile paralegals

(a) The Superintendent or designee shall be responsible for establishing:

1. Criteria for considering juveniles to be assigned as paralegals; and
2. Duties and responsibilities of juvenile paralegals.

(b) The Classification Committee shall interview and evaluate each candidate for a paralegal position.

(c) Upon approval by the Classification Committee, juveniles may render legal assistance to other juveniles.

(d) No juvenile paralegal shall solicit or accept any form of remuneration or gift from any juvenile or anyone associated with the juvenile such as a family member or friend for rendering legal assistance. Acceptance of remuneration in any form will result in disciplinary action and/or referral to the Classification Committee for reconsideration of program assignment.

13:95-15.12 Juvenile paralegal training and security

(a) The Superintendent or designee shall be responsible to ensure that juvenile paralegals receive training necessary and appropriate to assist juveniles in disciplinary proceedings and in the routine completion of legal documents and forms.

(b) Juvenile paralegals shall be subject to all search and security regulations. All material that the paralegal carries into close custody units shall be subject to search for contraband. Legal material shall not be read nor seized unless contraband is found.

13:95-15.13 General provisions

(a) Nothing contained in this subchapter shall preclude a juvenile from obtaining legal assistance from any other juvenile, except that only juveniles designated as paralegals will be granted access to juveniles in temporary close custody or in room restriction.

(b) Nothing contained in this subchapter precludes any juvenile from obtaining legal assistance from an attorney.

13:95-15.14 Written policy and procedures

(a) The Superintendent or designee of each secure facility shall ensure that written

policies and procedures pursuant to this subchapter are established. These written policies and procedures shall be incorporated into the next revision of the secure facility resident handbook. A copy of the written policies and procedures shall also be posted in juvenile housing areas.

(b) All new or revised policies and procedures shall be incorporated into the next publication of the resident handbook and shall be posted in juvenile housing areas.

(c) Proposed written secure facility policies and procedures regarding juvenile legal services and any additions or revisions to such written policies and procedures shall be submitted to the Director of Operations for review prior to implementation.

#### 13:95-15.15 Change of juvenile's name; juvenile responsibilities

(a) In order to have Commission records altered to reflect a new legal name, a juvenile wishing to change his or her name must:

1. Legally change his or her name in accordance with N.J.S.A. 2A:52-1 et. seq. and Rules of Court 4:72-1 et. seq.;

2. Submit a certified or true copy of the court's judgment allowing the name change to the Superintendent's office of the secure facility to which he or she is assigned;

3. Submit verification to the Superintendent or designee, documenting that a copy of the court's judgment was published in a newspaper of general circulation in the juvenile's county of residence within 20 days of the court judgment. The juvenile's county of residence shall be considered the county of his or her last known residence as reflected in Commission records, unless otherwise specified by a judge's order; and

4. Submit verification to the Superintendent or designee documenting that a certified copy of the judgment was filed with the deputy clerk of the Superior Court of the

county in which the action was brought and the appropriate office in the New Jersey Department of the Treasury, within 45 days of the court judgment.

13:95-15.16 Amendment of secure facility records to reflect juvenile name change

(a) The Superintendent shall order that the secure facility records, including the computerized juvenile information recordkeeping systems, be amended to reflect the juvenile's new legal name after the requirements of N.J.A.C. 13:95-15.15(a) have been satisfactorily fulfilled.

(b) Each department within the secure facility which maintains a record of the juvenile shall be notified in writing of the juvenile's new legal name. The departments shall be instructed to show the original legal name as an alias.

(c) The Superintendent shall also notify the following of the juvenile's name change:

1. Central Intake at the Office of Classification;
2. The Juvenile Information Management System (JIMS); and
3. The Offender Based Criminal Information System (OBCIS) at the New Jersey Department of Corrections.

13:95-15.17 "Common law" change of name

No secure facility records shall be altered if a juvenile decides to change his or her name through the "common law" practice, that is, on the juvenile's own authority and without any legal court proceedings.

13:95-15.18 Juvenile orientation



The procedure whereby a juvenile can legally change his or her name shall be incorporated into juvenile orientation.

13:95-15.19 Filing fee for civil action or proceeding in Federal court

(a) In accordance with 28 U.S.C. § 1915, Proceedings *in forma pauperis*, a juvenile may request to bring a civil action in a court of the United States, or an appeal of a judgment in a civil action or proceeding in a court of the United States, without the prepayment of fees.

(b) A juvenile seeking to proceed in accordance with (a) above shall submit a request to the secure facility Business Manager for a certified copy of his or her juvenile account statement for the six-month period immediately preceding the filing of the complaint or notice of appeal. The Business Manager or designee shall provide the juvenile account statement in a timely manner.

(c) Upon receipt by the secure facility of a court order issued pursuant to (a) above regarding the payment of filing fees, the secure facility Business Manager shall first deduct funds from the juvenile's account to pay any initial partial filing fee in accordance with the terms of the court order, and then the balance of any filing fee in accordance with 28 U.S.C. § 1915, applicable Commission rules and procedures, and the terms of the court order.

13:95-15.20 Filing fee for civil action or proceeding in State court

(a) If a juvenile files an action or proceeding in any court of this State, including an appeal from an administrative decision of the State Parole Board or the Commission, the juvenile may request a waiver of filing fees on the grounds of indigency. Pursuant to N.J.S.A. 30:4-16.3, a request for waiver of the filing fee shall include a certified copy of the

juvenile's fund account statement for the six months immediately preceding the filing of the complaint or petition.

(b) A juvenile shall obtain a certified copy of his or her juvenile's account statement by submitting a written request to the secure facility's Business Manager or designee. The Business Manager or designee shall provide the trust fund account statement in a timely manner.

(c) The Business Manager or designee shall process payment from the juvenile's account for any filing fee or partial filing fee in accordance with N.J.S.A. 30:4-16.3 and the terms of the court order.

#### 13:95-15.21 Civil action money judgment; use of funds

(a) A monetary judgment awarded to a juvenile as a result of a civil action shall be deposited in the juvenile's secure facility account and, in accordance with N.J.S.A. 30:4-16.4 and applicable Commission rules and procedures, shall be used to satisfy outstanding court-imposed obligations or claims for reimbursement for medical treatment.

(b) After satisfaction of obligations or claims set forth in (a) above, a monetary judgment awarded to a juvenile as a result of a civil action that has been deposited into the juvenile's secure facility account shall be used for other revenue obligations or fees of the juvenile such as, but not limited to, secure facility restitution or the cost of mailing legal correspondence for indigent juveniles

### **SUBCHAPTER 16. SUICIDE PREVENTION**

#### 13:95-16.1 Purpose

The purpose of this chapter is to establish guidelines for the identification, placement

and monitoring of juveniles who are deemed to be at risk for suicide.

13:95-16.2

Forms

(a) The following forms relate to suicide prevention (see also N.J.A.C. 13:95-1.4):

1. JJC CO-1 Notice of Special Observation Status;
2. JJC CO-2 Notice of Change in Special Observation Status;
3. JJC CO-3 Special Observation Status Monitoring Report;
4. JJC CO-4 Daily Observation Status Monitoring Report;
5. JJC CO-5 Release from Special Observation Status; and
6. JJC CO-6 Disciplinary Report from Mental Health Services.

13:95-16.3 Special observation status; reporting potential suicidal behavior

(a) Primary policy objectives of the Commission are to prevent suicides among the juveniles under its care and to identify and manage juveniles who pose a suicide risk.

(b) Any staff person or volunteer who, by reason of experience, education or observation of a juvenile, suspects that a juvenile may be at risk for suicidal behavior, shall immediately convey this information to the highest ranking custody supervisor on duty or a designated professional person.

13:95-16.4 Decision making criteria for placing a juvenile on or releasing a juvenile from special observation status

(a) In determining whether to place a juvenile on special observation status or to release a juvenile from special observation status, the factors to be considered include, but

are not limited to:

1. Mood or attitude;
2. Behavior;
3. Participation in activities;
4. Personal hygiene;
5. Sleeping patterns;
6. Eating habits;
7. Previous suicide attempts, if known; and/or
8. Current life situation and other information deemed relevant.

13:95-16.5            Temporary placement on special observation status

(a) The following secure facility staff persons are authorized to order that a juvenile be placed on temporary special observation status:

1. Any physician;
2. Any mental health staff person;
3. The highest ranking custody supervisor on duty;
4. The Superintendent;
5. The Director of Custody Operations; or
6. Another staff person as designated by the Superintendent.

(b) Form JJC CO-1 Notice of Special Observation Status shall be completed by the staff person who ordered the initial placement of the juvenile on special observation status and this notice shall be submitted to the Superintendent or designee for review and approval as soon as possible, but in any event within two hours of placement on special observation status. A copy of Form JJC CO-1 shall be forwarded by the staff person who

ordered the initial placement of the juvenile on special observation status to the Office of Classification for placement in the juvenile's classification file and medical record.

13:95-16.6 Psychological/psychiatric review

(a) A psychologist, psychiatrist or psychiatric advanced practice nurse shall interview the juvenile as soon as possible, but in no event later than 24 hours after placement on special observation status and the juvenile shall be interviewed daily thereafter by a psychologist, psychiatrist, psychiatric advanced practice nurse or mental health clinician.

(b) Form JJC CO-4 Daily Observation Status Monitoring Report shall be completed by a psychologist, psychiatrist, psychiatric advanced practice nurse or mental health clinician after each visit. This report shall be filed daily in the juvenile's medical record.

13:95-16.7 Special psychological/psychiatric assessment required of juvenile on special observation status prior to discipline

Within 48 hours of any scheduled disciplinary treatment team hearing, a juvenile on special observation status shall be evaluated by a staff psychologist, psychiatrist or psychiatric advance practice nurse to ascertain the appropriateness of going forward with the hearing as scheduled. The findings of the psychologist, psychiatrist or psychiatric advanced practice nurse shall be presented on Form JJC CO-6 Disciplinary Report from Mental Health Services shall be submitted to the Superintendent or designee, and shall be placed in the juvenile's medical record.

13:95-16.8 Change in type of observation

(a) After the initial placement of a juvenile on special observation status, a

psychiatrist, psychologist or psychiatric advanced practice nurse may change the type of observation of a juvenile from close observation to constant observation or from constant observation to close observation by filling out Form JJC CO-2 Notice of Change in Special Observation Status. The original of JJC CO-2 shall be filed in the juvenile's medical record and a copy shall be forwarded by the staff person ordering the change to the Facility Classification Office for placement in the juvenile's classification file.

(b) The recommendation for a change in observation status that involves a lower level of supervision shall be subject to review and approval by the Superintendent or designee before action is taken to change the type of observation.

#### 13:95-16.9 Daily written report

(a) The custody staff member on each shift, who is assigned to the special observation status post, shall complete Form JJC CO-3 Special Observation Status Monitoring Report.

(b) The completed Form JJC CO-3 shall be submitted to the highest ranking custody supervisor on duty at the conclusion of the shift, and copies of Form JJC CO-3 shall be forwarded by the third shift highest ranking custody supervisor to:

1. The Director of Custody Operations;
2. The Superintendent; and
3. The supervising psychologist of the secure facility.

(c) Form JJC CO-3 shall be placed in the juvenile's medical record by the supervising psychologist of the secure facility.

#### 13:95-16.10 Personal property

The highest ranking custody supervisor on duty, after consultation with the lead psychologist of the secure facility or other psychologist or psychiatrist, shall determine the items of personal property which a juvenile on special observation status is permitted to possess in the juvenile's room.

13:95-16.11 Release from special observation status

(a) A psychiatrist, psychologist, or psychiatric advanced practice nurse employed or retained by the secure facility may recommend that the juvenile be released from special observation status by filling out Form JJC CO-5 Release from Special Observation Status.

(b) The recommendation to release a juvenile from special observation status (Form JJC CO-5) shall be subject to review and approval by the Superintendent or designee.

(c) The highest ranking custody supervisor on duty shall be notified by the Superintendent or designee of an order to release a juvenile from special observation status.

(d) If the juvenile's release from special observation status involves a transfer of the juvenile and space is unavailable to accommodate an immediate transfer, the highest ranking custody supervisor on duty shall determine the time the transfer will take place.

(e) Form JJC CO-5 shall be forwarded to the Facility Classification Office and a copy shall be filed in the juvenile's medical record.

13:95-16.12 Attempt to commit suicide

(a) A custody staff member or other staff person who becomes aware that a juvenile is attempting to commit suicide, or apparently has already committed suicide, shall immediately notify Center Control.

(b) Center Control shall advise the custody staff member or other staff person on actions to take and shall send such additional supervisory, emergency, medical or other staff as are deemed necessary.

(c) A custody staff member shall enter the room to take action necessary and appropriate to preventing a suicide or injury to a juvenile, provided that doing so does not pose an undue risk to his or her own safety or to the safety of others.

(d) Factors which should be considered when determining whether to enter the room include, but are not limited to:

1. The availability and location of back-up staff;
2. The staff present at location of incident;
3. The availability of keys;
4. The potential for hostage situations; and
5. The emergent nature of present circumstances.

(e) When determining the action to take, security of the housing unit and secure facility shall be of primary concern.

#### 13:95-16.13 Cutting tool

A special cutting tool known as a "911 rescue tool" shall be available to a custody staff officer for purposes of cutting down a hanging juvenile.

#### 13:95-16.14 Required post orders and management procedures relating to juveniles on special observation status

(a) Each secure facility shall develop written post orders and management procedures consistent with this subchapter.



(b) Such post orders and management procedures shall have as their primary goal the objectives set forth in N.J.A.C.13:95-16.3(a), while giving due consideration to maintaining security of the secure facility and the safety of other juveniles and staff.

(c) The post orders and management procedures required hereunder shall be updated on a yearly basis, subject to review and approval of the Director of Operations.

## SUBCHAPTER 17. PREGNANT JUVENILES AND CRITICAL INJURY OR DEATH OF JUVENILES

### 13:95-17.1 Purpose

(a) The purpose of this chapter is to establish guidelines for:

1. Providing assistance to pregnant juveniles and placement of her newborn;
- and
2. Providing notification to next of kin in the event of a juvenile's critical illness or death.

### 13:95-17.2 Care of pregnant juveniles

(a) The Commission shall provide a pregnant juvenile with medical and social services, which at a minimum shall include:

1. Prenatal medical evaluation and care, including the routine pregnancy tests given to all female juveniles upon admission to the secure facility;
2. Nutritional supplements and diet as prescribed by a physician, advance practice nurse or certified nurse midwife;
3. Counseling regarding:

i. Family planning;

ii. Prenatal Counseling and Education

iii. Birth control;

iv. Test results;

v. Termination of pregnancy;

vi. Child placement services; and

vii. Religious counseling, if desired by the juvenile; and

4. Appropriate postpartum care, including counseling for trauma related to surrender of baby.

13:95-17.3            Obstetrical services

When the pregnant juvenile elects to carry the pregnancy to term, arrangements shall be scheduled in advance for the delivery at an appropriate medical facility.

13:95-17.4            Maternity clothes, housing assignments, exercise and work schedules

(a) The secure facility shall provide the pregnant juvenile with:

1. Suitable maternity clothes;

2. Appropriate housing assignments, as may be recommended by a physician, advanced practice nurse or certified nurse midwife ; and

3. Appropriate exercise and reduced work schedules, as deemed medically advisable by a treating physician, advance practice nurse or certified nurse midwife.

13:95-17.5            Termination of pregnancy

(a) As soon as possible after the pregnancy is diagnosed, a physician, advanced

practice nurse or certified nurse midwife shall provide the pregnant juvenile with appropriate medical care, and the pregnant juvenile shall be given religious and social counseling to aid her in making the decision to continue or to terminate the pregnancy.

(b) Should the pregnant juvenile elect to terminate the pregnancy, arrangements shall be made by the health care provider without undue delay to schedule and complete the procedure, unless a treating physician, advance practice nurse or certified nurse midwife determines that the pregnancy cannot be terminated.

(c) A juvenile who elects to terminate a pregnancy shall be required to sign a form indicating her desire to terminate the pregnancy and acknowledging that she has received medical care and has been offered religious and social counseling in reaching her decision.

(d) A pregnancy shall be terminated, and follow-up care shall be provided, only at a medical facility or hospital licensed in New Jersey.

13:95-17.6            (Reserved)

13:95-17.7            Placement of infants and infant's medical costs

(a) Unless alternative legal custody arrangements have been made by the juvenile's family or others, temporary custody of an infant born to a pregnant juvenile shall be assumed, or otherwise determined, by the appropriate state child protective services agency, but at no time shall custody be vested in the Commission.

(b) At no time shall the Commission assume or otherwise be responsible for any of the infant's medical costs.

13:95-17.8            Critical illness or death of a juvenile; notification of next of kin

(a) In the event of a juvenile's critical illness or death, the juvenile's next of kin shall be notified within 24 hours by the Superintendent or designee of the secure facility that maintains the classification and medical files of the juvenile.

(b) "Next of kin" shall be interpreted to mean:

1. Spouse;
2. Mother;
3. Father;
4. Guardian;
5. Persons connected by birth or marriage; or
6. Other persons indicated on official records.

(c) Initial contact with the next of kin shall be by telephone. In cases where the next of kin cannot be reached by telephone, the local law enforcement authority or New Jersey State Police shall be contacted and requested to advise the next of kin to contact the secure facility immediately.

(d) A letter confirming the telephone conversation shall be forwarded to the next of kin, and a copy of the letter shall be placed in the juvenile's classification file.

(e) In the event the juvenile is removed from the critical list, the next of kin shall again be informed in accordance with this section.

(f) In the case of a death of a juvenile, the Superintendent or designee shall be responsible to ensure that the following individuals have immediately been notified:

1. The juvenile's next of kin;
2. The Director of Operations;
3. The county medical examiner's office; and
4. The appropriate state child protective services agency.

(g) All reports shall be prepared in accordance with N.J.A.C. 13:95-21, Reports.

13:95-17.9      Advance directive for juvenile age 18 or older

At the request of a juvenile who is 18 years old or older, an advance directive that complies with N.J.S.A. 26:2H-55 et seq. shall be placed in the juvenile's medical record.

13:95-17.10      Security procedures upon the death of a juvenile

(a) The appropriate state child protective services agency shall be notified promptly of the death of any juvenile under the age of 18.

(b) If death is confirmed other than in a hospital, the body cannot be moved to a hospital without the approval of the county medical examiner.

(c) Prior to release of a body from the secure facility, hospital or medical examiner, photographs and fingerprints shall be obtained by the Office of Investigations for the records.

(d) Subject to any religious tenets of the juvenile or intervening rights of a parent or guardian, an autopsy shall be performed when regulations by the county medical examiner so require and/or when requested by the medical or surgical staff of the medical facility where the juvenile expired.

13:95-17.11      Claiming bodies of deceased juveniles

(a) Persons claiming the body of a deceased juvenile must contact the hospital where the juvenile expired or appropriate medical examiner's office where the body was taken in order to obtain the release of the body.

(b) The Commission shall not be responsible for the costs of burial or cremation for

bodies of deceased juveniles that are claimed.

13:95-17.12      Burial or cremation of unclaimed bodies

(a) The Commission shall arrange for the burial or cremation of unclaimed bodies of juveniles. The county medical examiner's office shall be contacted for assistance in such cases.

(b) An unclaimed body shall be cremated where it is reasonably believed that it would not violate the religious tenets of the deceased juvenile.

(c) The Social Security Administration, Veteran's Administration and the New Jersey Department of Human Services shall be contacted by the secure facility for any possible death benefits.

(d) Money remaining in the account of a deceased juvenile may be used for burial or cremation expenses.

13:95-17.13      Distribution of money and personal belongings of deceased juveniles

(a) Prior to any money remaining in the account of a deceased juvenile is distributed, those funds shall be used to pay:

1. Court ordered penalty assessments, restitution and fines;
2. Other revenue obligations or fees;
3. Fees for medical and/or dental treatment; and
4. Fees for prescription or nonprescription drugs or medicine.

(b) When a juvenile who is younger than age 18 expires, money in the juvenile's account and other property of the juvenile shall be turned over to the juvenile's parent or guardian.

(c) When a juvenile aged 18 or older expires without a will, and the amount of money in the juvenile's account and/or the value of personal property is \$2,000 or less, such money and personal property may be turned over to the next-of-kin shown in the most recent classification records. The next-of-kin shall be required to sign an itemized list/receipt of such money and personal property, and a statement in which the next-of-kin certifies no knowledge of the existence of an official will. The Superintendent or designee shall take the necessary steps to verify the identity of the next-of-kin.

(d) When a juvenile aged 18 or older expires without a will, and the amount of money in the account and/or the value of personal property exceeds \$2,000, these assets may be released to the juvenile's relative or other claimant only after the relative or claimant presents to the Superintendent or designee a certified, filed copy of Letters Testamentary, Letters of Administration, or a filed Affidavit from the Office of County Probate which entitles the claimant to assets without administration (see N.J.S.A. 3B:10-3 and 4).

(e) In the event a juvenile aged 18 or older dies without leaving a will, and there are no known relatives, the funds in the juvenile's account, if any, shall be closed out and pursuant to the Uniform Unclaimed Property Act (1981), N.J.S.A. 46:30B-1 et seq., transferred to the Department of Treasury after deductions for burial or cremation.

13:95-17.14      Written procedures

The Superintendent or designee shall be responsible for the development and implementation of written procedures consistent with the requirements of this subchapter and shall incorporate these procedures in the secure facility resident handbook.

SUBCHAPTER 18. (RESERVED)

SUBCHAPTER 19. MAIL: CORRESPONDENCE, LEGAL CORRESPONDENCE, PUBLICATIONS AND PACKAGES

13:95-19.1 Notice to juveniles

(a) Juveniles shall be informed of all existing, new or revised rules and procedures regarding the mailing and receipt of correspondence, legal correspondence, publications and packages by posting appropriate notices in each housing area and other areas of the secure facility.

(b) During the admission orientation program, juveniles shall be given a description and explanation of all such rules and procedures.

(c) All current rules and procedures regarding correspondence, legal correspondence, publications and packages shall be incorporated into the next revision of the resident handbook, as provided for in N.J.A.C. 13:95-12.7.

13:95-19.2 Limitation on number of correspondents

The number of approved correspondents and the amount of correspondence a juvenile may receive or send shall be unlimited.

13:95-19.3 Limitation on number of postage stamps

Each secure facility shall establish a limit of stamps that juveniles may possess that is consistent with the maintenance of security and the orderly operation of the secure facility.



13:95-19.4 Limitation on source of publications

(a) Juveniles in general population shall be permitted to receive hardcover books, paperback books, magazines and other soft cover publications from the publisher or source of sale only.

(b) Juveniles shall be permitted to receive newspapers only by subscription mailed directly from the publisher.

(c) The Superintendent or designee may impose reasonable restrictions on the number of publications a juvenile in general population may receive to the extent appropriate for purposes of ensuring the safe, secure and orderly operation of the secure facility or operational unit.

(d) All books, magazines, publications and newspapers must be prepaid.

(e) Limitations regarding publications for juveniles confined in protective custody and temporary close custody shall be set forth in the unit internal management procedures.

13:95-19.5 Limitations on packages

(a) Each secure facility Superintendent or designee shall promulgate:

1. Internal management procedures written in accordance with this section that include a written list of items which may be received in a package; and

2. A limit on the number and weight of packages which may be received by a juvenile each month.

(b) Each juvenile shall be given written notice of package limitations as established in this section.

(c) Juveniles shall not be permitted to receive packages except from source of sale.

(d) All packages must be prepaid.

13:95-19.6 Correspondence in language other than English

All secure facilities shall permit incoming and outgoing correspondence of the juveniles to be in a language other than English.

13:95-19.7 Correspondence to or from other juveniles and inmates of adult correctional facilities

(a) Correspondence to juveniles from inmates of adult correctional facilities may be read to ensure that the correspondence does not contain any content prohibited by N.J.A.C. 13:95-19.24. Mail between juveniles may not be read except as provided for N.J.A.C. 13:95-19.8(a).

(b) The superintendent or designee shall be authorized to limit correspondence to or from other juveniles and inmates of adult correctional facilities, for purposes of ensuring the safe, secure and orderly operation of the secure facility or operational unit.

13:95-19.8 Inspection and identification of incoming correspondence

(a) Incoming correspondence shall be opened and inspected for contraband, but it shall not be read unless there is reason to believe that the correspondence contains disapproved content pursuant to N.J.A.C. 13:95-19.24. If there is reason to believe that the correspondence contains disapproved content, the correspondence shall be read only upon prior authorization of the Superintendent or designee.

(b) A confidential list of the names of juveniles whose incoming correspondence is authorized to be read shall be established and maintained in the secure facility's mail room, or wherever the confidentiality of the list can be maintained.

(c) The sender's name and address and the juvenile's name and number should appear legibly on the outside of all incoming correspondence.

(d) Correspondence without either the juvenile's name or number shall be returned to the sender. When both the juvenile's name or number and the sender's name and address do not appear on the outside of the incoming correspondence, the correspondence shall be marked "Refused" and returned to the United States Postal Service unopened.

(e) If either the sender's name or address does not appear, but the juvenile's name or number do appear on the outside of the incoming correspondence, the correspondence may be delivered to the juvenile after the correspondence has been opened and inspected for contraband.

(f) If it is necessary to return correspondence to a sender and the return address is incomplete, the correspondence shall be marked "Refused" and returned to the United States Postal Service unopened.

#### 13:95-19.9 Inspection of outgoing correspondence

(a) Outgoing correspondence shall be reviewed to determine the sender. If the sender of the correspondence cannot be identified, the correspondence shall be destroyed.

(b) Outgoing mail shall not be opened, read or censored if it is considered legal correspondence, or if it is addressed to:

1. Public officials such as:

i. The President of the United States;

ii. The Vice-President of the United States;

iii. Members of Congress;

iv. The Governor;

v. Members of the State Legislature;

vi. Members of the County Board of Freeholders; or

vii. The Mayor;

2. Governmental agency officials, such as:

i. The Director of the Federal Bureau of Prisons;

ii. The Executive Director of the Juvenile Justice Commission;

iii. The Office of The Child Advocate.

iv. Members of the Federal Parole Board;

v. Members of the State Parole Board; or

3. News media representatives.

(c) Outgoing mail from juveniles to public officials, governmental agency officials and news media representatives may be held, for a maximum of 72 hours, in order to verify that the addressee is a legitimate public official, governmental agency official or news media representative.

(d) Any outgoing correspondence addressed to someone other than those cited in (b) above shall not be opened, read or censored unless there is reason to believe that the correspondence contains disapproved content pursuant to N.J.A.C. 13:95-19.24 and then only with the prior approval of the Superintendent or designee.

(e) Outgoing correspondence which is opened pursuant to this subchapter shall, once reviewed and approved, be resealed and mailed promptly.

(f) A confidential list of all correspondence which is read pursuant to this subchapter shall be maintained in the secure facility's mail room, or wherever the confidentiality of the list can be maintained.

13:95-19.10 Identification of secure facility on outgoing correspondence

The full name of the secure facility shall be clearly stamped or printed in the upper left corner of all outgoing envelopes from juveniles or juvenile groups.

13:95-19.11 Identification of incoming legal correspondence

(a) The return address on the outside of an envelope should clearly indicate that the correspondence is being sent from a legal correspondent as established in the definition for "legal correspondence" in N.J.A.C. 13:95-1.3.

(b) Mail sent from a legal correspondent shall be considered legal correspondence and shall be handled in accordance with this subchapter.

(c) The absence of a particular name of an attorney or judge shall not preclude the correspondence from being treated as legal correspondence if the return address indicates an office or court as established in the definition for "legal correspondence" in N.J.A.C. 13:95-1.3.

13:95-19.12 Inspection of incoming legal correspondence

(a) Incoming legal correspondence shall be opened in the presence of the juvenile to whom the legal correspondence was sent and may be inspected for contraband only.

(b) Incoming legal correspondence shall not be read or copied. The content of the envelope may be removed and shaken loose to ensure that no contraband is included. After the envelope has been inspected the correspondence shall be given to the juvenile.

(c) The secure facility may require that the juvenile sign a slip acknowledging receipt of the incoming legal correspondence.

(d) Where there is substantial reason to believe that the incoming correspondence is not legal in nature or that it contains disapproved content pursuant to N.J.A.C. 13:95-19.24, the Superintendent shall immediately notify the Director of Operations. The incoming legal correspondence shall not be inspected in a manner other than as outlined in this subchapter without first obtaining instructions from the Director of Operations.

13:95-19.13 Identification of outgoing legal correspondence

(a) All outgoing legal correspondence shall be clearly marked with the juvenile's name and number on the envelope.

(b) A juvenile who is sending legal correspondence out of the secure facility shall be responsible for clearly marking "legal mail" on the front and back of the envelope.

(c) The absence of the "legal mail" designation shall not mean that the correspondence may be treated as non-legal correspondence if the address on the envelope clearly indicates that it is legal correspondence as that term is defined in N.J.A.C. 13:95-1.3.

13:95-19.14 Identification of incoming publications

(a) The sender's name and address and the juvenile's name and number shall appear legibly on the outside of all incoming publications.

(b) The juvenile's name and number shall appear on the outside of the incoming publication. Publications without both the juvenile's name and number shall be returned to sender.

(c) If the sender's name and address do not appear on the outside of the publication, the publication shall be opened and examined to determine the identity of the sender.

(d) If the sender cannot be identified, the publication shall be destroyed.

13:95-19.15 Inspection and identification of outgoing publications

(a) Outgoing publications shall be reviewed to determine the sender.

(b) The juvenile's name and number or the name of the juvenile group shall appear legibly on the outside of the publication.

(c) If both the name and number of the sender do not appear on the outside of the outgoing publication, it shall be opened and examined to determine the sender so that it can be returned to the juvenile or juvenile group. If the sender cannot be identified, the outgoing publication shall be destroyed.

(d) Except as stated in (c) above, outgoing publications shall not be opened, read or censored unless there is reason to believe that the publication contains disapproved content under the provisions of N.J.A.C. 13:95-19.37 and then only with the prior approval of the Superintendent or designee.

(e) Outgoing publications that are opened pursuant to this subchapter shall, once reviewed and approved, be resealed and mailed promptly.

(f) A confidential list of the outgoing publications that are read pursuant to this subchapter shall be maintained in the investigative unit or mail room of the secure facility, or wherever the confidentiality of the list can be maintained.

13:95-19.16 Inspection of incoming publications

(a) Each incoming publication shall be opened and inspected for contraband, but shall not be read unless there is reason to believe that the publication contains disapproved

content under the provisions of N.J.A.C. 13:95-19.37, and then only upon the prior authorization of the Superintendent or designee.

(b) A confidential list of the incoming publications that are read shall be maintained in the mail room of the secure facility, or wherever the confidentiality of the list can be maintained.

#### 13:95-19.17 Identification of incoming mailed packages

(a) Every incoming package shall be clearly marked with the name and address of the source of sale and the juvenile's name and number.

(b) The juvenile's name and number or the name of the juvenile group shall appear on the outside of the incoming mailed package. Packages without both the juvenile's name and number or the name of the juvenile group shall be returned to the sender.

(c) If the name and address of the sender or source of sale does not appear on the outside of the incoming mailed package, it shall be examined to identify the sender or source of sale when it is opened.

(d) If the sender or source of sale of an incoming mailed package cannot be identified, the content of the package shall be destroyed.

#### 13:95-19.18 Inspection of incoming packages

(a) Every incoming package shall be opened and searched for contraband except as established in (c) below.

(b) Any item of contraband which is found during a search shall be processed in accordance with N.J.A.C. 13:95-6.

(c) Any package(s) received from a source other than source of sale shall be marked



"Refused" and returned to the sender unopened if the sender can be identified.

13:95-19.19 Inspection and identification of outgoing packages

(a) Every outgoing package shall be opened and inspected.

(b) Every outgoing package shall be clearly marked with the juvenile's name and number or the name of the juvenile group on the outside of the package.

(c) If either the juvenile's name or number or the name of the juvenile group does not appear on the outside of the outgoing package, when opened for inspection, it shall be examined to identify the sender so that it can be returned to the juvenile or juvenile group for proper mailing.

(d) If the sender of an outgoing package cannot be identified, the content of the package shall be destroyed.

(e) The content of outgoing packages shall be limited to juvenile personal property.

(f) Any item of contraband that is found during an inspection of outgoing packages shall be processed in accordance with N.J.A.C. 13:95-6.

13:95-19.20 Registered, certified, preferential, or special delivery mail

(a) All registered, certified, preferential, or special delivery correspondence of a non-legal nature shall be processed as regular mail and the mail room staff shall sign to acknowledge receipt of the correspondence. The juvenile shall be required to sign an acknowledgement that he or she received the correspondence.

(b) In instances where the mail room staff is not on duty to sign for registered, certified, preferential, or special delivery correspondence of a non-legal nature, the juvenile shall be required to sign for the correspondence to acknowledge receipt.

(c) Legal correspondence need not be sent by certified or registered mail.

(d) If a juvenile has sufficient funds in his or her account to cover the costs of mailing and the juvenile prefers to use certified, preferential, insured, or registered mail, the juvenile shall be permitted to do so at his or her expense.

#### 13:95-19.21 Proof of service

Juveniles who have insufficient funds to send legal correspondence as certified or registered mail and who are concerned that they have no proof of service where regular mail is employed, shall be advised that under the rules of court, an affidavit of service filed with the clerk of the court shall be sufficient proof of service.

#### 13:95-19.22 Correspondence processing

(a) Properly identified incoming correspondence shall be distributed to juveniles, and outgoing properly identified correspondence shall be forwarded to the post office within one day of receipt in the mail room, excluding weekends, holidays and during emergency incidents.

(b) Juveniles shall not be involved in the processing of either incoming or outgoing correspondence.

#### 13:95-19.23 Receipt of funds

(a) Money orders and certified checks shall be the only approved form of money received through the mail which can be accepted by the secure facility for deposit in a juvenile's account.

(b) When a juvenile receives money orders or certified checks by mail, the juvenile

shall be given a receipt and the funds shall be deposited into the juvenile's account.

(c) All cash and personal checks sent through the mail to a juvenile shall be deemed contraband and processed in accordance with N.J.A.C. 13:95-6.6.

13:95-19.24 Disapproved correspondence

(a) Any correspondence to or from a juvenile may be withheld in the mail room or taken from a juvenile's possession if it falls within one of the following categories:

1. The correspondence contains material which is detrimental to the security and/or order of the secure facility because it incites violence based upon race, religion, creed or nationality and a reasonable inference can be drawn, based upon the experience and professional expertise of correctional administrators, that it may result in the outbreak of violence within the facility;

2. The correspondence contains information regarding:

i. The manufacture of explosives;

ii. The manufacture of weapons;

iii. The manufacture of controlled dangerous substances;

iv. Escape plans;

v. Lock picking or locking devices; or

vi. Anything that might pose a threat to the security or orderly operation of the secure facility;

3. The correspondence contains information that appears to be written in code;

4. The correspondence contains information concerning activities within or outside the secure facility which would be subject to criminal prosecution under the laws of New Jersey or the United States;

5. The correspondence incites violence or destructive or disruptive behavior toward:

- i. Law enforcement officers;
- ii. Commission or contract vendor personnel or other staff;
- iii. Secure facility juveniles, visitors and/or volunteers; or
- iv. Secure facility programs or procedures; or

6. The correspondence contains material which, based upon the experience and professional expertise of correctional administrators and judged in the context of a secure facility and its paramount interest in security, order and rehabilitation:

- i. Taken as a whole, appeals to a prurient interest in sex;
- ii. Lacks, as a whole, serious literary, artistic, political or scientific value; and
- iii. Depicts, in a patently offensive way, sexual conduct including patently offensive representations or descriptions of ultimate sexual acts, masturbation, excretory functions, lewd exhibition of the genitals, sadism or masochism.

13:95-19.25 Control of correspondence

(a) Except as established in (b) below, incoming correspondence which is withheld from a juvenile shall be returned to the sender, together with a notice that the material has been found to violate Commission rules governing correspondence.

(b) If the correspondence is withheld pursuant to N.J.A.C. 13:95-19.24(a)4 for containing information which would be subject to criminal prosecution under the laws of New Jersey or the United States, the correspondence shall be turned over to the Office of Investigations for further action.

13:95-19.26 Procedures for handling withheld correspondence

(a) When correspondence is withheld in the mail room under the provisions of N.J.A.C. 13:95-19.24, the following action shall be taken:

1. The staff member who withholds the correspondence must submit a written report, no later than the end of the shift to the shift supervisor identifying:

i. The correspondence withheld;

ii. The juvenile's name and number to whom it was addressed;

iii. The time and date of withholding; and

iv. The category which the correspondence violates.

2. The decision of the staff member shall be reviewed by the shift supervisor.

3. The correspondence shall be given to the juvenile within 48 hours if the shift supervisor disagrees with the determination of the staff member.

4. The written report shall be initialed and returned to the staff member if the shift supervisor agrees with the determination.

5. The staff member shall provide the sender, within 72 hours of withholding, with a written notice which identifies:

i. The correspondence withheld;

ii. The reason for withholding the correspondence; and

iii. The right of the sender to appeal this decision within 10 calendar days of the date of the notice.

6. The staff member shall provide the juvenile, within 72 hours of the withholding, with a written notice that correspondence has been withheld. The notice must contain the following:

i. Name of the sender;

- ii. Date of the correspondence;
- iii. Date of the withholding; and
- iv. A statement that the sender has been notified of the withholding and of the right to appeal.

13:95-19.27 Procedure for handling correspondence removed from the juvenile's possession

(a) When correspondence is removed from the juvenile's possession under the provisions of N.J.A.C.13:95-19.24 , the following action shall be taken:

1. The staff member who removes the correspondence from the juvenile must submit a written report no later than the end of the shift to the shift supervisor identifying:

- i. The correspondence removed;
- ii. The juvenile's name and number from whom it was removed;
- iii. The time and date of removal; and
- iv. The category which the correspondence violates.

2. The decision of the staff member shall be reviewed by the shift supervisor.

3. The correspondence shall be returned to the juvenile within 48 hours if the shift supervisor disagrees with the determination of the staff member.

4. The written report shall be initialed and returned to the staff member if the shift supervisor agrees with the determination.

5. The staff member shall provide the juvenile, within 72 hours of the removal, with a written notice which identifies:

- i. The correspondence removed;
- ii. The reason for removing it; and

iii. The juvenile's right to appeal the removal.

13:95-19.28 Appeal and final disposition

(a) When the correspondence has been withheld in the mail room or when correspondence has been removed from the juvenile's possession, the sender or juvenile may appeal the action of the shift supervisor to the Superintendent within 10 calendar days of the date of notice.

(b) The sender or juvenile shall be permitted to submit documents in writing to the Superintendent that state that the challenged correspondence does not violate the category indicated in the report of the staff member.

(c) The Superintendent or designee, whose title shall not be lower than an Assistant Superintendent or Director of Custody Operations, shall consider the appeal.

(d) The Superintendent or designee shall issue a written decision on the appeal and shall respond to the sender or juvenile, as appropriate, within 72 hours of receipt of the written appeal. If the decision is to withhold the correspondence from the juvenile, the decision shall contain a specific finding that the correspondence violates the category indicated in the report of the staff member.

(e) If a correspondence is found to be objectionable only in part and such part is easily separable from the rest of the correspondence, the sender or juvenile, as appropriate, shall be given the choice of whether to allow the secure facility to excise the offending portions or to forfeit the juvenile's right to the correspondence.

13:95-19.29 Cost of mailing legal correspondence by indigent juveniles

(a) The secure facility shall provide letter writing materials and shall assume the cost of mailing legal correspondence for indigent juveniles as defined in N.J.A.C. 13:95-1.3.

(b) The cost of mailing legal correspondence shall extend only to First Class or standard postage and shall not include:

1. Registered mail;
2. Certified mail;
3. Preferential mail; or
4. Insured mail.

13:95-19.30 Cost of mailing correspondence for non-indigent juveniles and for juveniles in general intake and orientation

(a) If a non-indigent juvenile has funds in his or her account, the non-indigent juvenile shall be charged for the cost of mailing correspondence.

(b) If the non-indigent juvenile has temporarily overdrawn the account or has a balance in the account, but the balance is not sufficient to pay the total cost of mailing the correspondence, the secure facility shall:

1. Ensure that the correspondence is mailed via First Class and not preferential mail;
2. Remove from the non-indigent juvenile's account the amount available in accordance with (c) below;
3. Charge the non-indigent juvenile's account the amount owed the secure facility; and
4. Advise the non-indigent juvenile in writing of the amount owed and the reason therefore.



(c) Until the secure facility has been reimbursed in full for the cost of mailing correspondence, the Business Manager or designee shall:

1. Remove from the non-indigent juvenile's account any amount of funds in excess of the one time monthly amount of \$15.00 for reimbursement for the full cost of mailing correspondence.

2. Note in the non-indigent juvenile's account each removal of funds from the juvenile's account;

3. Provide to the non-indigent juvenile a monthly account statement to include each removal of funds for the cost of mailing correspondence from the non-indigent juvenile's account; and

4. Reimburse the secure facility the funds collected from the juvenile for the cost of mailing correspondence. Reimbursements shall be made in accordance with applicable internal management policies.

(d) In the event a non-indigent juvenile is transferred either to another Commission facility or to a facility of the Department of Corrections, the Business Manager or designee of the sending secure facility shall notify the receiving facility in writing of the remaining amount due the sending secure facility for mailing correspondence. The notification shall also request that funds continue to be removed from the non-indigent juvenile's account until reimbursement has been made in full. The receiving facility shall transfer to the sending secure facility the funds collected from the juvenile.

(e) Whenever a non-indigent juvenile's account exceeds a negative balance of \$25.00, the Superintendent or designee shall be notified.

(f) Mailing costs are regarded as collectable if a non-indigent juvenile is paroled or released prior to making full reimbursement of funds owed for correspondence mailing

costs.

(g) The Business Manager or designee shall notify in writing the Central Office Fiscal Unit of the remaining amount due the secure facility.

(h) The Commission may pay for the postage of juveniles either awaiting classification in a general intake facility or in orientation.

1. The Superintendent or designee may establish reasonable guidelines governing the amount and frequency of outgoing mail with respect to such juveniles.

13:95-19.31 Cost of mailing correspondence by indigent juveniles

(a) For indigent juveniles, the secure facility shall provide letter writing materials and shall assume the cost of mailing not more than 12 letters per month so that the indigent juvenile as defined in N.J.A.C. 13:95-1.3 can maintain community ties with family and personal friends.

(b) The secure facility shall not assume the cost of postage on:

1. Registered mail;
2. Certified mail;
3. Preferential mail; or
4. Insured mail.

13:95-19.32 Correspondence to and from illiterate juveniles

(a) If a juvenile is unable to read or write, the social worker assigned to the juvenile's housing unit shall, upon request, assist the juvenile in maintaining community ties by:

1. Writing a letter as dictated by the juvenile; and
2. Reading incoming correspondence to the juvenile.

13:95-19.33 Cost of mailing legal correspondence for non-indigent juveniles and for juveniles in general intake and orientation

(a) If a non-indigent juvenile has funds in his or her account, the non-indigent juvenile shall be charged for the total cost of mailing legal correspondence.

(b) If the non-indigent juvenile has temporarily overdrawn his or her account or has a balance in the account, but the balance is not sufficient to pay the total cost of mailing the legal correspondence, the cost of mailing shall be handled in accordance with N.J.A.C.

13:95-19.30.

(c) The Commission may pay for the postage of juveniles either awaiting classification in a general intake facility or in orientation.

13:95-19.34 Juvenile use of interoffice correspondence

(a) Juveniles shall not be permitted to use interoffice envelopes, which are purchased for use only by State employees.

(b) Juveniles using or possessing State interoffice envelopes shall be charged with Violation J608, Possession of anything not authorized for retention or receipt by a juvenile or not issued through approved facility channels. (See N.J.A.C. 13:101-4.1).

(c) In instances where a secure facility provides envelopes to juvenile groups, plain white envelopes shall be provided.

(d) Juveniles corresponding with Commission Central Office staff, or with staff at other Commission facilities, or with the State Parole Board, shall be permitted to use the facility's "truck mail" delivery service, but the juveniles must use their own envelopes and mark the envelopes "INTEROFFICE" or "TRUCK MAIL."

(e) Juveniles shall not be permitted to use the "truck mail" delivery services to correspond with persons in other State Departments or Agencies or with juveniles in other Commission facilities. Juveniles attempting to do so shall be charged with Violation J726, Failure to comply with any written or otherwise explicitly stated rule or regulation of any Commission facility. (See N.J.A.C. 13:93-101-4.1).

(f) Except as described in (d) above, all outgoing correspondence shall be sent First Class mail at the juvenile's expense.

#### 13:95-19.35 Publications in a language other than English

All secure facilities shall permit incoming publications in a language other than English.

#### 13:95-19.36 Processing of publications

(a) All properly identified and inspected incoming publications shall be distributed to juveniles within one day of their receipt in the mail room, excluding weekends, holidays and during emergency incidents.

(b) All properly identified outgoing publications shall be forwarded to the post office within one day of their receipt in the mail room, excluding weekends, holidays and during emergency incidents.

(c) Juveniles shall not participate in the processing of either incoming or outgoing publications.

#### 13:95-19.37 Disapproved content in publications

(a) Any incoming publication may be withheld in the mail room or taken from a juvenile's possession if it falls within one of the following categories:

1. The publication contains material that is detrimental to the security and/or order of the secure facility because it incites violence based upon race, religion, creed or nationality and a reasonable inference can be drawn, based upon the experience and professional expertise of correctional administrators, that it may result in the outbreak of violence within the secure facility;

2. The publication contains information regarding:

i. Explosives;

ii. Weapons;

iii. Controlled dangerous substances;

iv. Escape plans;

v. Lockpicking and/or locking devices; or

vi. Anything that might pose a threat to the security or orderly operation of the secure facility;

3. The publication contains information which appears to be written in code;

4. The publication contains information concerning activities, within or outside the secure facility, which would be subject to criminal prosecution under the laws of New Jersey or the United States;

5. The publication incites violence, or destructive or disruptive behavior toward:

i. Law enforcement officers;

ii. Commission personnel; or

iii. Secure facility juveniles, visitors and/or volunteers; or

iv. Secure facility programs or procedures; or

6. The publication contains material which, based upon the experience and professional expertise of correctional administrators and judged in the context of a correctional facility and its paramount interest in security, order and rehabilitation:

- i. Taken, as a whole, appeals to a prurient interest in sex;
- ii. Lacks, as a whole, serious literary, artistic, political or scientific value; and
- iii. Depicts, in a patently offensive way, sexual conduct including patently offensive representations or descriptions of ultimate sex acts, masturbation, excretory functions, lewd exhibition of the genitals, sadism or masochism.

13:95-19.38 Control of publications

(a) Publications which are withheld or removed from a juvenile shall be disposed of in a manner determined by the juvenile and at his or her expense.

(b) If the publication is withheld pursuant to N.J.A.C. 13:95-19.37, it shall be turned over to the Office of Investigations for further action.

13:95-19.39 Procedure for handling withheld publications

(a) When a publication violates one of the categories cited in N.J.A.C. 13:95-19.37 and is withheld in the mail room, the following action shall be taken:

1. The staff member who withholds the publication must submit a written report, no later than the end of the shift to the shift supervisor identifying:

- i. The publication withheld;
- ii. The juvenile's name and number to whom it was addressed;
- iii. The time and date of withholding; and
- iv. The category which the publication violates.

2. The decision of the staff member shall be reviewed by the shift supervisor.

3. The publication shall be given to the juvenile within 48 hours if the shift supervisor disagrees with the determination of the staff member.

4. The written report shall be initialed and returned to the staff member if the shift supervisor agrees with the determination of the staff member.

5. The staff member shall provide the sender, within 72 hours of the withholding, a written notice which identifies:

i. The publication withheld;

ii. The reason for withholding the publication; and

iii. The right of the sender to appeal this decision within 10 calendar days of the date of the notice.

6. The staff member shall provide the juvenile, within 72 hours of the withholding, a written notice that the publication has been withheld. The notice must contain the following:

i. Name of the publication;

ii. Date of the publication;

iii. Date of the withholding; and

iv. A statement that the sender has been notified of the withholding and of the right to appeal.

13:95-19.40 Procedure for handling publications removed from a juvenile's possession

(a) When a publication violates one of the categories cited in N.J.A.C. 13:95-19.37 and is removed from the juvenile's possession, the following action shall be taken:

1. The staff member who removes the publication from the juvenile must submit

a written report, no later than the end of the shift to the shift supervisor identifying:

i. The publication removed;

ii. The juvenile's name and number from whom it was removed;

iii. The time and date of the removal; and

iv. The category which the publication violates.

2. The decision of the staff member shall be reviewed by the shift supervisor.

3. The publication shall be returned to the juvenile within 48 hours if the shift supervisor disagrees with the determination of the staff member.

4. The written report shall be initialed and returned to the staff member if the shift supervisor agrees with the determination of the staff member.

5. The staff member shall provide the juvenile, within 72 hours of the removal, with a written notice which identifies:

i. The publication removed;

ii. The reason for removing the publication; and

iii. The juvenile's right to appeal the removal.

#### 13:95-19.41 Appeal and final disposition

(a) When a publication has been withheld in the mail room or when a publication has been removed from the juvenile's possession, the sender or juvenile may appeal the action of the shift supervisor to the Superintendent within 10 calendar days of the date of the notice.

(b) The sender or juvenile shall be permitted to submit arguments, in writing to the Superintendent, that the challenged publication does not violate the category indicated in the report of the staff member.



(c) The Superintendent or designee, whose title shall not be lower than Assistant Superintendent or Director of Custody Operations, shall consider the appeal.

(d) The Superintendent or designee shall issue a written decision on the appeal and respond to the sender or juvenile, as appropriate, within 72 hours of receipt of the written appeal. If the decision is to withhold the publication from the juvenile, the decision shall contain a specific finding that the publication violates the category indicated in the report of the staff member and a notification that the publication is being returned to the sender.

(e) If a publication is found to be objectionable only in part and such part is easily separable from the rest of the publication (such as a magazine article, etc.) the juvenile shall be given the choice of whether to allow the secure facility to excise the offending portion(s) or to forfeit his or her right to the publication.

#### 13:95-19.42 Package processing

(a) All properly identified incoming packages shall be distributed to as soon as possible.

(b) All properly identified outgoing packages shall be forwarded to the post office within one day of their receipt in the mail room excluding weekends, holidays and during emergency incidents.

(c) Juveniles shall not be involved in the processing of either incoming or outgoing packages.

#### 13:95-19.43 Forwarding correspondence, legal correspondence, publications and packages to a juvenile transferred to another facility or program

(a) Whenever a juvenile is transferred from a secure facility to either another facility

or program, the juvenile shall be responsible for notifying correspondents of the change of address.

(b) For a period not to exceed three months, the secure facility from which the juvenile is transferred shall forward all incoming correspondence, legal correspondence, publications and packages to the facility to which the juvenile has been transferred.

(c) Any correspondence and legal correspondence received after the three month period shall be returned to the sender. If the sender cannot be identified, the correspondence shall be marked "Refused" and returned to the United States Postal Service unopened.

(d) Any publications received after the three month period may be destroyed or placed in the library of the secure facility from which the juvenile was transferred.

(e) Any packages received after the three month period shall be returned to the sender, if possible, or destroyed.

13:95-19.44 Forwarding correspondence, legal correspondence, publications and packages to juvenile released on parole or at expiration of maximum sentence

(a) The secure facility shall obtain a juvenile's forwarding address at or about the time of the juvenile's release on parole or at the expiration of the juvenile's maximum sentence.

(b) The juvenile shall be asked whether correspondence, legal correspondence, publications and packages received at the secure facility should be forwarded to the juvenile.

(c) Upon the juvenile's request, the secure facility shall forward the correspondence,

legal correspondence, publications and packages to the juvenile.

(d) The secure facility shall not forward certified or registered mail, but shall return it to the sender.

(e) Correspondence, legal correspondence, publications and packages shall be forwarded for a maximum of three months from the date of the juvenile's release. Correspondence received thereafter shall be returned to the sender. If the sender cannot be identified, the correspondence shall be marked "Refused" and returned to the United States Postal Service unopened.

(f) Publications shall be forwarded for a maximum of three months from the date of the juvenile's release. Publications received thereafter may be destroyed or placed in the library of the secure facility.

(g) Packages shall be forwarded for a maximum of three months from the date of the Juvenile's release. Packages received thereafter shall be returned to the sender, if possible, or destroyed.

13:95-19.45 Forwarding correspondence, legal correspondence, publications and packages to a juvenile remanded to a detention facility

(a) When a juvenile is remanded to a county or other facility in which he or she is temporarily detained to await trial for a prior offense or for any other reasons, correspondence, legal correspondence, publications and packages received for the juvenile at the secure facility shall be forwarded to the other facility, upon the juvenile's request.

(b) Written procedures shall be developed by the secure facility for forwarding a juvenile's correspondence, legal correspondence, publications and packages when the juvenile is remanded to a detention or other facility. These procedures shall include a form

which the juvenile shall sign before the juvenile is transferred to the other facility indicating whether the juvenile wishes correspondence, legal correspondence, publications and packages to be forwarded.

13:95-19.46 Forwarding correspondence, legal correspondence, publications and packages of a juvenile who has escaped

(a) All incoming correspondence, legal correspondence, publications and packages addressed to a juvenile who has escaped from a secure facility shall be returned to the sender with an indication that the juvenile is no longer in custody.

(b) If the incoming mail does not have a return address, it shall be opened to determine the sender.

(c) If the sender cannot be identified:

1. Correspondence and legal correspondence shall be resealed and returned to the United States Postal Service;

2. Publications shall either be destroyed or placed in the library of the secure facility; and

3. Packages shall be destroyed.

## SUBCHAPTER 20. VISITS AND TELEPHONE

13:95-20.1 Forms

(a) The following form relates to visits and telephone. (See also N.J.A.C. 13:95-1.4):

1. J292-I Request for Attorney-Client Contact Visit.

13:95-20.2 Notice to juveniles

(a) During the admission orientation program, juveniles shall be given a description and explanation of the rules and procedures regarding visits, bedside, private viewing and funeral visits, and telephone calls.

(b) Juveniles shall be informed of new or revised rules and procedures regarding visits, bedside, private viewing and funeral visits, and telephone calls by posting appropriate notices in housing areas.

(c) New or revised rules and procedures regarding visits, bedside, private viewing and funeral visits, and telephone calls shall be incorporated into the next revision of the resident handbook, as provided for in N.J.A.C. 13:95-12.7.

#### 13:95-20.3 List of visitors

Upon admission, a juvenile shall submit to the Superintendent or designee a list of names and addresses of potential visitors, and may designate up to five household members for approval under the provisions of N.J.A.C.13:95-20.10(b).

#### 13:95-20.4 Approval of potential visitors

(a) The secure facility Superintendent or designee may approve the following persons to visit a juvenile:

1. Relatives (see N.J.A.C. 13:95-1.3). For the purpose of this subchapter, "relative" shall also include grandparents, cousins and aunts and uncles;

2. Close friends;

3. Clergy; and

4. Persons who may have a constructive influence on the juvenile.

(b) Persons with criminal records shall not be automatically excluded from visiting a

juvenile. The nature and extent of an individual's criminal record, plus their history of recent criminal activity, shall be weighed against the benefits of visitation in determining visitation eligibility.

(c) Persons determined, by substantial evidence, to have a harmful influence upon the juvenile or to constitute a threat to the security of the secure facility shall not be granted visitation privileges.

(d) At the discretion of the Superintendent, former employees of the Commission may be permitted to visit a juvenile. The decision of the Superintendent shall be made on a case-by-case basis after due consideration of the security interests involved, and after the Superintendent is satisfied that the visit will not pose a threat to the safe, secure and orderly operation of the secure facility.

#### 13:95-20.5 Employee visits with incarcerated relatives

(a) Employees of the Commission who have relatives incarcerated in facilities under the jurisdiction of the Commission shall be permitted to visit such relatives provided the Superintendent is satisfied that there is no threat to the orderly operation of the secure facility.

(b) An employee of the Commission who wishes to visit a relative incarcerated in a secure facility shall submit a written request for permission to visit such relative to the Superintendent of the secure facility at which the relative is housed.

(c) The Superintendent may schedule the visit during regular visiting hours or at special times, according to the orderly administration and staffing of the secure facility.

#### 13:95-20.6 Special visits

(a) Special visits may be authorized by the secure facility Superintendent or designee. Special visits include visits:

1. From persons who have come long distances;

2. To hospitalized juveniles;

3. To juveniles in disciplinary status; and

4. Between juveniles and:

i. Members of the clergy;

ii. Social service agency representatives;

iii. Prospective employers;

iv. Sponsors; and

v. Parole advisors.

(b) The Superintendent or designee may approve or disapprove a visit from a visitor who accompanies a person on the approved list.

(c) Visits to juveniles in protective and temporary close custody shall be governed by N.J.A.C. 13:95-11, Protective and Temporary Close Custody.

#### 13:95-20.7 Visits between incarcerated relatives

(a) Visits shall be permitted between juveniles and relatives (see N.J.A.C. 13:95-1.3) who are incarcerated in facilities under the jurisdiction of the Commission or the Department of Corrections.

(b) The following requirements must be met before visits between incarcerated relatives shall be permitted:

1. Relative relationships must be substantiated by documentation found in the classification folder or from other appropriate resources;

- 2. Visits must be approved by the Classification Committee; and
- 3. The cost of the visit to the Commission shall be borne by the juvenile involved.
- (d) The Business Manager or designee of the secure facility shall predetermine the expenses involved in arranging a visit between relatives and a detailed statement of expenses shall be prepared in accordance with N.J.A.C. 13:95-9.12(c).
- (e) The frequency, duration and time of the visits must be coordinated between the secure facilities involved and shall be subject to the other sections of the subchapter.
- (f) The visit shall be conducted so as to maintain sight and sound separation between the adult inmate and other juveniles.

13:95-20.8 Attorneys and court related personal visits

(a) Attorneys licensed in any jurisdiction and representatives of attorneys shall be permitted contact visits during regular business hours when sufficient space and staff are available.

(b) Representatives of attorneys shall include, but not be limited to the following:

- 1. Investigators;
- 2. Investigative aides;
- 3. Paralegals; and
- 4. Law students.

(c) A written notice or telephone request from an attorney shall be required 24 hours in advance of an intended visit. The purpose of the advance notice is to ensure the availability of:



1. Space;
2. Staff; and
3. The juvenile.

(d) Advance notice shall include the following information:

1. The name of the attorney or representative;
2. The name of the juvenile to be interviewed;
3. The name of the attorney for whom the representative is acting; and
4. The date and time the interview is sought.

(e) Form J292-I Request for Attorney-Client Contact Visit may be used to verify the juvenile's desire to meet with the requesting attorney in the context of an attorney-client relationship.

(f) Appropriate identification is required of attorneys and attorney representatives who visit the juvenile at a secure facility.

(g) Contact visits with attorneys or their representatives may be restricted or prohibited when, in the judgment of the secure facility Superintendent or designee, the juvenile is acting out or is especially dangerous. Contact visits may also be denied where the attorney or representative poses a threat to the security or orderly operation of the secure facility. In those cases in which contact visits have been denied, every effort shall be made to provide a non-contact visit consistent with the orderly operation of the secure facility.

(h) The Superintendent or designee may authorize a visit without prior written notice, under exceptional circumstances.

13:95-20.9 Visits from children

(a) Children under the age of 18 shall not be permitted to visit unless accompanied by an adult family member of the child defined as a "relative." (see N.J.A.C. 13:95-20.4.)

(b) In unusual circumstances, exceptions to (a) above may be made by special approval of the Superintendent or designee.

(c) The adult family member of the child shall be responsible for the supervision of the child accompanying said family member on the visit.

#### 13:95-20.10 Notification to prospective visitors

(a) The secure facility Superintendent or designee shall be responsible to write a letter of information, in English and translated into Spanish, which provides the pertinent visiting policies with which prospective visitors should be familiar. This letter shall include, but is not limited to, the:

1. Visiting times;

2. The number of permissible visitors;

3. Guidelines for visits by children;

4. Identification required;

5. Prohibition on smoking and tobacco products;

6. Notification that in accordance with N.J.A.C. 13:95-20.15, all visitors, their belongings and vehicles are subject to searches while on the premises of a facility under the jurisdiction of the Commission;

7. Notification that a visitor(s) who enters the premises of a facility under the jurisdiction of the Commission and refuses to submit to a search shall be:

i. Banned from visiting a juvenile committed to the custody of the Commission for 60 days and required to reapply in writing to the Superintendent for approval/disapproval

of the reinstatement of visit privileges; and

ii. Directed to immediately leave the premises of the facility under the jurisdiction of the Commission;

8. Notification that a positive indication as a result of a canine search and/or scanning/testing device search is probable cause to believe that criminal activity has or is taking place and, the visitor(s) shall be:

i. Detained;

ii. Subject to search and arrest; and

iii. In accordance with N.J.A.C. 13:95-20.15, if a controlled dangerous substance is discovered on, in the possession of, or in the vehicle of the visitor(s), the visitor shall be permanently banned from visiting a juvenile committed to the custody of the Commission;

9. Directions to the secure facility; and

10. Provisions of N.J.S.A. 2C:29-6 which prescribe specific penalties for introducing contraband into a secure facility.

(b) Copies of the letter of information shall be posted in the visiting areas of the secure facility.

(c) When submitting the list of visitors provided for in N.J.A.C. 13:95-20.3, a juvenile may designate up to five of his or her households members to be approved by the Superintendent, or designee, for visits to the juvenile. If approved, a household member shall be notified that he or she is permitted to visit the juvenile, and shall be sent a copy of the secure facility's letter of information. Such notification, and transmission of the letter of information, shall be sent within five business days from the day the juvenile is received at the secure facility.

(d) When an individual is not approved as a visitor, notice of and reasons for the exclusion shall be given to the juvenile who submitted the individual's name. The juvenile may appeal the decision to the Superintendent who shall respond, in writing, within 10 business days of receipt of the appeal.

(e) Procedures on how the juvenile can change his or her list of approved visitors shall be incorporated into the resident handbook.

#### 13:95-20.11 Visitor identification

(a) Adult visitors must have photo identification when visiting a juvenile.

(b) One of the following is an acceptable form of visitor identification:

1. A current photo driver's license;

2. A current photo Welfare/Medicaid card;

3. An employment photo I.D. card;

4. A current passport; or

5. A Joint Connection photo identification card. No other form of identification is needed with this card.

(c) Social Security cards shall not be used as a means of identification.

(d) Inability to establish identity shall be reported to the Superintendent or designee.

#### 13:95-20.12 Visiting schedule

(a) The Superintendent shall establish a visiting schedule consistent with the orderly and efficient operation of the secure facility.

(b) When the restriction of visiting on scheduled visit days is a hardship to a visitor, arrangements for suitable hours on other days may be made.

(c) Evening visit schedules may be established where the number of staff permit.

(d) Limitation on the length or frequency of visits may be imposed to avoid overcrowded conditions in the visiting area(s) or when deemed necessary by the Superintendent or designee.

#### 13:95-20.13 Number of visitors

(a) The Superintendent shall establish written regulations as to the maximum number of persons who may visit a juvenile at one time. These regulations shall be interpreted flexibly because their purpose is to prevent overcrowding in the visiting room or unusual difficulty in supervising a visit.

#### 13:95-20.14 Treatment of visitors

All secure facility staff members shall treat visitors in a professional, dignified, courteous and respectful manner.

#### 13:95-20.15 Search of visitors

(a) Signs written in English and Spanish shall be posted in both the visiting area and visiting entrances stating that, as a condition of visitation, all visitors, their belongings and vehicles are subject to search while on the premises of a secure facility.

(b) All visitors entering the premises of a secure facility shall be required to submit to a search, which may include a passive canine, scanning/testing device and pat search.

(c) If a visitor refuses to submit to a search, and there is no reasonable suspicion that the visitor is in possession of contraband, the visitor shall be directed to immediately leave the premises of the secure facility. No visit shall be permitted, the visitor shall be

banned from visiting any juvenile committed to the custody of the Commission for 60 days and the visitor shall be required to reapply in writing to the Superintendent for approval/disapproval of the reinstatement of visit privileges.

(d) Male or female custody staff members or scanning/testing device operators may be assigned to conduct scanning/testing device searches of visitors regardless of the gender of the visitors as long as no physical contact is required. A custody staff member of the same gender shall be assigned to conduct searches of visitors that require physical contact, including, but not limited to, pat searches.

(e) If a custody staff member or other staff receives information sufficient to form a reasonable suspicion that a visitor is carrying contraband, or when contraband has been detected or indicated on a visitor, a custody staff member with the rank of Sergeant or above shall be notified immediately. In the event the reasonable suspicion is confirmed, and in all cases when contraband has been detected or indicated on a visitor, the visitor shall be pat searched. In addition, if possession of the contraband would constitute a crime, the visitor shall be detained. In all cases under this subsection, the Superintendent or designee shall be notified, and the Office of Investigations shall be contacted.

(f) All contraband discovered during the search of a visitor shall be confiscated by the custody staff member performing the search, and a written report shall be submitted to the Superintendent.

(g) The written report shall specify:

1. The name of the custody staff member who performed the search;
2. The name of the juvenile who was to receive the visit;
3. The name and address of the visitor who was searched;
4. The time of the search;

5. The type of search and scanning/testing device used, if any, and the results if

any;

6. The description of the items confiscated; and

7. The specific reason for confiscating the items.

(h) All contraband and evidence seized shall be turned over to the Office of Investigations.

(i) If a controlled dangerous substance is discovered on, in the possession of, or in the vehicle of a visitor who is on the premises of a secure facility:

1. The Office of Investigations shall immediately be contacted;

2. The visitor shall be detained;

3. The visitor shall be subject to search and arrest;

4. No visit shall be permitted; and

5. The visitor shall be permanently banned from visiting any juvenile committed to the custody of the Commission.

(k) The Superintendent shall decide whether the visitor shall continue to have visitation privileges except as established in (i) above.

(l) All searches shall be conducted in a professional and dignified manner, with maximum courtesy and respect for the visitor's person.

#### 13:95-20.16 Search of juveniles

All juveniles shall be subject to search such as, but not limited to, a scanning/testing device, canine, passive canine and/or pat search before a visit, and a scanning/testing device, canine, passive canine, pat search and/or strip search after a visit, in accordance with procedures established by N.J.A.C. 13:95-5, Searches of Juveniles and Facilities.

13:95-20.17 Supervision of visits

(a) Visits shall be supervised to help prevent the passage of contraband and to insure the security and orderly operation of the secure facility.

(b) The staff member in charge of the visiting room shall be responsible for ensuring that all visits are conducted in a quiet, orderly and dignified manner.

(c) The staff member(s) supervising visits shall be cognizant of any articles passed between the juvenile and the visitor. If there is a reasonable suspicion that articles are being passed which constitute contraband or are otherwise in violation of the law or regulations, the articles shall be confiscated and examined.

(d) Handshaking, embracing and kissing shall be permitted, within appropriate bounds, at the beginning and end of the visit in order to minimize the opportunity to introduce contraband into the secure facility.

1. A juvenile and visitor may hold hands during the visit.

2. Time restrictions regarding contact shall not apply to small children.

13:95-20.18 Play areas for children

If a secure facility provides play areas for children of visitors, signs shall be posted in both English and Spanish stating that children who use the area must be supervised by the parents or a relative and that the area and equipment are used at their own risk.

13:95-20.19 Gifts of money from visitors prohibited

No cash, checks, money orders or other form of money, currency or payment may be brought into a secure facility by a visitor for a juvenile; any items brought into a secure



facility in violation of this section will be treated as contraband under the provisions of N.J.A.C 13:95-6.

13:95-20.20 Denial, termination or suspension of a visit

(a) A juvenile's visiting privileges shall not be denied because of a violation of secure facility regulations, other than those regulations specifically related to or concerned with visiting privileges.

(b) A visit may be denied, terminated or suspended and a visiting privilege suspended under the following circumstances:

1. The visitor is under the influence of drugs or alcohol;

2. Space is unavailable;

3. The visitor refuses to submit to search procedures;

4. The visitor refuses or fails to produce sufficient identification or falsifies

identifying information;

5. The visit rules of the secure facility are violated by the visitor, provided that such rules are posted;

6. Children are disturbing other persons in the visiting area;

7. Physical contact between the visitor and juvenile which is in excess of

N.J.A.C. 13:95-20.17(d); or

8. Any action that affects the ability of the staff to ensure the safe, secure and orderly operation of the secure facility and the visiting room

(c) Prior to the denial or termination of visiting privileges for circumstances listed in

(b) above, less restrictive action should be instituted. Such action may include:

1. Warning the juvenile and/or visitor of improper conduct; and/or

## 2. Transferring the visit to a non-contact visiting area.

### 13:95-20.21 Request to reinstate contact visit privileges

A juvenile may request the reinstatement of contact visit privileges that were terminated after 120 days from the date the sanction was imposed. On or after that date the juvenile may forward a written request for reinstatement of contact visit privileges to the Superintendent or designee. If a request is not produced by the juvenile, no consideration of reinstatement shall be extended. If the Superintendent or designee determines that an juvenile's contact visit privileges should be reinstated, such recommendation shall be forwarded to the Executive Director or designee for review and final approval or disapproval. No reinstatement shall be permitted without the expressed consent/approval of the Executive Director or designee.

### 13:95-20.22 Suspension of visiting program under emergency conditions

(a) The Director of Operations may suspend visits to juveniles, including visits to juveniles by attorneys and attorney representatives, for the duration of any emergency that threatens the safe, secure and orderly operation of the secure facility.

(b) Information concerning any such suspension shall made known by public announcement of the emergency.

(c) The scheduling of visiting, in terms of the number of visitors, times of visitation and frequency of visits, shall be subject to special conditions as determined by the Director of Operations.

### 13:95-20.23 Bedside, private viewing, and funeral visits: authority

(a) Subject to the provisions of N.J.A.C. 13:95-20.25, the Superintendent may authorize and permit the attendance of a juvenile at the bedside of a dying relative, or at a private viewing of a deceased relative, as relative is defined in N.J.A.C. 13:95-1.3, when no relatives or friends are present.

(b) A juvenile shall not be permitted to visit relatives or friends during the private viewing of a deceased relative unless the Superintendent has made a recommendation to, and received approval from, the Director of Operations.

(c) A juvenile shall not be permitted to attend or participate in a funeral service unless the Superintendent has made a recommendation to, and received approval from, the Director of Operations.

#### 13:95-20.24 Verification of illness or death of a relative

(a) The burden is on the juvenile to prove that the ill or deceased person is a relative as defined in N.J.A.C. 13:95-1.3 and this subchapter (see N.J.A.C. 13:95-20.4.).

(b) The Superintendent or designee shall verify the illness or death of the relative.

#### 13:95-20.25 Eligibility and restrictions

(a) The secure facility Superintendent or designee shall determine whether a juvenile is eligible to go on a bedside, private viewing, and/or funeral visit, subject to the following restrictions:

1.The juvenile shall not be permitted to go on a bedside, private viewing, or funeral visit that is outside the State of New Jersey.

2.The juvenile shall not be permitted to go on a bedside, private viewing or funeral visit that is in a private residence.

(b) In deciding to permit bedside, private viewing or funeral visits, the Superintendent shall consider whether:

1. The visit will interfere with the security or orderly operation of the secure facility;
- 2..The juvenile has demonstrated a poor secure facility adjustment;
3. The juvenile is a known escape risk;
4. The juvenile has a history of guilty findings for serious disciplinary offenses;
5. The juvenile is recognized as untrustworthy;
6. The juvenile is a highly publicized person whose reappearance in the community under any conditions other than strict compliance with the laws governing parole and release would cause unfavorable comment in the community; or
7. The location of the bedside visit, private viewing or funeral could place either escorting custody staff members or the juvenile in jeopardy.

(c) If the Superintendent is in doubt as to the propriety of permitting a particular juvenile to leave the secure facility under the circumstances enumerated in this subchapter, the Superintendent shall consult with the Director of Operations.

13:95-20.26 Security

During the bedside private viewing or funeral visit, the juvenile shall at all times be in the custody of one or more custody staff members.

13:95-20.27 Court ordered private viewing, or funeral visits

All court orders for bedside, private viewing, or funeral visits shall be referred immediately to the Office of the Executive Director for visit authorization.

13:95-20.28 Payment of visit expenses

(a) The juvenile or the juvenile's family shall reimburse the secure facility for all travel and other necessary expenses.

(b) No juvenile shall be denied approval for a bedside, private viewing, or funeral visit solely because of the inability of the juvenile and his or her family to pay travel and other expenses. In the event that a juvenile is indigent and it can be verified that the juvenile's family is unable to reimburse the secure facility for the expenses of a bedside, private viewing, or funeral visit, the secure facility shall assume the expenses of the visit.

(c) The Business Office of the secure facility shall predetermine the expenses claimed for reimbursement upon the approval of the Superintendent.

(d) In accordance with N.J.A.C. 13:95-9.13(c), a detailed written statement of expenses shall be prepared to determine the amount of reimbursement due.

13:95-20.29 Notification in monthly report

All bedside, private viewing, and funeral visits shall be noted in the Superintendent's monthly report.

13:95-20.30 Written procedures for telephone use

(a) Each secure facility shall develop and implement written procedures which provide juveniles with reasonable and equitable access to public telephones. These procedures shall specify:

1. The hours of telephone availability;
2. The maximum length of telephone calls; and
3. Any limitation on telephone calls.

13:95-20.31 Monitoring of telephone calls

All juvenile telephone calls may be monitored and recorded except calls to the Office of Investigations and legal telephone calls which are made in accordance with N.J.A.C.

13:95-20.34.

13:95-20.32 Cost of telephone calls

Outgoing telephone calls made by juveniles shall be collect calls with the exception of telephone calls between incarcerated relatives which shall be handled in accordance with N.J.A.C. 13:95-20.35.

13:95-20.33 Emergency telephone calls

(a) A juvenile shall be permitted to make monitored telephone calls of reasonable length, as determined by the monitor, in emergencies such as, but not limited to:

1. The serious illness of a relative;
2. The death of a relative; or
3. An impending disaster related to the juvenile's property which cannot be

deferred until regular mail delivery.

(b) Whenever an emergency telephone call for a juvenile is received by the secure facility:

1. The telephone number and name of the calling party shall be taken;

2. The particulars of the telephone call shall be noted;

3. The secure facility's social services unit shall check, to the extent possible, the validity of the telephone call;

4. The secure facility's social services unit shall inform the juvenile of the validated telephone call as soon as possible after the call was received; and

5. The juvenile shall be permitted to return the emergency telephone call.

(c) In the event emergency telephone calls are received after regular secure facility working hours, on weekends or holidays and a social worker is not available to perform the duties in (b) above within 24 hours, a custody supervisor on duty shall check the validity of the emergency telephone call and follow the procedures outlined in (b) above.

13:95-20.34      Legal telephone calls

(a) The Superintendent of the secure facility shall establish written rules and regulations by which legal telephone calls may be made by:

1. Juveniles;

2. Juvenile paralegals; and

3. Professional staff.

(b) Legal telephone calls may be made to the following individuals or agencies for assistance in legal research and/or preparation of legal documents:

1. Office of the Public Defender;

2. Regional Legal Services;

3. Court Clerks;and

4. Attorneys.

13:95-20.35 Telephone calls between incarcerated relatives

(a) Telephone calls shall be permitted between incarcerated relatives provided that:

1. The relative relationship has been substantiated through documentation found in the classification folder or other appropriate resources;
2. The telephone calls have been approved by the Classification Committee;
3. The full costs of the telephone calls are borne by the juveniles involved; and
4. The frequency, duration and time of the calls are coordinated between the secure facilities involved, subject to other provisions of this subchapter.

13:95-20.36 Telephone use by authorized juvenile groups

(a) Secure facilities are not obligated to provide direct telephone lines to juvenile groups or organizations.

(b) Authorized juvenile groups and organizations may be permitted to make telephone calls to achieve approved objectives of that group in accordance with written policies established by the Superintendent.

(c) Authorized groups and organizations shall assume the cost of telephone calls that are made in furtherance of their approved objectives.

(d) Telephone calls may be monitored at the discretion of the Superintendent or designee.

13:95-20.37 Telephone use by juveniles in protective and temporary close custody

Access to telephones by juveniles in protective and temporary close custody shall be governed by N.J.A.C. 13:95-11, Protective and Temporary Close Custody.



## SUBCHAPTER 21. REPORTS

### 13:95-21.1 Purpose

(a) The purpose of this subchapter is to establish:

1. Guidelines for providing reports to and among officials within the Commission and, when necessary, to outside law enforcement agencies;

2. Guidelines for cooperation with law enforcement or other outside agencies in the event of an unusual incident or event;

3. Guidelines for providing written reports of the release, critical illness or death of a juvenile;

4. Procedures for handling reportable and non-reportable suspected violations of criminal statutes; and

5. Reporting responsibilities of the Office of Investigations.

### 13:95-21.2 Written reports regarding release of a juvenile into a residential community facility

Written reports regarding the release of a juvenile into a residential community facility shall be provided in accordance with applicable Commission rules and relating to residential community facilities.

### 13:95-21.3 Written reports regarding release of a juvenile from custody

(a) Written reports regarding the release of a juvenile from custody shall be provided in accordance with N.J.S.A. 30:4-6.1 and 30:4-82.4.

(b) No less than 90 days before the date on which a juvenile's maximum term is scheduled to expire, the Director of Operations or designee shall provide written notification of the juvenile's status to the Attorney General and the prosecutor of the county from which the juvenile was committed when:

1. The juvenile was adjudicated a delinquent on the basis of an offense which, if committed by an adult, would constitute aggravated sexual assault, sexual assault or aggravated criminal sexual contact, and the court imposing sentence found that the offender's conduct was characterized by a pattern of repetitive, compulsive behavior;

2. The Superintendent of the secure facility in which the juvenile has been confined has advised the Executive Director or designee that the conduct of the juvenile during the period of confinement, the juvenile's mental condition, or, if 18 years of age or older, the juvenile's past history indicates that the juvenile may be "in need of involuntary commitment," as that term is defined in N.J.S.A. 30:4-27.2;

3. The juvenile was adjudicated a delinquent on the basis of an offense which, if committed by an adult, would constitute "sexually violent offense" as defined in N.J.S.A. 30:4-27.26; or

4. The juvenile was adjudicated delinquent on the basis of an offense which, if committed by an adult, would constitute murder; manslaughter; aggravated sexual assault; sexual assault; aggravated assault; aggravated criminal sexual contact; kidnapping pursuant to paragraph (2) of subsection c. of N.J.S.A. 2C:13-1; endangering the welfare of a child by engaging in sexual conduct which would impair or debauch the morals of the child pursuant to subsection a. of N.J.S.A. 2C:24-4; endangering the welfare of a child pursuant to paragraph (4) of subsection b. of N.J.S.A. 2C:24-4; luring or enticing pursuant to N.J.S.A. 2C:13-6; or any other offense involving serious bodily injury or an attempt to

commit any of the aforementioned offenses.

(c) Except as provided in (b) above, pursuant to N.J.S.A. 30:4-6.1 and 30:4-123.53a, the Superintendent or designee of the secure facility in which a juvenile is confined shall provide written notification to the prosecutor of the county from which the juvenile was committed 90 days before a juvenile's anticipated release whenever possible, but in no event fewer than 30 days before release if such release is due to the expiration of the juvenile's maximum term or is authorized by the State Parole Board or any other release of a juvenile from custody.

(d) All written reports provided in accordance with this section shall include the juvenile's name, identifying information and anticipated residence.

#### 13:95-21.4 Written reports regarding the critical illness or death of a juvenile

(a) Notification to the juvenile's next of kin of a juvenile's critical illness or death shall be in accordance with N.J.A.C. 13:95-16.

(b) Written reports of the death of a juvenile shall be provided to the prosecutor of the county from which the juvenile was committed by the Superintendent or designee of the Commission facility that maintains the juvenile's classification and medical files as soon as possible on the next business day after the death of the juvenile.

(c) Written reports of the death of a juvenile shall be provided to the appropriate Commission health services office.

#### 13:95-21.5 Initial response to an unusual incident or event

(a) Upon the occurrence of an unusual incident or event, as defined in N.J.A.C. 13:95-1.3, the Superintendent or designee shall immediately notify the Office of

Investigations by telephone.

(b) Pending arrival on the scene of Office of Investigation personnel, the Superintendent or designee shall assign a custody supervisor with a rank not lower than sergeant to secure and/or cordon off the location of the incident or event, as appropriate.

(c) No one, including non-custody staff and custody staff, shall be permitted access to the secured area and nothing shall be touched, moved or destroyed until the Office of Investigations has completed its examination of the secured area.

13:95-21.6 Follow up written report

Within 48 hours of the occurrence of the unusual incident or event, the Superintendent or designee shall prepare and shall submit to the Office of Investigations and to the Director of Operations a detailed written report that discloses all material facts and allegations relating to the incident or event, including copies of all related special reports.

13:95-21.7 Superintendent notification of law enforcement agencies, sentencing judge and classification officer upon escape of a juvenile

(a) In addition to any other requirements of this subchapter, upon any escape or walk away of a juvenile from a secure facility, juvenile transport, court, funeral or bedside visit, or from any other situation of custody, the Superintendent or designee shall immediately notify by telephone:

1. All relevant outside law enforcement agencies, as defined by N.J.A.C. 13:95-21.9;

2. The sentencing judge; and
3. The secure facility's classification officer.

13:95-21.8 Office of investigations notification of law enforcement agencies

(a) Upon receipt of the notification from the Superintendent required by N.J.A.C.13:95-21.5, the Office of Investigations shall promptly report by telephone to the relevant law enforcement agencies, including appropriate county prosecutors, all acts committed which may constitute crimes of the first, second, third or fourth degree under the Criminal Code of the State of New Jersey, N.J.S.A. 2C:1-1 et seq.

(b) The Office of Investigations shall promptly inform relevant law enforcement agencies, county prosecutors and the sentencing judge of the capture or other return of an escaped juvenile.

13:95-21.9 Commission liaison to outside law enforcement agencies

(a) The Office of Investigations shall serve as the liaison to all outside law enforcement agencies with respect to secure facilities.

(b) The liaison shall have the general responsibility of effecting a cooperative relationship with outside law enforcement agencies during investigations conducted and/or associated with a secure facility. These outside law enforcement agencies shall include, but are not limited to:

1. County prosecutors;
2. State and local police agencies;
3. The New Jersey Division of Criminal Justice
4. The Federal Bureau of Investigations; and

## 5. The United States Department of Treasury.

### 13:95-21.10 Cooperation with outside law enforcement agencies

(a) In the event that an outside law enforcement agency wishes to send an observer to a secure facility in connection with the investigation of an unusual incident or event, the Superintendent or designee shall inform the Office of Investigations.

(b) Personnel from the Office of Investigations shall conduct all briefings of observers from outside law enforcement agencies.

(c) The Superintendent shall ensure that relevant secure facility staff are made available to outside law enforcement agencies that are undertaking lawful investigations of any unusual incident or event. Unusual requests for assistance made by outside law enforcement agencies shall be referred to the Director of Operations.

(d) Information concerning an unusual incident or event shall be shared with investigating outside law enforcement agencies in an accurate and timely manner.

### 13:95-21.11 Dissemination of reporting procedures for unusual incidents and events

(a) Each secure facility shall be responsible for developing written procedures and post orders concerning the reporting of unusual incidents and events, consistent with the provisions of this subchapter.

(b) Copies of the written procedures and/or post orders regarding the reporting of unusual incidents or events shall be disseminated to all supervisory custody personnel.

(c) Copies of the procedures and post orders shall be maintained at the Center Control.

### 13:95-21.12 Reportable suspected violations of criminal statutes

(a) The Office of Investigations shall be responsible for ensuring that the following suspected violations of criminal statutes are reported in writing to the prosecutor of the county in which the secure facility is located, if the act occurred in a secure facility, or to the county prosecutor where the suspected violation of the criminal statutes occurred:

1. All acts committed by juveniles, staff or visitors, which could constitute offenses of the first, second, third or fourth degree under the New Jersey Criminal Statutes or the Controlled Dangerous Substance Act, N.J.S.A. 24:21-1 et seq.;

2. Simple assaults committed by juveniles, staff or visitors, which become aggravated assaults if committed upon any law enforcement officer acting in the performance of his or her duties while in uniform or while exhibiting evidence of his or her authority, pursuant to N.J.S.A. 2C:12-1a and b;

3. Any act which would constitute an indictable offense under the Controlled Dangerous Substance Act; or

4. The introduction of, or providing a juvenile with, any weapon, tool or other item which could be used in an escape.

#### 13:95-21.13 Non-reportable violations of criminal statutes

(a) The following violations of criminal statutes need not be reported by the Office of Investigations to the county prosecutor:

1. Possession or introduction of contraband unless said contraband constitutes an implement of escape or unless said contraband would constitute an indictable offense under the Controlled Dangerous Substance Act; or

2. Any act which would constitute a disorderly or petty disorderly persons offense under the New Jersey Criminal Statutes.

(a) The Office of Investigations shall be responsible for investigating and preparing written investigative reports upon the occurrence of incidents and events as established in this chapter.

(b) The Office of Investigations shall ensure that all juvenile acts which may constitute crimes of the first, second, third or fourth degree under the Criminal Code of the State of New Jersey, N.J.S.A. 2C:1-1 et seq. requiring written prosecutor notification shall be timely forwarded to the appropriate county prosecutor.

(c) Any additional pertinent information compiled subsequent to the primary investigative report shall be forwarded by the Office of Investigations to the appropriate Prosecutor as expeditiously as possible.

(d) The Office of Investigations shall be responsible to ensure that all investigative reports shall be made available upon request to the:

1. Executive Director;
2. Deputy Executive Director; and
3. Director of Operations.