

RULE PROPOSALS INTERESTED PERSONS

The Department of Corrections provides notices of rule proposals in the New Jersey Register (N.J.R.), a semi-monthly official publication of the Office of Administrative Law which contains all State agency rule proposals and adoptions. The following paragraph is quoted from the Proposal section of the New Jersey Register: Interested persons may submit comments, information or arguments concerning any of the rule proposals in this issue until the date indicated in the proposal. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal. The required minimum period for comment concerning a proposal is 30 days. A proposing agency may extend the 30-day comment period to accommodate public hearings or to elicit greater public response to a proposed new rule or amendment. Most notices of proposal include a 60-day comment period, in order to qualify the notice for an exception to the rulemaking calendar requirements of N.J.S.A. 52:14B3. An extended comment deadline will be noted in the heading of a proposal or appear in a subsequent notice in the Register. At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-6.3. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

CORRECTIONS

THE COMMISSIONER

County Correctional Facilities

Proposed Readoption with Amendments: N.J.A.C. 10A:31

Authorized By: Victoria L. Kuhn Esq., Commissioner, Department of Corrections.

Authority: N.J.S.A. 2A:154-3 and 4, 2C:58-15, 30:1B-6, 30:1B-10, 30:4-123.47.c, and 52:17B-169.

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

Proposal Number: PRN 2024-143.

Submit written comments by March 22, 2025, to:

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or through email to ARU@doc.nj.gov

The agency proposal follows:

Summary

Pursuant to N.J.S.A. 52:14B-5.1, N.J.A.C. 10A:31 was scheduled to expire on November 8, 2024. Pursuant to N.J.S.A. 52:14B-5.1.c(2), as the Department of Corrections (“DOC” or “Department”) submitted this notice of proposal to the Office of Administrative Law prior to that date, the chapter expiration date was extended 180 days to May 7, 2025. The Department has reviewed this chapter and, with the exception of the proposed amendments, has determined it to be necessary, reasonable, and proper for the purpose for which it was originally promulgated. The rules are, therefore, proposed for readoption with amendments.

The Department of Corrections has determined that the comment period for this notice of proposal will be 60 days; therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, this notice is excepted from the rulemaking calendar requirement.

Subchapter 1 sets forth general provisions for county correctional facilities including, but not limited to, the purpose, scope, definitions, and written policies and procedures. The Department proposes to remove the following terms from N.J.A.C. 10A:31-1.3, as they are no longer used in county correctional facilities; “administrative segregation,” “prehearing detention,” and “temporary close custody”; and add the following new definition in order to specify the version of the referenced Attorney General’s Guidelines used in this chapter; “Attorney General’s Use of Force Policy” means the December 2021 Version of the “Use of Force Policy, Office of the Attorney General, State of New Jersey.”

Subchapter 2 sets forth, but is not limited to, enforcement procedures and the authority of the Commissioner of the Department of Corrections.

Subchapter 3 sets forth rules for the planning and design of county correctional facilities including, but not limited to, the submission of plans and specifications, minimum requirements for housing units and dayroom areas, showers, drinking fountains, shut off valves and drains, health care facilities and equipment, dining areas, visiting and interview areas, and building and fire codes. Given the availability of a variety of locks for use on weapons lockers, the Department proposes to replace “lock and key” with the more generic description of “locking mechanism” at N.J.A.C. 10A:31-3.4(o) to add additional flexibility to the county correctional facilities, as well as to provide for use of a more secure manner of locking weapons lockers.

Subchapter 4 sets forth rules about personnel including, but not limited to, policy and procedure manuals, affirmative action programs, and employee records. At N.J.A.C. 10A:31-4.4, the Department proposes a technical change replacing “each” with “every,” so that all types of employees, vendors, and contractors will be included in the requirement to maintain personnel records.

Subchapter 5 sets forth rules related to staff development. As all police officers in New Jersey must be licensed by the Police Training Commission (P.T.C.), the Department proposes to add “and in accordance with the Police Training Commission (P.T.C.)” at the end of N.J.A.C. 10A:31-5.3(a), which addresses training and staff development. In order to expand the orientation training list set forth in this subchapter to reflect more accurately the actual topics covered, the Department proposes to add “and procedures” at the end of N.J.A.C. 10A:31-5.3(b)1 and to add more specificity to the training set forth at N.J.A.C. 10A:31-5.3(c)1 by adding the Prison Rape Elimination Act (PREA), cultural diversity, and interacting with traumatized victims. The Department also proposes to add “and hold a valid active law enforcement officer’s license as set forth by the P.T.C. Licensing Committee at Subsection c. of Section 9 at P.L. 2022, c. 65 (N.J.S.A. 52.17B-71a)” at the end of N.J.A.C. 10A:31-5.3(g).

Subchapter 6 sets forth rules for information management systems and inmate records including, but not limited to, theft prevention, reporting, and confidential records. The Dignity for Incarcerated Primary Caretaker Parents Act, N.J.S.A. 30:6B-9, requires that inmates that are primary caregivers be provided with expanded visitation privileges with their children. The Department proposes to add new N.J.A.C. 10A:31-6.2(a)22 to allow the addition of the “name and age of all children with an inmate designated as their primary caregiver” and new paragraph (a)27, which will provide space for “additional remarks/information” to the intake form. Some of the information on the intake form is used to form the visitors list for each inmate.

A list of agencies appears at N.J.A.C. 10A:31-6.8(c) that may be provided with inmate information for those assigned to county correctional facilities and the Department proposes to add “the New Jersey Department of Corrections” as new paragraph (c)6, so that the Department is informed of inmate conditions, such as severe illness or death.

Subchapter 7 includes rules for emergencies including, but not limited to, work stoppages, escapes, riots, and natural disasters. The subchapter includes requirements that each county correctional facility “shall develop written plans for emergencies” and the Department proposes to expand that requirement by adding “and maintain” in front of “written” and adding “policies, procedures, and” in front of “plans for emergencies” at N.J.A.C. 10A:31-7.1(c). The Department also proposes removing “passive resistance,” so that the scope of the requirement is broader and not limited to just “passive resistance.”

The Department also proposes to expand other requirements in the rules addressing development of other written plans by adding the words “and maintain” following “develop” at N.J.A.C. 10A:31-7.2, 7.3, 7.4, 7.5, 7.6, and 21.1.

Subchapter 8 includes, but is not limited to, rules for security and control including, but not limited to, searches of inmate, use of body image scanning equipment, searches of facilities transportation of inmates, and the use of force. The Prison Rape Elimination Act and all existing internal management procedures require that when inmates are strip searched, they are searched by custody staff of the same sex as the inmate or how the inmate identifies. At N.J.A.C. 10A:31-8.5(d)2, the Department proposes to replace “sex” with “gender” and replace “inmate” with “person being searched.” N.J.A.C. 10A:31-8.6 sets forth rules for information that must appear on reports when body cavity searches are done, and the Department proposes to add new paragraph (f)8 to include location of the search in order to codify current practices and requirements found in existing internal management procedures. The Department also proposes to replace “sex” with “gender” at N.J.A.C. 10A:31-8.6(b)3 and 4 and (c)1 for consistency of language, as used in the Dignity Act.

The Isolated Confinement Restriction Act, N.J.S.A. 30:4-82.5 through 82.11, and the Dignity Act, N.J.S.A. 30:1B-6.5 et seq., prescribe specific treatment of inmates that are pregnant, postpartum, or recently suffered a miscarriage during transport. The Department proposes new N.J.A.C. 10A:31-8.14(a)7 to set an additional transportation requirement that add a prohibition on restraining an inmate(s) known to be pregnant, in any stage of labor, or in any pregnancy-related medical distress, including anyone who is in any stage of delivery, is suffering or recently suffered a miscarriage, has recently experienced a termination of pregnancy, or is in the postpartum period (a similar amendment is proposed at N.J.A.C. 10A:31-8.14(d)5).

The Department proposes to replace “promulgate” with “develop and maintain” at N.J.A.C. 10A:31-8.17 and add “consistent with the Attorney General’s Use of Force Policy,” as this language more accurately sets forth the manner in which use of force is permitted. In addition, the Department proposes to emphasize that all staff members have an affirmative duty when force is used at subsection (c) with “all custody staff members have an affirmative duty to take steps to prevent any use of force that is illegal, excessive, or otherwise inconsistent with the Attorney General’s Use Of Force Guidelines, related policies, rules, and laws, if possible, before a fellow officer uses excessive, illegal, or otherwise inappropriate force. Every custody staff member has a duty to immediately report any improper use of force as required pursuant to the New Jersey Attorney General’s Use of Force Policy.”

The Department proposes the following amendments to ensure that the use of force is used only in a manner compliant with the Attorney General’s Use of Force Policy:

- N.J.A.C. 10A:31-8.17(d) is deleted and replaced with “[c]ustody staff members shall use the least amount of force that is objectively reasonable, necessary, and proportional,

consistent with Attorney General’s Use of Force Policy, to safely achieve the legitimate law enforcement objective under the circumstances.”

- N.J.A.C. 10A:31-8.17(e) is deleted and replaced with “[c]ustody staff members may use a level of force that corresponds to the level of resistance the officer is facing, consistent with Attorney General’s Use of Force Policy, if the individual’s resistance diminishes, the officer shall immediately reduce the degree of force used against the individual. If the individual stops resisting entirely, the officer must immediately cease using force.”
- N.J.A.C. 10A:31-8.17(g) is deleted and replaced with “[c]onsistent with the Attorney General’s Use of Force Policy, officers shall not use or threaten to use force for any of the following reasons; to punish a person or to retaliate against them for past conduct; as a lesson to prevent a person from resisting or fleeing in the future; or to resolve a situation more quickly; unless delay would risk the safety of the person involved, officers, or others; or would significantly interfere with other legitimate law enforcement objectives.”
- N.J.A.C. 10A:31-8.18(b) is amended to include the use of physical force, mechanical force, and enhanced mechanical force and to specifically add “and in keeping with the Attorney General’s Use of Force Policy.”
- N.J.A.C. 10A:31-8.19 is amended to add “and the Attorney General’s Use of Force Policy.”
- The Department proposes to replace “intent to shoot” with “intent to use deadly force” at N.J.A.C. 10A:31-8.19(d), in compliance with the Attorney General’s Use of Force Policy.

- At N.J.A.C. 10A:31-8.19(g), the Department proposes to add “consistent with the provisions of the Attorney General’s Use of Force Policy.”
- At N.J.A.C. 10A:31-8.19(h), the Department proposes to replace “contact the central control of the adult county correctional facility to that reasonably could result in serious bodily harm” with “shall contact the highest-ranking custody staff member on duty,” so that the rule is consistent with the Attorney General’s Use of Force Policy.
- In compliance with the Attorney General’s Use of Force Policy, the Department proposes to delete and replace N.J.A.C. 10A:31-8.19(l) to state that firearms shall be discharged only as provided for in the Attorney General’s Use of Force Policy.
- At N.J.A.C. 10A:31-8.19(m), the Department proposes to add “consistent with the Attorney General’s Use of Force Policy.”
- At N.J.A.C. 10A:31-8.22(a), the Department proposes to replace subsection (a) with “[w]hen an officer uses force, the officer shall report the use of force consistent with the procedure established by the Attorney General’s Use of Force Policy.”
- At N.J.A.C. 10A:31-8.23(b), the Department proposes amendments to increase training requirements from annual to twice a year, at a minimum, and to include training in accordance with the Attorney General’s Use of Force Policy.
- At N.J.A.C. 10A:31-8.25, the statutory cross-reference is replaced with a reference to the Attorney General’s Use of Force Guidelines and the Police Training Commission.
- Throughout the subchapter, the Department proposes to replace all appearances of county board of freeholders with the county board of commissioners.

Subchapter 9 sets forth rules for use and control of security equipment including, but not limited to, control of keys and use and the storage of weapons and chemical and natural agents.

At N.J.A.C. 10A:31-9.5(b), the Department proposes to replace “control” with “force” and add that all use of chemical and natural agents shall be in accordance with the Attorney General’s Use of Force Policy.

Subchapter 10 includes rules for food services, including, but not limited to, food service management, special diets or alternative food, and security in the food services area.

Subchapter 11 sets forth, but is not limited to, rules for sanitation in county correctional facilities, including sanitation inspections.

Subchapter 12 sets forth rules pertaining to inmate clothing and hygienic living conditions including, but not limited to, clothing, linens, towels, bedding, laundry services, and personal hygiene products. At N.J.A.C. 10A:31-12.7(a), the Department proposes to add new paragraphs (a)8 and 9, pursuant to the Dignity Act, N.J.S.A. 30:B6-9, to include deodorant and that feminine hygiene products, including, but not limited to, tampons and sanitary pads at the request of and free of charge to female inmates, petroleum jelly, aspirin, ibuprofen, and any other item deemed appropriate by the chief executive officer, warden, or deputy, shall be provided on a going forward basis free of charge at the request of, and to inmates in accordance with the Dignity for Incarcerated Primary Caretakers Parents Act or the Dignity Act (See N.J.S.A. 30:1B-6.9). New paragraph (a)10 adds that “In accordance with N.J.S.A. 30:1B-6.9, correctional police officers and other Department employees shall be restricted from entering the restrooms and shower facilities of inmates of a different gender when occupied except when deemed necessary by the chief executive officer or warden.”

Subchapter 13 sets forth rules for medical, dental, and health services, including, but not limited to, essential services, treatment, care of pregnant inmates, access to services, sick call,

physician availability, and mentally ill and developmentally disabled inmates. New N.J.A.C. 10A:31-13.10(i) is added in compliance with the Dignity Act, N.J.S.A. 30:B6-9, to include that the chief executive officer or warden of each county correctional facility shall establish policies consistent with N.J.S.A. 30:1B-6.9, allowing all pregnant women and inmates who are primary caretaker parents to enroll in residential drug abuse and mental health programs, provided they meet the requirements of those programs.

At N.J.A.C. 10A:31-13.12, the Department proposes to simplify the rule by consolidating subsections (a) and (b).

At N.J.A.C. 10A:31-13.31, the Department proposes to be more specific (within 72 hours) as to how long after the death of an inmate the county correctional facility administrator will be notified.

Subchapter 14 includes, but is not limited to, rules for inmate rights, protection from abuse, prohibition against discrimination, and opportunity to practice religion. The Department proposes to add new N.J.A.C. 10A:31-14.2(d) and (e), regarding inmate rights in relationship to the Dignity Act and inmate abuse.

Subchapter 15 sets forth rules for inmate access to courts, the law library, attorney and court visits, and legal telephone calls.

Subchapter 16 sets forth disciplinary rules and sanctions, as well as, but not limited to, inmate law library, violation investigations, disciplinary hearings, and referral to the prosecutor. At N.J.A.C. 10A:31-16.16(b), the Department proposes to clarify that the “inmate’s record” is the “inmate’s criminal record,” as criminal records require handling that differs from other records, such as medical or mental health records.

Subchapter 17 sets forth rules for disciplinary detention.

Subchapter 18 sets forth rules for protective custody, including, but not limited to, placement hearings, review of inmates in protective custody, and release from protective custody.

Subchapter 19 sets forth rules for mail, including, but not limited to, processing mail, disapproved content, inspection of mail, receipt of funds, and legal correspondence. In order to set forth the county correctional facility mail distribution practice, the Department proposes to include “original, electronic, physical copies of all incoming correspondence and packages” at N.J.A.C. 10A:31-19.3(a). Additionally, a new last sentence to the subsection is added to set forth that when copies are delivered, the original correspondence shall be stored with the other property belonging to the inmate and turned over upon discharge from the facility.

Subchapter 20 includes, but is not limited to, rules for visits including inmate privileges and visits by attorneys and religious advisors. At N.J.A.C. 10A:31-20.5, the Department proposes to add new subsections (d) and (e) to incorporate additional requirements from the Dignity Act, N.J.S.A. 30:1B-6.9.

Subchapter 21 includes, but is not limited to, rules for admission to county correctional facilities, inmate searches, orientation, facility rules and regulations, release to diversion or intervention programs, property control, and release. Advances in technology and the ability for service providers to fine tune security parameters in tablets and kiosks has made it possible for inmates to have limited access to certain tablets and kiosks on a limited basis as specified by each county correctional facility. N.J.A.C. 10A:31-21.5(d) currently prohibits possession or use of all electronic communication devices. The Department, therefore, proposes to add “unapproved,” so that only unapproved devices will be prohibited and the Department also proposes to add new requirements to qualify the availability of tablets and/or kiosks.

Subchapter 22 includes, but is not limited to, rules for inmate classification and housing of inmates, as well as classification hearings and appeals.

Subchapter 23 sets forth rules for the remission of time from a sentence.

Subchapter 24 sets forth rules for the inmate work programs and volunteers.

Subchapter 25 sets forth rules for work and vocational training release programs including, but not limited to, placement in a program, ineligibility for participation, custody status, escapes, and reports.

Subchapter 26 sets forth, but is not limited to, rules for inmate services and programs, such as social services, education opportunities, religious services, and recreation and leisure time.

In compliance with the Dignity Act, N.J.S.A. 30:6B-9, the Department proposes to add new subsections (c) and (g) to include parenting classes, trauma informed care, and policies and procedures to encourage and promote visitation.

At N.J.A.C. 10A:31-26.4(c), the Department proposes to replace “disciplinary detention” with “privilege(s) to participate in leisure time activities have been suspended as a disciplinary sanction for a violation of rules,” as such privileges may be suspended as a sanction. The Department also proposes to add new paragraph (c)5 to include the use of tablets and kiosks. The Department proposes to replace “a minimum of one hour of physical exercise and activity each day outside of the living unit” with “at least two hours per day of out of cell time per day” at N.J.A.C. 10A:31-26.4(e), in keeping with the Isolated Confinement Restriction Act, N.J.S.A. 30:4-82.5 through 82.11. The Department proposes to amend N.J.A.C. 10A:31-26.5(e), so that the rules identify that approved technology, such as tablets and kiosks, may also be used by inmates as a library resource.

Subchapter 27 sets forth rules for the volunteer service programs including, but not limited to, volunteer recruitment, credentials, and volunteer agreements.

Subchapter 28, Juveniles, sets forth a statement that there is a prohibition against placement of juveniles in county correctional facilities.

Subchapter 29 includes rules for the commissary, inmate accounts, and accountability of inmate welfare funds.

Subchapter 30 includes rules for the interstate corrections compact, detainers, extradition, international transfer, and notification of foreign consuls.

Social Impact

The rules proposed for readoption with amendments provide information regarding the incarceration of persons in county correctional facilities. The Department anticipates a positive social impact as the rules proposed for readoption with amendments are necessary for the well-being of incarcerated persons in county correctional facilities and the amendments reflect recent changes made in the counties, and as required pursuant to the Dignity Act, N.J.S.A. 30:B6-9.

Economic Impact

Additional funding is not necessary to implement the requirements of the rules proposed for readoption with amendments. The cost of meeting and maintaining the requirements of the rules proposed for readoption with amendments is met by the Department through the established budget with funds allocated by the State and has no external economic impact.

Federal Standards Statement

The rules proposed for readoption with amendments are promulgated pursuant to the authority of the rulemaking requirements of the Department of Corrections, as established at N.J.S.A. 30:1B-6 and 10. The rules proposed for readoption with amendments are not subject to any Federal statutes, requirements, or standards; therefore, a Federal standards analysis is not required.

Jobs Impact

The rules proposed for readoption with amendments will cause neither the generation of nor the loss of any jobs.

Agriculture Industry Impact

The rules proposed for readoption with amendments will have no impact on the agriculture industry.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the rules proposed for readoption with amendments do not impose reporting, recordkeeping, or other compliance requirements on small businesses, as defined pursuant to the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules proposed for readoption with amendments affect the New Jersey Department of Corrections, county correctional facilities, and governmental entities responsible for the enforcement of the rules.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments will have no impact on housing affordability and there is an extreme unlikelihood that the rules proposed for readoption with amendments would evoke a change in the average costs associated with housing. The rules proposed for readoption with amendments concern the housing of inmates in county correctional facilities, with oversight by the New Jersey Department of Corrections.

Smart Growth Impact Development Analysis

The rules proposed for readoption with amendments will have no impact on the achievement of smart growth and there is an extreme unlikelihood the rules proposed for readoption with amendments will evoke a change in housing production within Planning Areas 1 or 2, or within designated centers, pursuant to the State Development and Redevelopment Plan. The rules proposed for readoption with amendments concern county correctional facilities in New Jersey.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Department of Corrections has evaluated this rulemaking and determined that it will not have an impact on pretrial detention or sentencing. County correctional facilities do not directly impact probation and potentially parole and has been implemented and updated in compliance with related State laws. Accordingly, no further analysis is required.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 10A:31.

Full text of the proposed amendments follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. GENERAL PROVISIONS

10A:31-1.3 Definitions

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

["Administrative segregation" means removal of an inmate from the general population of a correctional facility to a Close Custody Unit because of one or more disciplinary infractions.]

...

“Attorney General’s Use of Force Policy” refers to the Use of Force Policy published by the Attorney General of the State of New Jersey, December 2021 version.

...

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

...

["Temporary Close Custody" means the non-punitive removal of an inmate from the inmate general population, or other assigned housing, with restriction to the inmate's cell or to a Close Custody Unit for a period not to exceed 72 hours, for special observation (other than healthcare needs) or investigation, unless information or evidence warrants an extension beyond 72 hours and the extension is approved by the appropriate supervisor.]

...

SUBCHAPTER 3. PLANNING AND DESIGN

10A:31-3.4 General conditions

(a) - (n) (No change.)

(o) Secure depositories for off-duty and on-duty weapons shall be provided at each facility outside the areas accessible to the inmates. Weapon lockers provided for off-duty weapons shall be equipped with individual compartments, each with an individual [lock and key] **locking mechanism.**

(p)-(u) (No change.)

SUBCHAPTER 4. PERSONNEL

10A:31-4.4 Employee records

(a) A current, accurate, and confidential personnel record shall be maintained for [each] **every** employee.

(b)-(d) (No change.)

SUBCHAPTER 5. TRAINING AND STAFF DEVELOPMENT

10A:31-5.3 Orientation and training for employees

(a) All new employees shall receive orientation training prior to job assignment and additional training on an as-needed basis **and in accordance with Police Training Commission (P.T.C.) licensing requirements.**

(b) Orientation shall cover the following subjects related to the adult county correctional facility:

1. Policies **and procedures;**

2. – 4. (No change.)

(c) All civilian employees who work in direct and continuing contact with inmates shall receive training that covers, at a minimum:

1. – 11. (No change.)

12. Significant legal issues; [and]

13. Problem solving and guidance[.];

14. Prison Rape Elimination Act (PREA);

15. Cultural diversity; and

16. Interaction with traumatized victims.

(d) - (f) (No change.)

(g) Custody staff shall complete the Police Training Commission (P.T.C.) approved course at a P.T.C. approved school (see N.J.S.A. 52:17B-66 et seq.) **and hold a valid active law enforcement officer's license as set forth pursuant to the P.T.C. Licensing Committee at subsection c. of section 9 at P.L. 2022, c. 65 (N.J.S.A. 52:17B-71a).**

SUBCHAPTER 6. MANAGEMENT INFORMATION SYSTEM AND RECORDS

10A:31-6.2 Intake form

(a) An intake form shall be completed manually or electronically for every inmate admitted to the facility, which shall include, but is not limited to, the following information:

1. – 21. (No change.)

22. Name and age of all children with an inmate designated as their primary caregiver;

Recodify existing 22.-25. as **23.-26.** (No change in text.)

[26.] **27.** Any additional [remarks] **remarks/information.**

10A:31-6.8 Availability of information to non-institutional persons or outside agencies

(a) - (b) (No change.)

(c) Upon advice of the county counsel, selected records of adult inmates may be made available to government agencies or other authorized persons upon request. These agencies and persons include, but are not limited to, the following:

1. – 3. (No change.)

4. Law enforcement agencies other than those at (b) above, except that any release of information to law enforcement authorities, including Federal law enforcement authorities, shall comply with any Attorney General law enforcement directives governing information sharing with other law enforcement agencies and officers; [or]

5. Medical or psychiatric doctors[.]; **or**

6. The New Jersey Department of Corrections.

SUBCHAPTER 7. EMERGENCIES

10A:31-7.1 Meeting emergencies

(a) - (b) (No change.)

(c) Each facility shall develop **and maintain** written **policies, procedures, and** plans for emergencies, such as, but not limited to, [passive resistance,] work stoppage, escapes, riots, and natural disasters.

(d) (No change.)

10A:31-7.2 Passive resistance

(a) Staff at each facility shall develop **and maintain** a written plan for maintaining security and custody of inmates, in the event of passive resistance by inmates.

(b) - (d) (No change.)

10A:31-7.3 Work stoppage

(a) Staff at each facility shall develop **and maintain** a written plan for maintaining custody of inmates and the safety and well-being of inmates and staff members in the event of a work stoppage or other job action by employees.

(b) (No change.)

10A:31-7.4 Escapes

(a) Staff at each facility shall develop **and maintain** a written escape plan which shall be evaluated after each escape incident or escape attempt or at least once a year.

(b) - (e) (No change.)

10A:31-7.5 Riots

(a) Staff at each facility shall develop **and maintain** a written emergency riot plan which shall be evaluated at least once a year and immediately following a riot (see N.J.S.A. 2C:33-1).

(b) - (e) (No change.)

(f) Lethal forms of weaponry shall be used only with strict supervision and when the seriousness of the situation warrants[, in the judgment of the adult county correctional facility Administrator

or the ranking supervisory custody staff member] **as set forth in the Attorney General's Use of Force Policy.**

(g) - (m) (No change.)

10A:31-7.6 Natural disasters

(a) Staff at each facility shall develop **and maintain** a written contingency plan that has been coordinated with the New Jersey Office of Emergency Management, the applicable county office of emergency management or equivalent, local law enforcement authorities, and such other agencies and resources needed to respond to a natural disaster.

(b) Staff at each facility shall develop **and maintain** a written comprehensive contingency plan for the movement of large numbers of inmates, which has been coordinated with neighboring correctional facilities, local law enforcement authorities, and such other community resources as required.

(c) The contingency plan [in] **at** (a) and (b) above shall be reviewed and updated at least once a year.

SUBCHAPTER 8. SECURITY AND CONTROL

10A:31-8.5 Strip searches of a person(s) who is lawfully confined for commission of a crime

(a) - (c) (No change.)

(d) A strip search shall be conducted:

1. (No change.)

2. By a custody staff member(s) of the same [sex] **gender** as the [inmate] **person being searched** except as set forth [in] **at** (e) below;

3. - 5 (No change.)

(e) - (h) (No change.)

10A:31-8.6 Body cavity searches of a person(s) who has been detained or arrested for commission of an offense other than a crime

(a) (No change.)

(b) In the event the custody staff supervisor in charge determines that the search is based on a reasonable suspicion that a weapon, controlled dangerous substance, contraband, or evidence of a crime is being concealed in the body cavity of the detained or arrested person, that person shall be escorted immediately to the medical unit or hospital used by the adult county correctional facility, and the examination of the person and removal of the contraband shall be conducted:

1. - 2. (No change.)

3. By a licensed medical professional who must be of the same [sex] **gender** as the detained or arrested person;

4. In the presence of only those custody staff members deemed reasonably necessary for security, who are of the same [sex] **gender** as the detained or arrested person; and

5. (No change.)

(c) The person who has been detained or arrested for the commission of an offense other than a crime may:

1. Remove the object in the presence of the licensed medical professional and a custody staff member(s) of the same [sex] **gender** as the person; or

2. (No change.)

(d)-(e) (No change.)

(f) The person authorized to conduct a body cavity search shall file a written report to be made a part of the record of the detained or arrested person in accordance with this section. The report shall be reviewed by the supervisor who authorized the search and filed in accordance with internal management procedures. The report shall include, but not be limited to, the following information:

1 - 5. (No change.)

6. The reason for use of force, if necessary; [and]

7. Any supporting documentation consisting of the warrant or consent when such documentation is the basis for the search[.]; **and**

8. Location of the search.

(g) (No change.)

10A:31-8.14 Transportation of inmates

(a) Custody staff involved in transportation shall receive special instructions, which shall include, but not be limited to:

1. - 4 (No change.)

5. Appropriate courtroom demeanor; [and]

6. Use of force[.]; **and**

7. A prohibition on restraining an inmate(s) known to be pregnant, in any stage of labor, or in any pregnancy-related medical distress, including anyone who is in any stage of delivery, is suffering or recently suffered a miscarriage, has recently experienced a termination of pregnancy, or is in the postpartum period.

(b) Special written transportation guidelines shall be developed **and maintained** by staff at each adult county correctional facility which emphasize safety and the prevention of escape.

(c) (No change.)

(d) Prior to custody staff members accepting escort responsibility for the custody of any inmate, sending facility staff shall ensure that the custody staff members are provided all mandatory inmate transportation documentation to include, but not be limited to:

1. - 4. (No change.)

5. Appropriate medical information for which there is a reason to know and any prescribed medications or instructions for special handling when transporting inmates with medical, [or] psychiatric conditions, **or those that are known to be pregnant, in any stage of labor, or in any pregnancy related medical distress, including anyone who is in any stage of delivery, is suffering or recently suffered a miscarriage, has recently experienced a termination of pregnancy, or is in the postpartum period.**

10A:31-8.17 Use of force

(a) Staff at all adult county correctional facilities shall [promulgate] **develop and maintain** written procedures governing the use of physical force **consistent with the Attorney General's Use of Force Policy.**

(b) (No change.)

[(c) 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.

(d) In any case that a custody staff member uses force to control an individual, the minimum force possible that is objectively reasonable under the totality of the circumstances shall be used, consistent with facility procedures.

(e) 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; however, as soon as the individual submits, the custody staff member shall reduce the degree of force used.]

(c) All custody staff members have an affirmative duty to take steps to prevent any use of force that is illegal, excessive, or otherwise inconsistent with the Attorney General's Use of Force Policy, related policies, rules, and laws, if possible, before a fellow officer uses excessive, illegal, or otherwise inappropriate force. Every custody staff member has a duty to immediately report any improper use of force as required by the Attorney General's Use of Force Policy.

(d) Custody staff members shall use the least amount of force that is objectively reasonable, necessary, and proportional, consistent with the Attorney General's Use of Force Policy, to safely achieve the legitimate law enforcement objective pursuant to the circumstances.

(e) Custody staff members may use a level of force that corresponds to the level of resistance the officer is facing, consistent with the Attorney General's Use of Force Policy, if the individual's resistance diminishes, the officer shall immediately reduce the degree of force used against the individual. If the individual stops resisting entirely, the officer must immediately cease using force.

(f) (No change.)

[(g) In no case shall use of force be justified as a means of punishment or discipline.]

(g) Consistent with the Attorney General’s Use of Force Policy, officers shall not use or threaten to use force for any of the following reasons: to punish a person or to retaliate against them for past conduct; as a lesson to prevent a person from resisting or fleeing in the future; or to resolve a situation more quickly, unless delay would risk the safety of the person involved, officers, or others or would significantly interfere with other legitimate law enforcement objectives.

(h) Whenever feasible, the custody staff member shall contact the highest ranking staff member on duty at the adult county correctional facility to request assistance before engaging in any use of force that.

[(h)] **(i)** (No change in text.)

10A:31-8.18 Use of non-deadly force; when justified

(a) (No change.)

(b) Non-deadly force includes, but is not limited to, the use of [the following] **physical force, mechanical force, and enhanced mechanical force in keeping with the Attorney General’s Use of Force Policy:**

1. - 2. (No change.)

10A:31-8.19 Deadly force; when justified and when restricted

(a) Deadly force may be used against persons, consistent with provisions of the New Jersey Code of Criminal Justice, N.J.S.A. 2C:1-1 et seq., **and the Attorney General’s Use of Force Policy,** as determined by the governing body of the county or the [County Board of Freeholders] **county**

board of commissioners and upon authorization of the Administrator of the adult county correctional facility.

(b) Deadly force may be used in the following situations [under] **pursuant to** limitations consistent with the provisions of the New Jersey Code of Criminal Justice, N.J.S.A. 2C:1-1 et seq., **and the Attorney General's Use of Force Policy**:

1. - 3. (No change.)

(c) Deadly force includes, but is not limited to, the use of shotguns, handguns, rifles, and other lethal weapons, **and as defined in the Attorney General's Use of Force Policy**.

(d) 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] **use deadly force**. A custody staff member shall not discharge a firearm as a signal for help or as a warning shot.

(e) - (f) (No change.)

(g) A custody staff member shall not fire a weapon solely to disable a moving vehicle, **consistent with the provisions of the Attorney General's Use of Force Policy**.

(h) Whenever feasible, the custody staff member shall contact the [central control of the adult county correctional facility] **highest-ranking custody staff member on duty** to request assistance before engaging in any use of force that reasonably could result in serious bodily harm.]

(i) - (k) (No change.)

[(l) 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 (BB) 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) Firearms shall be discharged only as provided for in the Attorney General's Use of Force Policy.

(m) Written internal management procedures and/or post orders **consistent with the Attorney General's Use of Force Policy** shall govern the use of deadly force by custody staff members.

10A:31-8.22 Reports

[(a) The custody staff member shall immediately contact the shift commander and shall write a special report when the custody staff member participated in, or witnessed an incident in which:

1. A firearm was discharged outside of the firing range area;
2. (No change.)
3. An individual alleges that serious bodily harm has been inflicted.]

(a) When an officer uses force, the officer shall report the use of force consistent with the procedure established by the Attorney General's Use of Force Policy.

(b) (No change.)

(c) All reports shall be provided to the Administrator and/or directors of custody operations and/or investigation unit in accordance with internal management procedures of the adult county correctional facility. The Administrator shall then report the incident to the governing body of the county or the [County Board of Freeholders] **county board of commissioners.**

10A:31-8.23 Training

(a) (No change.)

(b) All security and custody personnel shall, **at a minimum**, receive [annual] training **twice a year** in proper methods and techniques of using the types of force listed in this subchapter and in the lawful and appropriate use of force. In addition to [annual] **the above** training **requirement**, retraining may be repeated as needed. Such training shall be provided in accordance with internal management procedures of the adult county correctional facility **and in accordance with the Attorney General's Use of Force Policy**.

10A:31-8.25 On-duty firearms training, qualification, and requalification

(a) As required [by N.J.S.A. 2C:39-1 et seq.] **in the Attorney General's Use of Force Guidelines and by the Police Training Commission**, all custody staff members shall be initially trained and shall qualify and requalify in the use and handling of approved on-duty firearms.

(b) - (e) (No change.)

SUBCHAPTER 9. USE AND CONTROL OF SECURITY EQUIPMENT

10A:31-9.5 Use and storage of chemical and natural agents

(a) (No change.)

(b) Whenever chemical or natural agents are used as a means of [control] **force**, a report shall be submitted to the adult county correctional facility Administrator which provides the reason(s) for the use of chemical or natural agents and the results achieved from such use. **All use of chemical and natural agents shall be in accordance with the Attorney General's Use of Force Policy**.

(c) - (e) (No change.)

SUBCHAPTER 12. INMATE CLOTHING AND HYGIENIC LIVING CONDITIONS

10A:31-12.7 Personal hygiene products

(a) As part of the admission process, each inmate shall be provided with the following articles necessary for maintaining proper personal hygiene:

1. - 5. (No change.)

6. Shaving equipment upon request; [and]

7. Products for the special hygiene needs of female inmates[.];

8. Deodorant;

9. Feminine hygiene products including, but not limited to, tampons and sanitary pads at the request of and free of charge to female inmates, petroleum jelly, aspirin, ibuprofen, and any other item deemed appropriate by the chief executive officer, warden, or deputy, shall be provided on a going forward basis free of charge at the request of, and to inmates, in accordance with the Dignity for Incarcerated Primary Caretakers Parents Act, N.J.S.A. 30:1B-6.9; and

10. In accordance with N.J.S.A. 30:1B-6.9, correctional police officers and other Department employees shall be restricted from entering the restrooms and shower facilities of inmates of a different gender when occupied except when deemed necessary by the chief executive officer or warden.

(b) - (c) (No change.)

SUBCHAPTER 13. MEDICAL, DENTAL, AND HEALTH SERVICES

10A:31-13.10 Care of pregnant inmates

(a) - (h) (No change.)

(i) The chief executive officer or warden of each county correctional facility shall establish policies consistent with N.J.S.A. 30:1B-6.9 allowing all pregnant women and inmates who are primary caretaker parents to enroll in residential drug abuse and mental health programs provided they meet the requirements of those programs.

10A:31-13.12 Inmate medical complaints

[(a)] The written medical complaints of inmates shall be collected daily, assessed, and scheduled according to priorities of need.

[(b) The medical staff shall assess the medical complaints of inmates and provide for the treatment of inmates according to priorities of need.]

10A:31-13.31 Responsibility of adult county correctional facility to notify the Department of Corrections of a death in custody

In the case of a death of an inmate, the Administrator, or designee, of the adult county correctional facility shall be responsible to ensure that the New Jersey Department of Corrections is notified **within 72 hours**.

SUBCHAPTER 14. MISCELLANEOUS INMATE RIGHTS

10A:31-14.2 Protection from abuse

(a) - (c) (No change.)

(d) In accordance with the Dignity Act, N.J.S.A. 30:1B-6.9, correctional police officers and other Department employees shall be restricted from entering the restrooms and shower

facilities of inmates of a different gender when occupied except when deemed necessary by the chief executive officer, warden, or director.

(e) Each county correctional facility shall develop and maintain inmate abuse reporting and investigation procedures, in accordance with N.J.A.C. 10A:7 and N.J.S.A. 30:18-40 through 45.

SUBCHAPTER 16. DISCIPLINARY PROCEDURES

10A:31-16.16 Expungement

(a) (No change.)

(b) Copies of the disciplinary report, investigation, and adjudication sheet shall be maintained by staff at the adult county correctional facility, the Disciplinary Board/hearing officer, and the Classification Unit in the event of judicial review and for statistical and accounting purposes only. These records shall be maintained separately from the inmate's **criminal** record.

SUBCHAPTER 19. MAIL

10A:31-19.5 Inspection and reading of incoming mail and receipt of funds

(a) [All] **Original, electronic, and physical copies of all** incoming correspondence and packages shall be opened and inspected by designated adult county correctional facility staff for cash, checks, money orders, disapproved content (see N.J.A.C. 10A:31-19.4), and contraband (see N.J.A.C. 10A:31-1.3). **When copies are delivered, the original correspondence shall be stored with the other property belonging to the inmate and turned over upon discharge from the facility.**

(b) - (d) (No change.)

SUBCHAPTER 20. VISITS

10A:31-20.5 Visit scheduling

(a) - (c) (No change.)

(d) The chief executive officer or warden of each county correctional facility shall establish policies that encourage and promote visitation, particularly for inmates who are primary caretaker parents, consistent with N.J.S.A. 30:1B-6.9 including, but not limited to:

1. Authorizing in-person visitation three days per week, including Saturday and Sunday, for at least 30 minutes per visit;

2. Prohibiting restrictions on the number of children allowed to visit an inmate consistent with current rules;

3. Authorizing up to two adult visitors;

4. Providing consistent access to contact visits; and

5. Authorizing contact visits with children.

(e) Former inmates who are participating members of a non-profit or reentry organization mentorship or visitation program approved by the chief executive officer or warden, shall be allowed to mentor current inmates who are incarcerated primary caretaker parents and assist these inmates with reentry efforts.

SUBCHAPTER 21. ADMISSION, SEARCH, ORIENTATION, PROPERTY CONTROL, AND
RELEASE

10A:31-21.1 Written policies and procedures regarding newly admitted inmates

(a) Staff at each adult county correctional facility shall develop **and maintain** written policies and procedures regarding the admission of new inmates which include, but are not limited to:

1. – 15. (No change.)

10A:31-21.5 Electronic communication device possession, telephone use, and calls

(a) - (c) (No change.)

(d) The possession or use of an **unapproved** electronic communication device[, as defined at N.J.A.C. 10A:31-1.3,] by an inmate confined in an adult county correctional facility is prohibited. **Based upon availability of equipment, network technology, and capacity, limited use of tablets and/or kiosks may be available for inmate use in some, but not necessarily all, county correctional facilities. All inmates shall verify availability for the correctional facility where they are assigned. No other electronic devices are permitted.** Any such violation is considered major and shall be referred to the prosecutor, in accordance with N.J.S.A. 2C:29-10, and the inmate shall be subject to disciplinary action and sanctions pursuant to N.J.A.C. 10A:31-16.

SUBCHAPTER 25. WORK AND VOCATIONAL TRAINING RELEASE PROGRAM

10A:31-25.1 Authority

N.J.S.A. 30:8-44 authorizes the operation of a county Work Release Program for inmates to participate in employment, a vocational training course, or to care for the offender's family in the counties in which the governing body or [Board of Freeholders] **county board of commissioners** has approved the establishment of this type of program(s).

10A:31-25.4 Responsibility for designating a County Work Release Administrator

(a) Upon adoption of a resolution to implement a Work Release Program, the governing body of the county or the [County Board of Freeholders] **county board of commissioners** shall designate a County Work Release Administrator who may be the Sheriff, adult county correctional facility Administrator, or other persons who shall be responsible for administering the Work Release Program.

(b) The governing body or [Board of Freeholders] **county board of commissioners** shall promptly notify the Commissioner of the Department of Corrections of the action and name of the designated County Work Release Administrator.

10A:31-25.20 Quarterly report

(a) The County Work Release Administrator shall be responsible for preparing a quarterly report (Form CWR-9 Quarterly Report of Work Release) which shall be submitted to the [County Board of Freeholders] **county board of commissioners** and the New Jersey Department of Corrections.

(b) (No change.)

(c) The quarterly report shall also [contain] **include** other statistical information on the Work Release Program and facts as may be requested by the governing body of the county or the [County Board of Freeholders] **county board of commissioners** and the New Jersey Department of Corrections.

SUBCHAPTER 26. INMATE SERVICES AND PROGRAMS

10A:31-26.1 Social Services Program

(a) - (b) (No change.)

(c) In accordance with the provisions of the Dignity Act, N.J.S.A. 30:6B-9, county correctional facilities shall provide parenting classes and trauma informed care to primary caregiver parents. In addition, correctional police officers shall be trained on how to interact with inmates that are victims of trauma.

Recodify existing (c)-(e) as **(d)-(f)** (No change in text.)

(g) The chief executive officer or warden of each county correctional facility shall establish policies that encourage and promote visitation, particularly for inmates who are primary caretaker parents, consistent with N.J.S.A. 30:1B-6.9, including, but not limited to:

- 1. Providing parenting classes for inmates who are primary caretaker parents; and**
- 2. Providing trauma informed care to inmates who are primary caretaker parents and train correctional police officers on how to interact with inmates who are victims of trauma.**

10A:31-26.4 Recreation and Leisure Time Activities Program

(a) - (b) (No change.)

(c) All inmates, except those [in disciplinary detention] whose privilege(s) to participate in leisure time activities have been suspended as a disciplinary sanction for a violation of the rules, shall be provided with the opportunity to participate in leisure time activities on a daily basis. Such leisure time activities may include, but are not limited to:

- 1. – 2. (No change.)**

3. Playing cards; [and]

4. Initiating and completing arts and crafts projects[.]; **and**

5. When available, use of other facility-approved technology for access to approved books, music, games, video services, and/or email.

(d) (No change.)

(e) Inmates shall be given the opportunity to participate in a minimum of [one] **two** hours of physical exercise and recreation each day outside the living unit.

(f) (No change.)

10A:31-26.5 Library Program

(a) - (d) (No change.)

(e) Library resources may be supplemented by local, regional, and State libraries **and, when available, use of other facility-approved technology for access to library resources.**

(f) (No change.)

SUBCHAPTER 27. VOLUNTEER SERVICE PROGRAM

10A:31-27.6 Volunteer photo identification and data files

(a) A system for maintaining a volunteer identification and data file shall be developed **and maintained**, which may include, but is not limited to:

1. – 7. (No change.)