

**CORRECTIONS ACT**  
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**CORRECTIONS REGULATIONS**

The Minister, under section 73 of the *Corrections Act*, S.Nu. 2019,c.13, and every enabling power, makes the annexed *Corrections Regulations*.

Definitions

1. (1) In these regulations,

"contraband" means an object or substance that an inmate is prohibited from possessing under subsections 14(2) and (3); (*objet interdit*)

"health care professional" means

- (a) a medical practitioner, or
- (b) a registered nurse, a nurse practitioner or a temporary certificate holder as defined in the *Nursing Act*; (*professionnel de la santé*)

"psychologist" means an individual registered in the Psychologists Register under the *Psychologists Act*; (*psychologue*)

"secure areas" means the parts of a correctional centre that are locked and generally not accessible to the public; (*zones de sécurité*)

"visitor" means an individual present in a correctional centre who is neither an inmate nor an employee. (*visiteur*)

Non-governmental organizations and community agencies

(2) For the purposes of paragraph 27(1)(h) of the Act, non-governmental organizations and community agencies are those entities which

- (a) function independently of the Government of Nunavut and the Government of Canada, whether or not they receive funding from those governments; and
- (b) contribute to inmate rehabilitation or provide support to inmates.

Directives

2. (1) Directives issued under subsection 5(3) of the Act must

- (a) be consistent with
  - (i) the Act and these regulations,
  - (ii) other applicable laws of Nunavut and Canada,
  - (iii) directives issued under the *Financial Administration Act* and the *Public Service Act*,
  - (iv) directions issued under section 5.1 of the *Public Service Act*, and

- (v) the applicable collective agreement; and
- (b) be reviewed by the Director on a yearly basis.

### Exemptions

(2) A directive issued under subsection 5(3) of the Act may provide for the Director to issue exemptions from the provisions of the directive.

### Duties of Wardens

**3.** (1) A Warden must, in respect of the correctional centre for which the Warden is appointed,

- (a) operate and administer the affairs of the correctional centre;
- (b) supervise and direct the employees of the correctional centre;
- (c) exercise a close supervision over the state of the facilities of the correctional centre;
- (d) in general, ensure the proper management, operation and security of the correctional centre;
- (e) ensure a safe and healthful correctional environment;
- (f) ensure compliance with all applicable health, safety, sanitation and fire safety laws;
- (g) ensure that the correctional centre is inspected regularly by persons responsible for enforcing the laws referred to in paragraph (f);
- (h) take reasonable steps to ensure the safety of every inmate;
- (i) take reasonable steps to ensure that every inmate is
  - (i) adequately clothed and fed,
  - (ii) provided with adequate bedding, and
  - (iii) provided with toiletries and any other items that are necessary for personal health and cleanliness;
- (j) issue written standing orders to operationalize directives issued by the Director under subsection 5(3) of the Act;
- (k) designate an employee to exercise the Warden's powers and fulfil their duties when the Warden is absent from the correctional centre; and
- (l) each month, submit a written report to the Director regarding all aspects of the affairs and operations of the correctional centre and its inmates.

### Duties of employees

(2) An employee must

- (a) act under the direction of the Warden;
- (b) support the Warden in promoting the purpose of the Corrections Division;
- (c) not judge or administer punishment for a breach of disciplinary rules except in accordance with a decision of the Disciplinary Board;
- (d) be familiar with the Act, these regulations, and every directive issued under subsection 5(3) of the Act that relates to their duties;
- (e) perform their functions in an impartial and diligent manner, in accordance with the principles set out in section 3 of the Act; and
- (f) actively encourage and assist inmates to become law-abiding members of society, including by

- (i) acting in a manner that minimizes traumatization, and
- (ii) communicating in a manner that is productive and interactive.

### Admission

#### Proper written authority

4. (1) A Warden must
- (a) not admit a person as an inmate without proper written authority such as a warrant of committal, an order for remand, an order of transfer or other document signed by a competent authority; and
  - (b) ensure that the written authority is examined before the person is admitted.

#### Immediate medical attention

(2) A Warden must not admit a person as an inmate if they appear to be in need of immediate medical attention until that person has been examined and medically cleared for admission by a health care professional.

#### Upon admission

- (3) On the admission of an inmate to a correctional centre, the Warden must ensure that
- (a) all personal property and money in the possession of the inmate is safeguarded and recorded;
  - (b) the inmate is searched in accordance with section 28; and
  - (c) the inmate is requested to provide an emergency contact.

#### Exception – release to third party

(4) If an inmate requests, in writing with a signature, that their personal property or money be released to another person, the Warden must make reasonable efforts to release the personal property or money to that person upon them signing for it.

### Discharge

#### Discharge of an inmate

5. (1) The Warden must ensure that an inmate is discharged on the expiry of their sentence.

#### Early release – weekends and holidays

(2) If the sentence of an inmate expires on a Saturday, a Sunday or a holiday as defined in the *Public Service Act*, the Warden must consider granting a temporary absence allowing for the inmate to be released on the first preceding day that is not a Saturday, a Sunday or a holiday as defined in the *Public Service Act*.

#### Early release – inclement weather

(3) The Warden must consider granting a temporary absence allowing for an inmate to be released before their discharge date if, based on the weather forecast issued by the Government of Canada, the weather may prevent discharge on the discharge date.

Exception

(4) If an inmate suffers from an acute or dangerous medical condition, the Warden must ensure that they are not discharged until the earlier of

- (a) the health care professional of the correctional centre providing an opinion that the release of the inmate will not injure their health; or
- (b) the inmate requesting to be discharged.

Personal effects – protection

**6.** (1) The Warden must make reasonable efforts to ensure that the personal effects that an inmate is permitted to have at the correctional centre are protected from loss or damage.

Personal effects – return

(2) The Warden must ensure that all the personal property, clothing and money belonging to the inmate are returned to them on discharge, other than property

- (a) that the inmate is prohibited from possessing by law or court order; or
- (b) that is required as evidence in any proceeding related to an offence.

Winter clothing

(3) The Warden must ensure that, on discharge, an inmate has or is provided with clothing suitable to the climatic conditions at the

- (a) time of discharge;
- (b) the place of discharge; and
- (c) if applicable, the place to which they are provided transportation under subsection 7(1).

Transportation on discharge

**7.** (1) The Warden must, on discharge, provide an inmate with transportation to

- (a) the place in Nunavut where they resided at the time of their conviction; or
- (b) on the application of the inmate and with the approval of the Director,
  - (i) another place in Nunavut that is reasonable in the circumstances, or
  - (ii) another place in Canada that will further the rehabilitation of the inmate.

No obligation

(2) For greater certainty, an inmate has no obligation to avail themselves to the transportation provided under this section.

Health care services for inmates

Health care professional at each correctional centre

**8.** (1) The Director must ensure that, for each correctional centre, health care professionals are available to carry out the functions of health care professionals under these regulations,

- (a) in the correctional centre;
- (b) within a reasonable distance from the correctional centre; or
- (c) by virtual care, if virtual care is reasonable in the circumstances.

Scope of practice

(2) If any of the requirements under these regulations are outside the scope of practice of the health care professional of a correctional centre, the Director must ensure that

- (a) the health care professional can effectively communicate with a health care professional with the appropriate scope of practice; or
- (b) the matter is referred to a health care professional with the appropriate scope of practice.

General duties

(3) The health care professional carrying out functions in or for a correctional centre must

- (a) control and direct the hygiene and medical treatment of all inmates in the correctional centre; and
- (b) report and make recommendation to the Warden regarding any matter of a medical nature that requires the consideration of the Warden, including an inmate's need for an escort for
  - (i) medical purposes, or
  - (ii) operational reasons related to the inmate.

No authorization

(4) Nothing in these regulations authorizes a health care professional to provide care in a manner that is

- (a) outside their scope of practice; or
- (b) contrary to their professional standards of practice.

Assessment on admission

**9.** The Warden must ensure that every inmate's physical and mental health is assessed by a health care professional no later than 48 hours after their admission, including for the purpose of determining if an assessment under paragraph 10(1)(b) is advisable.

Monitoring and assessment of mental health

**10.** (1) The Warden must ensure that

- (a) each inmate's mental health is monitored on a regular basis by
  - (i) a health care professional,
  - (ii) a psychologist, or
  - (iii) an individual acting under the direction of a health care professional or a psychologist; and
- (b) whenever a health care professional or psychologist determines it would be beneficial for an inmate, the inmate's mental health is assessed by a health care professional for the purpose of identifying the programs, services and treatment, if any, that the inmate requires.

Mental condition of inmates

(2) The health care professional carrying out functions in or for a correctional centre must keep every inmate whose mental condition appears to require it under observation and notify the

Warden if they have reasonable grounds to believe that administrative segregation of the inmate is necessary for clinical observation.

*Mental Health Act*

(3) If the health care professional carrying out functions in or for a correctional centre considers it necessary, they must, in co-operation with the Warden, arrange for the examination and treatment of an inmate under the *Mental Health Act*.

Medical treatment

**11.** (1) On the advice of a health care professional or in the case of a medical emergency, the Warden must ensure that an inmate is moved to a health centre, hospital or other suitable health facility in Nunavut or elsewhere in Canada for medical treatment.

Warden's access

(2) When an inmate is moved to a facility referred to in subsection (1), the Warden has the right to access the inmate at all times to the extent that the access does not

- (a) unduly interfere with the health care provided to the inmate;
- (b) contravene an order issued under the *Public Health Act*; or
- (c) contravene an order or certificate issued under the *Mental Health Act*.

Secure custody of inmate at health facility

(3) If the Warden considers it necessary to ensure the secure custody of an inmate moved to a health facility under this section, the Warden must designate an employee to ensure the secure custody of the inmate while the inmate is at the health facility.

Consent to health care services

**12.** For greater certainty, inmates have the same rights with respect to consent to medical treatment and other health care services as any other individual.

Death or serious injury of an inmate

Report respecting death of inmate

**13.** (1) When an inmate dies, the Warden must notify the following as soon as practicable:

- (a) for greater certainty, immediately notify a coroner or police officer in accordance with section 8 of the *Coroners Act*;
- (b) notify the Director as soon as practicable;
- (c) if applicable, notify the inmate's emergency contact.

Investigation

(2) When an inmate dies or suffers serious injury, the Warden must ensure that the matter is investigated, in particular to determine whether

- (a) there were any breaches of disciplinary rules by an inmate;
- (b) any employees breached their duties under the Act, these regulations, the directives issued by the Director or the standing orders issued by the Warden; or

- (c) there are systemic issues at the correctional centre that contributed to the death or serious injury.

#### Disciplinary rules

#### Prohibitions

- 14.** (1) An inmate must not
- (a) disobey a reasonable direction of an employee;
  - (b) obstruct an employee in the execution of their duties;
  - (c) be disrespectful towards an employee in a manner that could undermine their authority or the authority of employees in general;
  - (d) behave in an insulting or abusive manner toward an individual, unless unreasonably provoked by them;
  - (e) behave in a manner toward an individual that shows hatred or contempt for the individual based on any of the prohibited grounds of discrimination enumerated in subsection 7(1) of the *Human Rights Act*;
  - (f) physically fight with, assault or threaten to assault another individual;
  - (g) be in an area of the correctional centre in which the inmate is not authorized to be;
  - (h) leave their cell or dormitory without the permission of an employee;
  - (i) wilfully or recklessly damage or destroy property that is not theirs;
  - (j) keep their person, cell, clothing or bedding in a state that jeopardizes the health and safety of any individual;
  - (k) escape from lawful custody;
  - (l) fail to return to lawful custody following an authorized absence;
  - (m) engage in a disturbance or other activity that jeopardizes or is likely to jeopardize
    - (i) the health and safety of another individual, or
    - (ii) the management, operation and security of the correctional centre.

#### Contraband

- (2) Subject to subsection (3), an inmate is prohibited from possessing
- (a) intoxicants;
  - (b) inhalants that may induce a psychoactive or mind-altering effect;
  - (c) tobacco or smoking products as defined in the *Tobacco and Smoking Act*;
  - (d) a weapon, a component of a weapon, or ammunition for a weapon;
  - (e) any other object or substance that is designed to kill, injure or disable an individual or that is altered so as to be capable of killing, injuring or disabling an individual;
  - (f) currency;
  - (g) a lighter;
  - (h) telecommunications devices, including
    - (i) cellular phones, and
    - (ii) internet-capable devices;
  - (i) an explosive, bomb or a component of an explosive or a bomb; and

- (j) any other object or substance that could jeopardize the security of a correctional centre or the safety of individuals in a correctional centre.

#### Authorization

(3) Paragraphs (2)(b) to (h) and (j) do not apply when an inmate possesses the object or substance with the prior authorization of the Warden.

### Disciplinary hearings and decision

#### Notice of decision

**15.** (1) A notice of a decision of a Disciplinary Board under section 19 of the Act must be in writing and include

- (a) a statement of the charges;
- (b) the plea, if any, made by the inmate;
- (c) a summary of the evidence presented before the Disciplinary Board;
- (d) the determination of the Disciplinary Board in respect of the charges;
- (e) the corrective measures that were imposed by the Disciplinary Board; and
- (f) the reasons for the decision of the Disciplinary Board.

#### Retention of records

(2) The Warden must ensure that the record of a disciplinary hearing is retained for at least two years following the decision, or any longer period required under the *Archives Act*.

#### Access to records

(3) The Warden must ensure that an inmate has reasonable access to the records of the inmate's disciplinary hearings, unless the records have been destroyed in accordance with the *Archives Act*.

### Physical restraint devices

#### Definitions

**16.** (1) Only an employee who is authorized in writing by the Director to use physical restraint devices may do so.

#### Authorization for use over four hours

(2) A physical restraint device must not be used to restrain an inmate for more than four continuous hours unless

- (a) the use is authorized by the Warden; or
- (b) the inmate is on an escorted absence from the correctional centre.

#### Authorization for use up to 12 hours

(3) The Warden may authorize the use of a physical restraint device for up to 12 continuous hours when

- (a) the Warden has reasonable grounds to believe that the use of the physical restraint device is necessary for the safety of the inmate or for the safety of another individual; and



- (b) other means of control of the inmate have been exhausted or are not reasonable in the circumstances.

#### Periodic review with Director

(4) A Warden who authorizes the use of a physical restraint device under subsection (3) must review the condition of the inmate with the Director after eight hours while the physical restraint device is being used to determine

- (a) the necessity of the physical restraint; and
- (b) whether there are reasonable alternatives to physical restraint.

#### Periodic health care review

(5) Subject to subsection (6), the Warden must ensure that a health care professional conducts an ongoing assessment and monitoring of an inmate who is kept under physical restraint for longer than four hours.

#### Exception – transport

(6) If an inmate is being transported under physical restraint for over four hours and it is not practicable to conduct an ongoing assessment and monitoring of the inmate, the Warden must ensure that a health care professional conducts an assessment of the inmate as soon as practicable during or after transport.

#### Maximum length of restraint

(7) An inmate must not be kept under physical restraint for longer than is necessary or for longer than 12 hours.

### Rights of inmates

#### Temporary absences

**17.** An inmate may be authorized to be temporarily absent from a correctional centre in accordance with sections 7 to 8 of the *Prisons and Reformatories Act* (Canada).

### Information for inmates

#### Information

**18.** (1) The Warden must give an inmate access to the following in accordance with subsections 1(2) to (4) of the Act:

- (a) the Act;
- (b) these regulations;
- (c) information about the daily routine of the correctional centre;
- (d) information about health care, including access and consent;
- (e) information respecting the use of Official Languages in the correctional centre, including the inmate's rights under subsections 1(2) to (4) of the Act;
- (f) disciplinary decisions respecting the inmate;
- (g) information on how to apply for temporary absence and parole.

Explanation of information

(2) In addition to the requirements of subsections 1(2) to (4) of the Act, the Warden must make reasonable efforts to ensure that an inmate who is unable to adequately understand the information referred to in subsection (1), or in section 13 of the Act, receives assistance to understand the information.

Correctional programs and other programs

Programs in the community and on the land – prohibition

**19.** (1) The Director must not authorize the release of an inmate from a correctional centre for the purpose of participation in a correctional program operated in the community or on the land if the Director is of the opinion that the release would constitute a danger to the community.

Programs in the community and on the land – qualified prohibition

(2) Unless the Director is of the opinion that doing so would be in the rehabilitative interest of an inmate, the Director must not authorize the release of the inmate from a correctional centre for the purpose of participation in a correctional program operated in the community or on the land if

- (a) the inmate has served less than one sixth of their total sentence;
- (b) the Director is aware of a warrant that, in the Director's opinion, prevents the release; or
- (c) the inmate has returned to custody as a result of a further offence committed within one month of any previous custody.

Recreational and leisure time programs

**20.** In addition to the correctional programs established under section 33(1) of the Act, the Warden must establish recreational and leisure time programs and provide facilities and material for participating inmates.

Cultural activities, religious worship and spiritual activities

Expressions of culture, religion and spirituality

**21.** (1) An inmate has a right to express their culture, religion, and spirituality to the extent that it does not

- (a) jeopardize the safety, security or operation of the correctional centre or the safety or security of persons in the correctional centre; or
- (b) involve contraband.

Consideration of cultural, religious or spiritual objects and substances

(2) If an inmate requires an object or substance that would otherwise be contraband in order to express their culture, religion, or spirituality, the Warden must consider whether it would be reasonable to authorize the possession and use of the object or substance under subsection 14(3).

### Right to participate

(3) An inmate has a right to participate, but is not required to participate, in the following activities:

- (a) traditional Inuit practices and ceremonies;
- (b) other Indigenous practices and ceremonies;
- (c) counselling by Elders;
- (d) moral counselling;
- (e) religious worship and instruction.

### Awareness and encouragement

(4) To the extent that doing so is culturally, religiously, and spiritually appropriate to the inmate, the Warden must

- (a) ensure that an inmate is aware of the activities listed in subsection (3); and
- (b) encourage the inmate to participate in those activities.

### Scheduling

(5) Activities listed in subsection (3) must be held at times mutually agreeable to the Warden and the person leading the activity.

### Day of religious or spiritual observance

(6) An inmate must not be assigned any unnecessary work on a recognized day of their religious or spiritual observance.

### Precedence

(7) The activities listed in subsection (3) take precedence over any other activities of an inmate.

### Place of observance

(8) If there is a place of religious or spiritual observance in a correctional centre, the Warden may permit an inmate to visit the place for personal religious or spiritual observance at any time that the visit

- (a) does not conflict with a correctional program in which the inmate is involved; and
- (b) would not jeopardize the safety, security or operation of the correctional centre.

## Inmate funds

### Cash incentive

**22.** (1) The Warden must grant a cash incentive, in an amount established under subsection (2), to every inmate who actively participates in correctional programs established under subsection 33(1) of the Act during the month the incentive is to be earned.

### Cash incentive – amount

(2) For each fiscal year, the Director must establish the amounts of cash incentives to be paid to inmates actively participating in each correctional program based on

- (a) the amount budgeted in that fiscal year for cash incentives in the Estimates, as defined in the *Financial Administration Act*;
- (b) the nature of the correctional program; and
- (c) consistency across correctional programs of a similar nature offered by all correctional centres.

#### Illness

(3) The requirement of subsection (1) does not apply when the health care professional carrying out functions in or for the correctional centre has certified that the inmate is unable to participate in correctional programs.

#### Inmate welfare fund

**23.** (1) The Warden must establish and maintain a fund for the welfare of inmates called the inmate welfare fund.

#### Deductions from earnings

(2) Every inmate must contribute the following amounts to their correctional centre's inmate welfare fund:

- (a) 20% of any money earned by the inmate from the supply of services or the sale of items created or crafted by them;
- (b) the actual cost to the inmate welfare fund of the materials employed in earning monies referred to in paragraph (a).

#### Surplus

(3) Any monies earned by an inmate from the supply of services or the sale of items created or crafted by them, in excess the deductions under subsection (2), must be credited to the account of the inmate and dealt with in accordance with subsection 36(2) of the Act.

#### Use of funds

(4) Monies in the inmate welfare fund may be used to purchase products or services that are

- (a) requested by inmates;
- (b) for the benefit of all the inmates of the correctional centre; and
- (c) approved by the Warden.

#### Amounts to the Government of Nunavut

**24.** (1) The amount to be disbursed to the Government of Nunavut under paragraph 36(1)(a) of the Act is the lesser of \$50 per week and 20% of the inmate's net earnings under subsection 35(1) of the Act.

#### Amounts to dependants

(2) The amount to be disbursed for the maintenance and support of the dependants of an inmate under paragraph 36(1)(c) of the Act is any amount of maintenance and support that the inmate is required to pay under a court order.

## Security of correctional centres

### Secure areas

**25.** (1) A visitor must not enter secure areas without the approval of the Warden.

### Removal of visitors - Warden

(2) If, in the opinion of the Warden, the presence of a visitor is jeopardizing the safety, security or operation of the correctional centre or the safety or security of persons in the correctional centre, the Warden may order the removal of the visitor from the correctional centre or from a part of a correctional centre.

### Removal of visitors - employee

(3) If, in the opinion of an employee, the conduct of a visitor, or the conduct of an inmate that the visitor is visiting, is jeopardizing the safety, security or operation of the correctional centre or the safety or security of persons in the correctional centre, the employee

- (a) may order the removal of the visitor from the correctional centre or from a part of a correctional centre; and
- (b) report an order made under paragraph (a) to the Warden as soon as practicable.

### Compliance

(4) A visitor must comply with an order made under subsections (2) or (3).

### Photography

(5) A person in a correctional centre must not, unless authorized to do so by the Warden, take a photograph or make a sketch, audio recording or video recording.

### Firearms

(6) A person in a correctional centre must not have a firearm or other weapon in their possession, except that

- (a) the Warden may authorize the use of low-impact weapons, including batons, distraction devices and oleoresin capsicum spray, when their use is, in the opinion of the Warden, necessary to ensure the safety, security or operation of the correctional centre or the safety or security of persons in the correctional centre;
- (b) a member of the Royal Canadian Mounted Police may have a firearm or other weapon in their possession in the areas of a correctional centre that are not secure areas;
- (c) the Director may authorize a peace officer to have a firearm or other weapon in their possession in any area of a correctional centre; and
- (d) the Warden may authorize individuals working in and inmates participating in land programs or cultural skills programs to have a firearm in an area designated by the Warden.

### Exception

(7) Subsections (1) to (5) do not apply to the Investigations Officer, Deputy Investigations Officer, or a person acting on their behalf while performing their functions under the Act.

## Searches

### Definitions

**26.** (1) In this section and sections 27 to 33,

"frisk search" means a manual search of a clothed individual from head to foot, down the front and rear of the body, around the legs, and inside clothing folds, pockets and footwear and includes a search of their possessions; (*fouille par palpation*)

"non-intrusive search" means the search of a clothed individual by technical means such as a hand-held scanner, and includes a search of their possessions; (*fouille discrete*)

"possessions" includes any outer clothing and other objects that an individual is carrying or has been asked to remove, but does not include clothing other than outer clothing that an individual is wearing; (*possessions*)

"strip search" means a visual inspection of the following with respect to an individual, and includes a search of their possessions and the removal and search of any artificial limbs:

- (a) the individual undressing completely,
  - (b) the open mouth, hands or arms of the individual,
  - (c) the soles of the feet and the insides of the ears of the individual,
  - (d) the individual running their fingers through their hair,
  - (e) the individual bending over,
  - (f) the individual otherwise enabling the visual inspection.
- (*fouille à nu*)

### Non-binary individuals

(2) If an individual self-identifies as neither male nor female, a reference in section 28 or 31 to the "same gender" as the individual is a reference to the gender, either male or female, that the individual chooses for the purposes of a search by informing an employee of their choice.

### Public notice

(3) The Warden must ensure that a notice is posted conspicuously and publicly at the main entrance of the correctional centre stating that all individuals, items and vehicles may be subject to search.

### Search logs

(4) The Warden must ensure that logs are maintained for the correctional centre and employees must record the following information in the logs:

- (a) the date, time and location of each search;

- (b) results or findings of each search;
- (c) if applicable, the name of the individual responsible for any contraband found during a search, and the name of the employee who found it.

#### Routine searches of inmates

**27.** An employee may conduct a non-intrusive search or a frisk search of an inmate at any time for the purpose of detecting contraband.

#### Strip search of inmates

**28.** (1) Subject to this section, an inmate must be strip searched by an employee of the same gender as the inmate

- (a) upon initial admission to a correctional centre;
- (b) when an inmate returns from outside the secure perimeter of the correctional centre unless an employee directly supervised the inmate throughout the time the inmate was outside the secure perimeter; and
- (c) when the Warden has reasonable grounds to believe that an inmate is concealing one or more of the following objects or substances and a strip search is necessary to identify them:
  - (i) contraband,
  - (ii) evidence relating to a disciplinary matter or an offence.

#### Private area

(2) An employee conducting a strip search must ensure that the strip search is conducted in a place that is out of the sight of anyone other than the inmate and the employees conducting the strip search.

#### Lack of male employees

(3) If two male employees are not available to conduct a strip search required under subsection (1), a male inmate may be strip searched by a male employee while a female employee

- (a) maintains visual contact of the employee conducting the strip search; and
- (b) is within earshot, but outside visual contact, of the inmate.

#### Gender diversity considerations

(4) If an inmate self-identifies as neither male nor female or is in the process of transitioning from one gender to another, the Warden must ensure that reasonable measures are taken to accommodate the inmate during strip searches, which may include having separate top and bottom strip searches conducted by employees of different genders, in a manner that allows the inmate to maintain the other part of their body covered during each strip search.

#### Report

(5) Employees who conduct a strip search under subsection (3) must report the reasons to the Director in writing.

#### Exception

(6) Unless the Warden has reasonable grounds to believe that an inmate is in possession of contraband, an employee must conduct a frisk search of an inmate instead of a strip search if

- (a) the inmate is returning from a temporary absence or release and an employee, the Sheriff or a Deputy Sheriff has had continuous visual observation of the inmate during the temporary absence or release;
- (b) the inmate did not come into contact with members of the public; and
- (c) the inmate did not have an opportunity to pick up and conceal an object or substance.

#### Technical means

(7) If a technical means of search, such as a body scanner, that is less intrusive but as effective as a strip search is available to an employee, the employee must

- (a) inform the inmate that the inmate may choose between the technical means of search and a strip search; and
- (b) search the inmate in accordance with the inmate's choice.

#### Routine search plans

**29.** The Warden may establish a routine search plan designed to detect contraband, or other objects or substances in quantities that could jeopardize the safety, security or operation of the correctional centre, through the systematic searches of areas that are accessible to inmates that set out

- (a) when the systemic searches are to take place;
- (b) the locations of the systemic searches; and
- (c) the means that may be used to conduct the searches.

#### Initial search of living space

**30.** (1) The Warden must ensure that each cell or personal living space is searched before an inmate is placed in the cell or personal living space for the first time.

#### Routine searches

(2) An employee may, without individualized suspicion, conduct searches of cells and personal living spaces and their contents on a periodic basis in accordance with a routine search plan established under section 29.

#### Search of possession and living area

(3) The Warden may authorize an employee to search the possessions, the cell or personal living space and the shared living space of an inmate.

#### Representative

(4) Subject to subsection (5), an employee conducting a search under subsection (2) or (3) must inform the inmate of the inmate's right to have a representative – such as another inmate, an employee, or another person present in the correctional centre – present during the search and must allow the representative to be present during the search.



#### Emergency search

- (5) The Warden may authorize an immediate search of an inmate's possessions and cell or personal living space without the right to a representative under subsection (4) if
- (a) there is an event that jeopardizes the safety, security or operation of the correctional centre or the safety or security of persons in the correctional centre;
  - (b) at least two employees are present during the search; and
  - (c) the Warden has reasonable grounds to believe that contraband or evidence relating to the event may be found in the possession or living area.

#### Urgent emergency search

- (6) Despite subsection (5), an employee may search an inmate's possessions and cell or personal living space without the presence of another employee or the authorization of the Warden if the employee has reasonable grounds to believe that delaying the search in order to have another employee present or to obtain the authorization of the Warden would result in
- (a) danger to the life or safety of any person in the correctional centre; or
  - (b) loss or destruction of contraband or evidence relating to an event described in paragraph (5)(a).

#### Searches of employees

**31.** The Warden may require that employees submit to a routine non-intrusive search or frisk search by an employee of the same gender before entering or leaving the correctional centre.

#### Searches of visitors

**32.** (1) Subject to subsection (2), an employee may conduct a non-intrusive search of every visitor.

#### Exception

(2) An employee may only conduct a non-intrusive search of the persons listed in paragraphs 27(1)(b) to (g) of the Act if the Warden authorizes it based on having reasonable grounds to believe that the person intends to transfer contraband to an inmate.

#### Exclusion of visitor

(3) A visitor who refuses or terminates a search under this section may be denied access to the correctional centre or any part of the correctional centre.

#### Right to terminate search

(4) For greater certainty, a visitor may at any time refuse or terminate a search under this section.

#### Search of vehicles

(5) If the Warden has reasonable and probable grounds to believe that a vehicle on the grounds of a correctional centre is being used, or is intended to be used, to contravene the Act or these regulations, the Warden may authorize an employee to search the vehicle.

Seizure

**33.** (1) During a search, the employee conducting the search may seize any object or substance that is

- (a) contraband;
- (b) the property of another person that the individual being searched does not have permission to possess; or
- (c) required as evidence in a disciplinary or criminal proceeding.

Receipt

(2) When an employee seizes an object or substance under subsection (1), they must ensure that, as soon as practicable

- (a) a receipt is issued to the person from whom the object or substance was seized; and
- (b) submit the object or substance to the Warden or an employee designated by the Warden to receive seized items.

Return of items

(3) The Warden must not return an object or substance seized under subsection (1) to the individual from whom it was seized if

- (a) the object or substance is required as evidence in a disciplinary or criminal proceeding;
- (b) it is contraband seized from an inmate; or
- (c) it property of another person that the individual does not have permission to possess.

Return to owner

(4) If an object or substance is not returned because it is the property of another person, the Warden must notify the owner of the seizure and provide them at least 30 days to retrieve the object or substance.

Holding object or substance

(5) The Warden may hold an object or substance that is required as evidence in a disciplinary proceeding until the disposition of the proceeding.

Transfer to a peace officer or court

(6) The Warden may transfer an object or substance that is required as evidence in a criminal proceeding to a peace officer or a court that is ready to receive the object or substance for the purposes of the proceeding.

### Coordinating amendments

**34. On the coming into force of section 36 of the *Mental Health Act*, S.Nu. 2021,c.19, subsection 10(3) of these regulations is repealed and replaced by:**

Initial assessment under *Mental Health Act*

(3) If the health care professional carrying out functions in or for a correctional centre has reasonable grounds to believe that an inmate meets the criteria for involuntary admission under the *Mental Health Act*, they must conduct an initial assessment of the inmate under section 36 of that Act.

Further assessments under *Mental Health Act*

(4) If applicable, the health care professional carrying out functions in or for a correctional centre must, in co-operation with the Warden, arrange for any further assessments of inmates required under the *Mental Health Act*.

**35. On the coming into force of section 123 of the *Nursing Professions Act*, or, if it is in force, on coming into force of this section, the definition of "health care professional" in subsection 1(1) of these regulations is repealed and replaced by:**

"health care professional" means

- (a) a medical practitioner,
- (b) a registered nurse, a nurse practitioner or a temporary certificate holder of either of those nursing designations, each as defined in subsection 1(1) of the *Nursing Professions Act*, or
- (c) with respect to mental health, a registered psychiatric nurse or a temporary certificate holder of that nursing designation, as defined in subsection 1(1) of the *Nursing Professions Act*; (*professionnel de la santé*)

### Repeal

**36. The *Corrections Service Regulations*, N.W.T.Reg. R-091-94, are repealed.**

### Coming into force

**37. These regulations come into force on the day that section 73 of the Act comes into force.**