

PUBLIC NOTICE

CORRECTIONS

THE COMMISSIONER

Notice of Receipt of Petition for Rulemaking

Definition of Scanning Device and Self Defense

N.J.A.C. 10A:1-2.2 and 10A:4-9.13

Petitioner: John McGill.

Take notice that on August 26, 2016, the New Jersey Department of Corrections received a petition for rulemaking from the above petitioner requesting that the Department adopt amendments to the existing definition of scanning/testing device at N.J.A.C. 10A:1-2.2 as he asserts such devices are unreliable and that a new rule be added at N.J.A.C. 10A:4-9.13 to allow an inmate to claim self-defense absent the use of force.

Specifically the petitioner requests that the following text at N.J.A.C. 10A:1-2.2 be modified as follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]): "Scanning/testing device" means a mechanical and/or electronic instrument [used to identify or to detect] **as a preliminary scanner for certain prohibited** substances and materials, **whose findings must be corroborated before corrective or administrative action is taken against an inmate.**

In addition, the petitioner requests that the following new text be added to N.J.A.C. 10A:4-9.13, Opportunity to call a witness(es) and present evidence:
(a) through (g) (No change.)

(h) Self Defense not involving the use of force. The New Jersey Department of Corrections recognizes that in situations of imminent danger a person may try to protect themselves from an attacker by utilizing tactics other than the use of force, e.g., threats of physical reprisal, posturing or aggressive displays.

1. Using the criteria mentioned in N.J.A.C. 4-9.13 (f) 1-6 above, when an inmate asserts self-defense absent the use of force, the disciplinary hearing officer shall consider if the inmate's behavior was reasonable under the given circumstances.

In accordance with N.J.A.C. 1:30-4.2, the Department shall subsequently mail to the petitioner, and file with the Office of Administrative Law, a notice of action on the petition.