

NORTHERN TERRITORY OF AUSTRALIA
JUVENILE JUSTICE (DETENTION CENTRES) REGULATIONS

Regulations 2000, No. 5

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NORTHERN TERRITORY OF AUSTRALIA

Regulations 2000, No. 5*

Regulations under the *Juvenile Justice Act*

I, MINNA LYDIA RUTH SITZLER, the Acting Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, make the following regulations under the *Juvenile Justice Act*.

Dated 31 January 2000.

M. L. SITZLER
Acting Administrator

By Her Honour's Command

DARYL MANZIE
Minister for Correctional Services

* Notified in the *Northern Territory Government Gazette* on 9 February 2000.

JUVENILE JUSTICE (DETENTION CENTRES) REGULATIONS

PART 1 – PRELIMINARY

1. Citation

These Regulations may be cited as the Juvenile Justice (Detention Centres) Regulations.

2. Definitions

In these Regulations, unless the contrary intention appears –

"letter" means a letter, card, telegram, facsimile transmission, document or other similar form of written communication, whether or not contained in a parcel and includes an envelope containing any of those things;

"member of staff", in relation to a detention centre, means a member of the staff of the detention centre;

"nurse" means a person registered or enrolled under the *Nursing Act*;

"parcel" means a parcel, package or other similar article and includes a parcel or package containing a book, newspaper, magazine or other similar printed material;

"Superintendent", in relation to a detention centre, means the superintendent appointed under section 64(1) of the Act in relation to the detention centre.

PART 2 – ADMINISTRATION

3. Recording of detainee's particulars

In addition to the information required under section 69 of the Act to be recorded, the Superintendent must record or place in the register kept under that section –

- (a) a record of all known aliases used by the detainee;
- (b) a statement describing the detainee's general appearance, features (including height and mass) and distinguishing marks; and
- (c) a photograph of the detainee.

Juvenile Justice (Detention Centres) Regulations

4. Confidentiality of records

(1) Subject to subregulation (2), the Superintendent must, at the request of the detainee, destroy the records referred to in regulation 3 in respect of a detainee who is discharged without conviction by the Court or of a detainee who is acquitted of the charge in respect of which he or she was detained.

(2) The Director may, for statistical purposes, retain a record of –

- (a) the name and date of birth;
- (b) the usual place of residence at the time of admission;
- (c) the date and reason for admission; and
- (d) the date and reason for discharge,

of a detainee referred to in subregulation (1).

(3) Except with the permission of the Director and subject to the *Criminal Law (Spent Convictions) Act*, a person must not show or make available in any form a copy of the records referred to in regulation 3 or subregulation (2) to a person other than a person whose public duty is to receive it or use it for identification purposes.

5. Detainee's property

(1) As soon as practicable after the admission of a detainee to a detention centre, the Superintendent must cause an inventory to be made of all property in the detainee's possession and the detainee must be asked to sign the inventory as an acknowledgment that it is correct.

(2) If a detainee refuses to sign an inventory when asked to do so under subregulation (1) by a member of staff, the member of staff must inform the Superintendent, who must endorse on the inventory a note of the refusal and the reason, if any, given by the detainee for refusing to sign.

(3) Property of a detainee which, in the opinion of the Superintendent, is of a perishable, dangerous or unhygienic nature may be destroyed or otherwise dealt with as ordered by the Superintendent and a record of the order and action must be noted on the inventory.

6. Safekeeping of detainee's property

(1) The Superintendent may, subject to considerations of security and practicability, authorise the retention of a detainee's property at the detention centre.

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(2) The Superintendent must keep in safekeeping property retained at the detention centre on behalf of a detainee, but may, at any time –

- (a) refuse to continue to retain the property; or
- (b) refuse to accept any other property belonging to the detainee.

(3) The Superintendent must ensure that the property of a detainee is made available to the detainee, or a person nominated in writing by the detainee during his or her period of detention, on the detainee's discharge from the detention centre or as soon as practicable after discharge.

(4) A detainee or other person who receives property under subregulation (3) must sign a receipt for the property and a copy of the receipt is to be retained by the Superintendent.

(5) The Superintendent must ensure that the property of a detainee who is removed from a detention centre to a prison is forwarded to the prison to which the detainee is removed.

(6) A member of staff may search property issued to or retained by a detainee, or retained at a detention centre on behalf of a detainee, and, for that purpose, the member of staff may, using due care, dismantle the property.

7. Disposal of unclaimed property

The Director may, where property is left at a detention centre and uncollected, abandoned or unclaimed for a period of 12 months after the discharge of the detainee to whom the property belongs, order that the property be destroyed or otherwise disposed of.

8. Remaining in a detention centre

(1) The Superintendent may, at the request of a detainee, permit the detainee to remain in the detention centre overnight until the morning of the day following the due date of discharge.

(2) A request under subregulation (1) is to be in writing and witnessed by a person who is not a member of staff.

(3) If a detainee is seriously ill on his or her discharge date, the Superintendent may, on the recommendation of a medical practitioner, permit the detainee to remain in the detention centre until suitable arrangements are made for discharging the detainee.

PART 3 – VISITS AND COMMUNICATION

9. Visits to detainees

(1) The Superintendent must, where possible, permit a detainee to receive one visit from either one friend or one relation –

- (a) as soon as practicable after the detainee's admission to a detention centre; and
- (b) at least once every week after admission.

(2) The Superintendent may permit a detainee to receive visits from friends and relations at other times, and under the conditions, if any, the Superintendent thinks fit.

(3) The Superintendent may require a visit to a detainee to take place in the presence of or under the general supervision of a member of staff.

(4) The Superintendent may, where he or she considers it appropriate, facilitate communication between a detainee and a parent or guardian of the detainee.

10. Entry may be refused

The Superintendent may refuse permission to visit or enter the detention centre to any person –

- (a) whose presence would, in the opinion of the Superintendent, be prejudicial to the good order and management of the detention centre or to the interests of a detainee;
- (b) who, on request, does not provide his or her name, address and proof of identity; or
- (c) who, on request, refuses to submit to a search, or to allow anything in his or her possession to be searched, by a member of staff.

11. Authority to visit may be withdrawn

(1) If, in the opinion of the Superintendent, a visitor behaves improperly or inappropriately, the Superintendent may withdraw permission to visit the detention centre and require the visitor to leave.

(2) A person who has been required by the Superintendent to leave under subregulation (1) must, as soon as practicable, leave the detention centre.

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12. Detainee may refuse to see visitor

A detainee may refuse to see a visitor unless the Superintendent determines that it is in the interests of the detainee that the detainee see the visitor.

13. Permission to visit detainee in hospital

A person must not visit a detainee in hospital without the permission of the Director or the Superintendent.

14. Visits in case of serious illness

Where a detainee is seriously ill, the Superintendent is to permit visits that are, in his or her opinion, appropriate.

15. Visitors book

The Superintendent must ensure that a visitors book containing a record of the name of each visitor, the date of each visit and the name of the detainee who receives the visit is maintained at the detention centre.

16. Visits by legal practitioner

Where reasonable notice of the visit has been given to the Superintendent, a legal practitioner may visit the detention centre and interview a detainee within the view, but not the hearing, of a member of staff –

- (a) to prepare the detainee's defence or submissions to be made on the detainee's behalf if the detainee is on remand awaiting trial or remanded for sentence;
- (b) to advise the detainee on an appeal if within the statutory time allowed for an appeal;
- (c) to prepare the detainee's appeal if the detainee has duly lodged an appeal against conviction or sentence or refusal or disallowance of bail; or
- (d) to advise on other legal matters.

17. Inspection of mail, etc.

(1) If, in the opinion of the Superintendent, the contents of a letter or parcel –

- (a) being sent by a detainee may threaten or disturb the person to whom the letter or parcel is addressed; or
- (b) being sent by or delivered to a detainee may –

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- (i) relate to an unlawful purpose; or
- (ii) adversely affect the security, safety or good order of the detention centre,

the Superintendent, or a member of staff authorised by the Superintendent for that purpose, may open and inspect the letter or parcel.

(2) If, after the Superintendent or member of staff has opened and inspected a letter or parcel under subregulation (1), it is found to contain an item or matter that, in the opinion of the Superintendent, is of a nature described in subregulation (1)(a) or (b), the Superintendent may take possession of the letter or parcel and its contents and is to deal with them in accordance with the direction, if any, given specifically or generally by the Director.

(3) If the Superintendent takes possession of a letter or parcel or its contents, the Superintendent must cause the detainee to whom the letter or parcel is addressed or by whom it is being sent, as the case may be, to be given notice of that fact.

PART 4 – HEALTH OF DETAINEES

18. Medical examination of detainees

A detainee must be examined by a nurse or medical practitioner within 24 hours after admission to a detention centre.

19. Records and reports

(1) The nurse or medical practitioner for a detention centre is to maintain the necessary records of the medical history and treatment of each detainee.

(2) The medical records referred to in subregulation (1) must, on the written request of the Superintendent or the Superintendent's delegate, be made available to the Superintendent or the Superintendent's delegate for examination.

(3) No criminal or civil action, or professional disciplinary proceeding, is to lie or be taken against a nurse or medical practitioner in respect of the provision of medical records in compliance with a request under subregulation (2).

20. Medical attention and treatment

Subject to Part IXA of the Act, a detainee is to be provided with the medical attention, treatment and medicine that in the opinion of the nurse or medical practitioner for the detention centre is necessary for the preservation of the health of the detainee, other detainees and members of staff.

21. Procedures in relation to illness

A member of staff must bring to the notice of the Superintendent a detainee who appears to be physically or mentally ill and, subject to Part IXA of the Act, the Superintendent may refer appropriate cases to the nurse or medical practitioner for the detention centre or, where necessary, to another medical practitioner.

22. Urgent medical attention

In an emergency requiring that medical attention be given to a detainee, the members of staff responsible for supervising the detainee are to take action that is reasonable in the circumstances and that is likely to ensure that medical attention is provided to the detainee as soon as practicable.

PART 5 – MANAGEMENT OF DETAINEES

23. Productive activities to be made available

The Superintendent must ensure that a programme of productive activities, including educational activities and activities related to work skills training, is made available to each detainee.

24. Restriction on money held for detainee

The Superintendent may, from time to time, determine the amount of money that may be received and held on behalf of a detainee at the detention centre.

25. Deductions for damage to government property

The Superintendent may order a deduction from any money credited to a detainee, for the purpose of defraying the costs of replacement or repair of any government property which has been damaged, destroyed or lost by reason of a fault of the detainee.

26. Payment of money on discharge

The Superintendent must ensure that money held on behalf of the detainee is made available to the detainee on his or her discharge or as soon as practicable after discharge.

27. Duty to follow instructions and rules

(1) A detainee must follow all instructions given to him or her by the Superintendent or a member of staff and must obey the rules, if any, of the detention centre and all written instructions addressed generally to detainees.

(2) A detainee aggrieved by an instruction given to him or her must follow that instruction before making a complaint in relation to the instruction.

28. Member of staff to exercise understanding, etc.

(1) Members of staff are to exercise understanding, restraint and patience in the care, control and supervision of detainees and in the maintenance of discipline amongst detainees.

(2) Members of staff are to encourage positive behaviour among detainees that is consistent with increasing the detainees' capacities for independence and responsibility.

29. Management of misbehaviour

(1) Subject to section 66 of the Act, a member of staff must manage incidents of misbehaviour in the manner he or she considers most appropriate, having regard to all the circumstances, the interests of the detainee or detainees involved and the rules, if any, of the detention centre.

(2) In addition to the matters prohibited by section 66 of the Act, in the discipline or control of behaviour of detainees, a practice prohibited by the rules, if any, of the detention centre must not be used.

30. Reasonable physical force permitted

Without limiting regulation 29 and subject to section 66 of the Act, where for the protection of a detainee, other detainees or other persons, it is necessary to physically restrain a detainee, physical force may be used provided it does not exceed that which is reasonable having regard to all the circumstances.

31. Separation in cell

(1) Subject to section 66(2) of the Act, a detainee must not be isolated in a cell except –

- (a) for the purpose of sleeping during the hours (not exceeding 12) specified in the rules, if any, of the detention centre;
- (b) if the detainee is ill;
- (c) if the Superintendent permits the detainee to remain in the cell or room at the request of the detainee;
- (d) for routine security procedures in accordance with the rules, if any, of the detention centre; or
- (e) for the protection of the detainee, other detainees or other persons or property.

(2) Where a detainee is isolated under subregulation (1), he or she must be closely supervised in accordance with the rules, if any, of the detention centre.

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(3) A detainee isolated under subregulation (1)(e) must not be kept in isolation for more than 24 hours except with the approval of the Director.

- (4) The Superintendent must maintain a register that is to record –
- (a) the name of each detainee isolated under subregulation (1)(d) or (e);
 - (b) the reason why that detainee was isolated; and
 - (c) the name of each member of staff who supervised that detainee in isolation.

32. Search

- (1) A detainee may be searched –
- (a) on admission to a detention centre;
 - (b) on the detainee leaving and returning to a detention centre;
 - (c) on the detainee being transferred from the detention centre to another detention centre; and
 - (d) on such other occasions and in the manner the Superintendent considers necessary.
- (2) A member of staff in charge of or supervising a detainee may search the detainee but only in the presence of another member of staff.

(3) A detainee must not be stripped of his or her clothing and searched except in accordance with an order of the Superintendent.

(4) A member of staff involved in a search of a detainee where the detainee is stripped of his or her clothing must make a written report of the search in the search register maintained at the detention centre for that purpose.

- (5) A detainee must not be stripped of his or her clothing and searched –
- (a) in the sight or the presence of a person of the opposite sex; or
 - (b) in the presence of another detainee, unless it is impracticable to move either the detainee to be stripped or the detainee in whose presence a detainee is to be stripped.

(6) A search of a detainee is to be conducted with regard to the detainee's decency and self respect.

(7) A search involving the stripping of a detainee's clothing must be conducted by not less than 2 members of staff of the same sex as the detainee.

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- (8) Nothing in this regulation limits the operation of regulation 27.

33. Complaints by a detainee

(1) Where a detainee has a grievance in relation to a matter arising from his or her detention, the detainee may make a written complaint to the Superintendent.

(2) The written complaint may be lodged with any member of staff.

(3) Where a detainee lacks adequate writing skills, the complaint is to be written by a member of staff, accurately recording the nature of the complaint.

(4) A member of staff with whom a complaint is lodged or who writes a complaint on behalf of a detainee must forward the complaint to the Superintendent without delay.

(5) The Superintendent may dismiss a complaint without further action where the Superintendent considers the complaint to be of a trifling nature.

(6) Where a complaint is acted on, the action is to be noted on the complaint.

(7) A detainee must be informed of the outcome of, or action taken in relation to, his or her complaint.

(8) The Superintendent must deal with a complaint as soon as practicable.

34. Detainee leave application

(1) A detainee, other than a detainee on remand, may at any time apply to the Superintendent for leave of absence in accordance with the Act, these Regulations and the rules, if any, of the detention centre.

(2) An application is to be in writing stating the reasons supporting it.

(3) Where the Superintendent decides to allow the application, he or she is to determine the time and period that, and the conditions subject to which, the detainee will be permitted leave of absence.

(4) The Superintendent may vary or revoke the leave of absence of a detainee at any time.

35. Detainee clothing

The Superintendent must ensure that all detainees have sufficient clothing issued to them on their admission to the detention centre –

- (a) to allow them to have a clean change each day;
- (b) that is appropriate for participation in sporting and recreation activities;
- (c) other than for the purpose of sporting activities, that is of varying colours and styles so as not to represent a uniform; and
- (d) that is appropriate for the climatic conditions prevailing in the region,

and footwear appropriate for the various activities in which a detainee would normally be a participant.

36. Detainee dietary requirements

(1) The Superintendent must ensure that food supplied to detainees meets the dietary requirements of young and developing juveniles.

(2) Where the Superintendent determines that, because of religious beliefs, a detainee requires special dietary consideration, the Superintendent must ensure those requirements are met where practicable.

(3) Where the Superintendent has been informed of a detainee's special dietary requirements by a medical practitioner, the Superintendent must ensure those dietary requirements are met.

37. Access to ministers of religion

The Superintendent must ensure that detainees have access to an appropriate minister of religion if required and that detainees may pursue their religious beliefs where practicable.
