



Institutional Rules

Regional Prisons of the Canton of Bern



Bern, 22 February 2019

Table of contents

1	General remarks	4
1.1	Legal bases	4
1.2	Scope of application	4
1.3	Organisation	4
1.4	Management of the Regional Prison	5
1.5	Director	5
1.6	Staff	5
1.7	Unusual situations	5
2	Functions	5
3	Legal status of detainees	6
3.1	Detainees' rights	6
3.2	Detainees' obligations	6
3.3	Accident insurance	6
4	Admission	6
4.1	Legal basis	6
4.2	Detainees' personal effects and assets	6
4.3	Notification of relatives and legal representatives about referral and transfer	7
5	Accounting	7
6	Personal expenses	8
7	Levels of detention	8
7.1	General provisions	8
7.2	Special provisions concerning pretrial detention and detention for security reasons	8
8	Daily schedule, accommodation, catering, personal hygiene	9
8.1	Daily schedule	9
8.2	Accommodation	9
8.3	Exercise yard	9
8.4	Catering and kiosk	9
8.5	Clothes care and personal hygiene	10
8.6	Smoking	10
8.7	Pets	10
9	Contact	10
9.1	Visits	10
9.2	Correspondence	11
9.3	Parcels, presents, cash	11
9.4	Newspapers, magazines, books	12
9.5	Electronic means of communication and appliances	12
9.6	Telephone calls	12
10	Social care and healthcare	13
10.1	Social care	13
10.2	Healthcare	13
11	Pastoral care and further religious care	13
11.1	Pastoral care	13
11.2	Further religious care	13
12	Work	14
12.1	Work	14
12.2	Remuneration	14
13	Checks and examinations	15
13.1	Body search	15
13.2	Checks and taking of samples	15
13.3	Checks on cells and effects	15
13.4	Juveniles	15

14	Disciplinary matters.....	15
	14.1 Disciplinary offence	15
	14.2 Disciplinary sanctions	16
15	Special security measures	17
	15.2 Order.....	18
	15.3 Appeal.....	18
16	Departure	19
	16.1 Departure	19
	16.2 Release.....	19
17	Liability.....	19
18	Final provisions	19
	18.1 Supplementary regulations	19
	18.2 Entry into force	19
	Appendix	20

1 General remarks

1.1 Legal bases

These Institutional Rules are based on the Swiss Criminal Code of 21 December 1937 (StGB; SR 311.0), the Swiss Juvenile Criminal Code of 20 June 2003 (JStG; SR 311.1), the Swiss Criminal Procedure Code of 5 October 2007 (StPO, SR 312.0), the Swiss Juvenile Criminal Procedure Code of 20 March 2009 (JStPO, SR 312.1), the Act on the Penitentiary System of 23 January 2018 (JVG; BSG 341.1), the Ordinance on the Penitentiary System of 22 August 2018 (JVv; BSG 341.11), the Act on Measures Restricting Freedom in the Juvenile Penitentiary System and in the Imposition of Child Protection Measures of 16 June 2011 (FMJG; BSG 341.3), the Military Criminal Code of 13 June 1927 (MStG; SR 321), the Military Criminal Procedure Code of 23 March 1979 (MStP; SR 322.1), the Police Act of 8 June 1997 (PolG; BSG 551.1) and the Swiss Civil Code of 10 December 1907 (ZGB; SR 210).

The relevant legal bases can be obtained in print format from the management of the Regional Prison.

In the case of juvenile detainees, the precepts of juvenile protection are taken into account.

1.2 Scope of application

The Canton of Bern runs the Regional Prisons of Bern, Biel, Burgdorf, Moutier and Thun.

These Institutional Rules are applicable in all Regional Prisons of the Canton of Bern, as well as for all the types of detention operated in these facilities. The Secure Unit of the Inselspital Bern (BEWA) has its own institutional rules.

The Burgdorf Custodial Department (VAB) is additionally subject to provisions supplementary to the Institutional Rules of the Regional Prisons of the Canton of Bern.

The implementation and configuration of extradition custody for the purpose of criminal prosecution is organised in analogy with the provisions concerning pretrial detention and detention for security reasons. Extradition custody for the purpose of the enforcement of criminal sanctions is organised in analogy with the general provisions concerning detention and custodial measures under criminal law.

1.3 Organisation

For the purposes of the Regional Prisons, the Canton of Bern is divided up into the regions of Bern Mittelland, Biel-Seeland-Berner Jura, Emmental Oberaargau and Bernese Oberland.

The Regional Prisons of the Canton of Bern report to the Office of Penitentiary Affairs (AJV) of the Police and Military Department of the Canton of Bern (POM). The management of each Regional Prison is wholly accountable to the superior authority of the Office of Penitentiary Affairs.

Subject to the consent of the Head of the Office of Penitentiary Affairs, the management of the Regional Prisons may appoint advisory bodies on a situational or permanent basis.

The Police and Military Department of the Canton of Bern is the supervisory authority of the Regional Prisons of the Canton of Bern.

The management of the locally competent public prosecutors' office monitors the enforcement of pretrial detention and detention for security reasons in the Regional Prison of the region allocated to it. It inspects the corresponding Regional Prison once a year. It notifies the Cantonal Public Prosecution of any shortcomings and informs the management of the Regional Prison. The management of the Regional Prison arranges for such shortcomings to be remedied. Above and beyond this, supervisory law and the supervisory obligations of the Office of Penitentiary Affairs and the Police and Military Department of the Canton of Bern are applicable.

1.4 Management of the Regional Prison

The management of the Regional Prison is constituted by the primary and secondary management level. The primary management level is the Executive Board of the Regional Prison, which consists of the Director and the Deputy Director. The secondary management level includes persons appointed by the Director, as a rule the department heads (cf. organisational charts of the individual facilities).

1.5 Director

The Director performs the following duties: he/she

- a. bears the overall responsibility,
- b. ensures that the facility is run in conformity with fundamental rights,
- c. regulates internal competencies and issues internal provisions,
- d. represents the Regional Prison to the outside world.

When the Director is absent, the responsibility is borne by the Deputy Director.

1.6 Staff

The members of staff act in accordance with ethical directives and management principles.

They must not conclude any legal transactions with detainees; in particular, they must not have detainees do any work or provide any services for private purposes.

1.7 Unusual situations

In unusual situations – notably in cases of fire, natural disasters, escape, infringements from the outside, mutiny, hostage-taking or medical emergencies – the Executive Board of the Regional Prison, with the consent of the superior authority of the Office of Penitentiary Affairs, may take measures that deviate from these Institutional Rules.

In urgent cases, the consent of the superior authority of the Office of Penitentiary Affairs may be obtained later.

2 Functions

Pursuant to Art. 9(1)(a-k) and Art. 9(2)(a-d) of the Act on the Penitentiary System, the Regional Prisons serve to enforce the following sanctions:

- pretrial detention and detention for security reasons of adults and juveniles,
- short custodial sentences of up to 30 days of adults and juveniles,
- custodial sentences in the form of semi-detention of adults and juveniles,
- extradition detention of adults and juveniles,
- custodial protection measures under criminal law and detention of juveniles in the form of arrest and detention for security reasons,
- provisional arrest of adults and juveniles in accordance with the Swiss Criminal Procedure Code and the Military Criminal Procedure Code,
- police custody and custody for security reasons of adults and juveniles in accordance with the Police Act,
- detention of adults and juveniles during transport,
- coercive custodial measures under the Foreign Nationals Act enforced on adults and juveniles,
- arrest outside military service in accordance with the Military Criminal Code.

In exceptional cases, they serve to enforce the following sanctions:

- custodial sentences and custodial measures under criminal law of adults which cannot be enforced anywhere else for disciplinary reasons, security reasons or reasons of space,
- detention for security reasons under penitentiary law,
- custodial protection sentences under criminal law and detention of juveniles in accordance with the Swiss Juvenile Criminal Code,
- care-related hospitalisation in accordance with the Swiss Civil Code.

3 Legal status of detainees

3.1 Detainees' rights

Detainees are entitled to have their personalities and human dignity respected. They have the right to be heard in personal matters and the right of proposal in operational matters.

Detainees who are entitled to vote may obtain the relevant documents from their municipality of residence in writing and thus exercise their political rights. They are not permitted to participate in elections conducted in an assembly.

Detainees' constitutional and statutory rights may only be limited as far as the purpose of their detention requires and as far as this is necessary for a safe and orderly life together in the Regional Prison.

Detainees are entitled to spend at least one hour a day in the open air.

3.2 Detainees' obligations

Detainees have to comply with detention provisions and with any instructions issued by the management of the Regional Prison and by members of staff of the Regional Prison, as well as by the referring authority. Detainees have to refrain from anything that may jeopardise the orderly execution of their sentences and the maintenance of security and order.

3.3 Accident insurance

The Canton of Bern does not insure detainees itself. The collective accident insurance of the Canton of Bern only covers detainees in a subsidiary fashion.

4 Admission

4.1 Legal basis

Detainees are referred to a Regional Prison of the Canton of Bern on the basis of an enforcement order, a reason for detention pursuant to the Swiss Criminal Procedure Code, the Juvenile Swiss Criminal Procedure Code, the Military Criminal Procedure Code, the Police Act or a legal title of the competent authority in accordance with the Foreign Nationals Act.

4.2 Detainees' personal effects and assets

4.2.1 Assets

Any cash is taken from the detainee and credited to the free account up to an amount determined by the management of the Regional Prison while any other amounts of cash are credited to the special purposes account.

Assets belonging to detainees who have been transferred from a custodial facility are subject to the provisions of the detention plan of the facility in question.

4.2.2 Objects

Any objects (effects), ID documents, valuables and cash in foreign currencies brought in by or forwarded to a detainee are recorded in a directory whose completeness and correctness is confirmed by the detainee's signature. Whenever possible, the detainee is present when the directory is being drawn up. The directory of effects is confirmed by the double signature of the detainee and the competent detention officer. If the detainee is not present, the directory is confirmed with the double signature of the competent detention officer and another member of staff of the Regional Prison.

The management of the Regional Prison determines the type, size and number (cf. Appendix, fact sheets for official and private visits) of the objects that are admissible in the Regional Prison and decides which objects may be taken into the cell. The management of the Regional Prison decides whether and which objects taken from the detainee will be stored in the Regional Prison. Detainees can have any other objects stored, dispatched or disposed of outside the Regional Prison at their own expense. Otherwise these objects will be professionally destroyed. The confiscation of objects in accordance with Art. 263 of the Swiss Criminal Procedure Code is reserved.

Detainees are themselves responsible for any personal effects taken with them into their cells. The Regional Prisons, the Office of Penitentiary Affairs and the Canton of Bern do not assume any liability for any objects taken into a detainee's cell which are subsequently lost, have disappeared or have been damaged. Detainees are prohibited from taking any technical devices into the Regional Prison (cf. Appendix). In justified cases, the management of the Regional Prison may grant exceptions. Detainees in pretrial detention or detention for security reasons additionally require the consent of the authority in charge of the proceeding in accordance with the Swiss Criminal Procedure Code.

Detainees may be relieved of objects at any time for reasons of security, law and order or health and hygiene.

4.3 Notification of relatives and legal representatives about referral and transfer

4.3.1 General remarks

Detainees are entitled to notify relatives, close acquaintances and, where appropriate, their legal representatives of their admission to a Regional Prison or to have them so notified. This notification may be effected through their lawyer.

If a detainee is transferred to another facility, the Regional Prison which has been responsible for them to date ensures that any relatives involved so far and the legal representative are appropriately informed.

4.3.2 Special provisions concerning pretrial detention and detention for security reasons

Providing detainees' relatives, close acquaintances and, where appropriate, their legal representatives with information about their referral into pretrial detention and detention for security reasons is incumbent on the authority in charge of the proceeding.

The transfer of a detainee who is in pretrial detention or in detention for security reasons to another Regional Prison, a custodial facility, the Secure Unit of the Inselspital Bern (BEWA) or another medical institution is conducted in consultation with the authority in charge of the proceeding.

5 Accounting

The Regional Prison keeps a free account and a special purposes account for each detainee.

The free account serves to cover personal expenses, particularly expenses for daily consumer goods.

The special purposes account serves to cover personal expenses. Detainees are not permitted to freely dispose of this account. The Regional Prison may have amounts debited to the special purposes account during detention or permit amounts to be debited to it at the detainee's request.

6 Personal expenses

Detainees' personal expenses are not directly connected with the enforcement of the sentence. Detainees bear their personal expenses.

In particular, these include expenses for accommodation and treatment in a hospital, outpatient medical treatment, medical treatment by external specialists, medication, medical aids, dental treatment, health insurance premiums, deductibles, contributions to the old-age and survivors'/disability insurance scheme (AHV/IV), personal effects, contributions towards integration such as professional expenses, costs of external training courses or leisure activities, as well as expenses during short leave or leave, the rental and storage of furniture, alimony, court proceedings, damages and restitution.

7 Levels of detention

7.1 General provisions

In the case of adult detainees, solitary confinement, i.e. uninterrupted separation from other detainees, can be imposed. Solitary confinement can be ordered by the enforcement authority at the beginning of the sentence and for the initiation of detention for a maximum duration of one week.

On termination of solitary confinement, the detainee is as a rule placed in standard detention.

7.2 Special provisions concerning pretrial detention and detention for security reasons

The following levels of detention are applicable to detainees in pretrial detention and detention for security reasons:

- solitary confinement and
- standard detention.

On referral, detainees are as a rule placed in solitary confinement. This solitary confinement at the beginning of detention enables the Regional Prison to ascertain the purpose of detainees' detention and to clarify security-relevant aspects and detainees' ability to live in groups. In agreement with the authority in charge of the proceeding, the management of the Regional Prison may place a detainee in standard detention.

After a maximum period of 14 days, the detainee is moved from solitary confinement to standard detention unless the referring authority orders placement in solitary confinement on application of the management of the Regional Prison or on the initiative of the referring authority itself. During pretrial detention, the referring authority is constituted by the public prosecutors' office.

- To extend solitary confinement by up to 6 months for the reasons mentioned in Art. 35(1) of the Act on the Penitentiary System, the management of the Regional Prison submits an application in accordance with Art. 35(3) of the Act on the Penitentiary System to the referring authority within the statutory deadline. The management of the Regional Prison applies to the referring authority for a detainee's return from standard detention to solitary confinement for the same reasons.
- To ascertain the purpose of pretrial detention (Arts. 224ff. and 235(1) of the Swiss Criminal Procedure Code) the Cantonal Public Prosecution orders a detainee's placement in solitary confinement (Art. 108(4) of the Ordinance on the Penitentiary System) or its extension after expiry of the maximum period of 14 days on its own initiative.

7.2.1.1 Solitary confinement

In solitary confinement, detainees as a rule spend their working, rest and leisure time separated from the other detainees in the Regional Prison.

Detainees in solitary confinement may spend at least an hour a day in the exercise yard.

7.2.1.2 Standard detention

In standard detention, detainees spend their working, rest and leisure time together with other detainees in the Regional Prison.

Detainees may spend at least three hours a day outside their cells.

7.2.1.3 Juvenile detainees

Juvenile detainees spend at least eight hours a day outside their cells.

They are entitled to spend two hours a day in the open air. At weekends and on public holidays, the second hour may be replaced by a stay in a communal room.

7.2.1.4 Taking stock of the situation

After no later than a period of three months, the Regional Prison takes stock with regard to the configuration and organisation of the detainee's detention.

8 Daily schedule, accommodation, catering, personal hygiene

The accommodation of all detainees is subject to the separation provisions.

In exceptional cases, the management of the Regional Prison, in consultation with the referring authority, may depart from the separation provisions if it is in the overriding interest of those concerned and if this is not precluded by any special provisions.

8.1 Daily schedule

The daily schedule is determined by the management of the Regional Prison. The daily schedule is made accessible to detainees.

8.2 Accommodation

Detainees are allocated a uniformly furnished single-bed cell or a shared cell. Cells have to be kept tidy and cleaned in accordance with the instructions issued by the staff of the Regional Prison.

Non-smoking detainees are not accommodated in a shared cell in which detainees smoke.

8.3 Exercise yard

8.3.1 General provisions

Detainees are entitled to at least one hour a day in the open air (exercise yard). The time to be spent in the exercise yard is determined by the management of the Regional Prison.

8.3.2 Juvenile detainees

Juvenile detainees are entitled to at least two hours a day in the open air.

8.4 Catering and kiosk

Detainees are catered for by the Regional Prison. Menu plans are drawn up on the basis of nutritional science findings. Detainees who require special food on doctor's orders are specially catered for. Particular requirements which result from religious affiliation, or owing to a consistent vegetarian diet, are taken into consideration to the best possible extent.

Within the limits of their personal financial resources, detainees may make additional purchases through the in-house service of the Regional Prison from the range of products offered by the kiosk. The kiosk payment modalities are regulated in special provisions issued by the management of the Regional Prison.

8.5 Clothes care and personal hygiene

Detainees wear their own clothes. Detainees have to wash their clothes on a regular basis. In hygienically justified cases, the management of the Regional Prison may have a detainee's clothes cleaned at the detainee's expense.

Daily personal hygiene is carried out in the cell. Showers can be taken in accordance with the daily schedule determined by the management of the Regional Prison.

The management of the Regional Prison may oblige detainees to attend to their personal hygiene for hygienic or odour-related reasons.

Where this option is available, a detainee's washing can be done by the staff of the Regional Prison with the exclusion of any liability.

8.6 Smoking

Smoking is generally prohibited in all rooms with the exception of the residential cells and the exercise yards.

Within the limits of their personal financial resources and in compliance with the statutory provisions, detainees may purchase tobacco products through the in-house service of the Regional Prison. The kiosk payment modalities are regulated in special provisions issued by the management of the Regional Prison.

8.7 Pets

Detainees are not permitted to keep pets.

9 Contact

9.1 Visits

9.1.1 General provisions

Visits are permitted for at least one hour per week. The management of the Regional Prison may determine a different regular regime if visiting times are correspondingly extended. During visits, visitors may hand over to detainees such objects as the management of the Regional Prison declares admissible, as well as cash (cf. fact sheets concerning official and private visits).

For reasons of security and order in the Regional Prison, visits may be made contingent on visitors permitting themselves to be checked for inadmissible objects (cf. fact sheet concerning private visits).

People who jeopardise security and order in the Regional Prison or violate visiting provisions can be barred from visiting by the management of the Regional Prison for a maximum period of three months, in the case of recurrent offences permanently. Spouses and life partners, children, parents and siblings may not be barred permanently.

Children and juveniles under 18 years may only visit if accompanied by a parent, relatives or legal representative.

Official visits, as well as visits by doctors and lawyers who are registered in the attorneys' register are not deducted from the visiting quota.

9.1.2 Special provisions for pretrial detention and detention for security reasons, and coercive custodial measures under the Foreign Nationals Act

Visits to detainees in pretrial detention and detention for security reasons are subject to permission in accordance with the Swiss Criminal Procedure Code / Swiss Juvenile Criminal Procedure Code issued by the authority in charge of the proceeding, which can impose stricter visiting modalities.

Detainees detained under coercive custodial measures under the Foreign Nationals Act are subject to the provisions of the fact sheet concerning visits to detainees in administrative detention under the Foreign Nationals Act.

9.2 Correspondence

9.2.1 General provisions

Detainees are entitled to send and receive letters. Restrictions are only permissible on the basis of excessive checking work. Juveniles' correspondence is not restricted.

Outgoing letters have to be handed in unsealed. Incoming letters are opened, checked for inadmissible objects and then handed over. In the case of suspected abuse of correspondence, incoming and outgoing letters can be checked for content. Detainees are informed of any letters that are not forwarded.

Correspondence with courts, authorities, government offices, clergy, doctors, lawyers, notaries public and legal representatives is handed over to detainees sealed but is checked for inadmissible objects.

If an incoming letter is inadmissible, the detainee is informed of the fact. Such letters are either kept by the Regional Prison, destroyed or returned to sender at the detainee's expense.

9.2.2 Special provisions for pretrial detention and detention for security reasons

Checks on letters and correspondence of detainees in pretrial detention and detention for security reasons, as well as any restriction or prohibition of correspondence, are exclusively the responsibility of the authority in charge of the proceeding in accordance with the Swiss Criminal Procedure Code / Swiss Juvenile Criminal Procedure Code.

9.3 Parcels, presents, cash

9.3.1 General provisions

Unlimited amounts of cash can be handed in for the benefit of detainees. These cash amounts are credited to the detainees' free accounts.

The sending or handing over of any admissible objects is permitted but must not exceed the weight of three kilograms per month. In the month of a detainee's birthday, at Easter and Christmas, three additional kilograms are permitted. Parcels and presents which are inadmissible in terms of type or the limitation on numbers and size (cf. para. 4.2.2 Objects) are rejected.

Parcels and presents are checked for content. If the management of the Regional Prison has an objection to a parcel, the detainee in question will be informed of the fact. In the case of inadmissible objects, the management of the Regional Prison decides whether they are to be accepted or destroyed. Detainees may have any objects that are left over stored outside the Regional Prison at their own expense or may return them to sender.

The confiscation of objects in accordance with Art. 263 Swiss Criminal Procedure Code is reserved.

Persons who hand over goods for detainees have to produce an official ID document on every such occasion.

9.3.2 Special provisions for pretrial detention and detention for security reasons

The correspondence of detainees in pretrial detention and detention for security reasons is checked by the authority in charge of the proceeding in accordance with the Swiss Criminal Procedure Code / Swiss Juvenile Criminal Procedure Code. As a rule, parcel post is checked by the management of the Regional Prison on behalf of the authority in charge of the proceeding. The authority in charge of the proceeding may impose further-reaching restrictions on admissible objects.

9.4 Newspapers, magazines, books

Detainees may subscribe to publications at their own expense. Subscriptions paid for by third parties are permitted. Publications with contents that are relevant under criminal law (particularly racism, pornography or the glorification of violence), jeopardise security and order or run counter to the purpose of detention are prohibited.

Detainees can borrow books from the in-house library. The borrowing modalities are regulated by the special library provisions issued by the management of the Regional Prison.

9.5 Electronic means of communication and appliances

9.5.1 General provisions

The Regional Prison provides detainees with a radio receiver free of charge and/or a television set against a rental fee.

In individual cases, the use of further electronic devices may be permitted by the management of the Regional Prison and such devices can be provided. A fee may be charged for their use.

These electronic devices may be checked by members of staff of the Regional Prison.

The use of private electronic means of communication is not permitted.

9.5.2 Special provisions concerning coercive custodial measures under the Foreign Nationals Act

In general, detainees detained under coercive custodial measures under the Foreign Nationals Act are provided with electronic devices within the capabilities of the Regional Prison. A fee may be charged for the use of such devices.

Such electronic devices may be checked and their use restricted or prohibited as soon as there are fears of abuse or of a threat to security and order or if their use runs counter to the purpose of the detention.

The management of the Regional Prison may permit the use of private electronic devices provided that they are incapable of making any video and audio recordings.

9.5.3 Special provisions for pretrial detention and detention for security reasons

The authority in charge of the proceeding may bar detainees in pretrial detention or detention for security reasons from access to the media.

9.6 Telephone calls

9.6.1 General provisions

Detainees may use the telephone within the capabilities of the Regional Prison. Telephone calls may be limited in terms of time in order to enable all detainees equal access.

The costs for the use of the telephone are borne by detainees.

Incoming telephone messages are only put through in urgent cases and if they have no connection with the proceeding.

9.6.2 Special provisions concerning coercive custodial measures under the Foreign Nationals Act

In general, and within the capabilities of the Regional Prison, detainees detained under coercive custodial measures under the Foreign Nationals Act have free access to the telephone outside the period spent locked in their cells.

9.6.3 Special provisions for pretrial detention and detention for security reasons

In general, detainees in pretrial detention and detention for security reasons are not permitted to make telephone calls on the premises of the custodial facilities. Telephone calls are the responsibility of the authority in charge of the proceeding in accordance with the Swiss Criminal Procedure Code / Swiss Juvenile Criminal Procedure Code. Incoming telephone calls are not put through.

10 Social care and healthcare

10.1 Social care

Within the scope of continuous care, detainees are able to benefit from social care provided by the competent official organs and the probationary and penitentiary services of the Canton of Bern.

10.2 Healthcare

10.2.1 General provisions

Newly admitted detainees are assessed in a medical admission meeting.

Detainees' healthcare is provided by the Regional Prison's in-house Health Service and/or by a specialist. Detainees are not free to choose their doctors. The principle of equivalence for the purpose of medical emergency care and primary healthcare is applicable.

If detainees require in-patient treatment, they are as a rule transferred to the Secure Unit of the Inselspital Bern (BEWA).

10.2.2 Special provisions concerning coercive custodial measures under the Foreign Nationals Act

If a detainee requires in-patient medical treatment, the referring authority decides whether they will be transferred to the BEWA or another hospital.

11 Pastoral care and further religious care

11.1 Pastoral care

Detainees can avail themselves of pastoral care by clergy of the national denominations in accordance with the daily schedule of the Regional Prison. Visits by the clergy of the national denominations are not deducted from the visiting quota.

Detainees who are not affiliated to a national denomination are also entitled to pastoral care by clergy of the national denominations.

11.2 Further religious care

11.2.1 General provisions

Visits by representatives of other religious communities may be permitted provided that they need not be precluded for reasons of security and order. The management of the Regional Prison decides in individual cases whether meetings or functions of further religious care take place as official or private visits.

11.2.2 Special provisions for pretrial detention and detention for security reasons

Representatives of other religious communities require a visiting permit issued by the competent authority in charge of the proceeding.

12 Work

12.1 Work

12.1.1 General provisions

Detainees who serve a custodial sentence or are detained under a custodial measure under criminal law are obliged to carry out the work allocated to them.

12.1.2 Special provisions for pretrial detention and detention for security reasons

Detainees in pretrial detention and detention for security reasons are not entitled to work or to a job. If the workplace voluntarily requested by a detainee is outside the cell, this will require the consent of the authority in charge of the proceeding in accordance with the Swiss Criminal Procedure Code.

If possible, the management of the Regional Prison assigns work to detainees who ask for it.

Upon request, juvenile detainees may take up work with the consent of the authority in charge of the proceeding if conditions in the Regional Prison allow for it.

12.1.3 Special provisions concerning coercive custodial measures under the Foreign Nationals Act

Detainees subject to a coercive custodial measure under the Foreign Nationals Act are not obliged to work. If detention under the Foreign Nationals Act exceeds a period of two months, the detainee is offered appropriate work.

12.2 Remuneration

Detainees receive remuneration that is related to their performance and adapted to circumstances. The remuneration is credited to the special purpose account and the free account. Detainees who have been transferred from custodial facilities are subject to the provisions applied by the previous institution.

Detainees who cannot be assigned any work owing to a lack of work opportunities are entitled to a reduced rate of remuneration. Detainees who are ill, have had an accident and who are unable to work through no fault of their own are also entitled to a reduced rate of remuneration.

Detainees are not entitled to any remuneration if they refuse to work, are under arrest, are receiving private visits, have escaped, if their inability to work is their own fault, nor are they entitled to any remuneration on public holidays, short leave and leave.

12.2.1 Special provisions for pretrial detention and detention for security reasons

Detainees in pretrial detention and detention for security reasons are not entitled to work or to a job and thus not to a reduced rate of remuneration to compensate them for a lack of work opportunities.

In the case of detainees in pretrial detention and detention for security reasons, remuneration is credited to the free account. The management of the Regional Prison may determine a minimum account to be credited to the special purposes account.

12.2.2 Special provisions concerning coercive custodial measures under the Foreign Nationals Act

Detainees under a coercive custodial measure under the Foreign Nationals Act who cannot be offered any appropriate work after two months will receive equivalent remuneration.

The remuneration is credited to the free account.

13 Checks and examinations

13.1 Body search

The management of the Regional Prison may have detainees subjected to a surface body search by members of staff of the same gender, as well as having personal effects searched in a detainee's accommodation.

If detainees are suspected of concealing inadmissible objects on or in their bodies and particularly in orifices that are not observable, the management of the Regional Prison may order an intimate body search conducted by a doctor.

13.2 Checks and taking of samples

If detainees are suspected of abusing narcotic substances or alcohol, the management of the Regional Prison may order urine samples to be taken, as well as breathalyser tests, blood tests, hair tests and similar checks to be conducted by members of staff. The management of the Regional Prison may also order regular checks to be conducted at varying intervals.

13.3 Checks on cells and effects

Checks on cells and effects may be conducted at any time either in detainees' presence or absence. The members of the staff of the Regional Prison who conduct such checks document them in a log.

13.4 Juveniles

In the case of juvenile detainees, checks and examinations are conducted in accordance with Arts. 13 and 14 of the Act on Measures Restricting Freedom in the Juvenile Penitentiary System and in the Imposition of Child Protection Measures.

14 Disciplinary matters

14.1 Disciplinary offence

14.1.1 Adult detainees

Infringements of the Act on the Penitentiary System, the Ordinance on the Penitentiary System, the Institutional Rules, additional instructions and orders issued by the management or by staff of the Regional Prison may be sanctioned as disciplinary offences insofar as they jeopardise orderly life together in the Regional Prison.

The following instances are regarded as disciplinary offences, in particular:

- escaping or preparing to do so;
- refusing to work and disrupting work processes;
- unlawful interventions in other people's assets;
- insubordination towards members of staff or the Executive Board of the Regional Prison;
- insults, threats and attacks on the physical or sexual integrity of members of staff or the Executive Board of the Regional Prison, fellow detainees and other persons;
- inadmissible contacts with fellow detainees and other persons;
- abuse of the right to go on leave or short leave or to receive visitors;
- import and export, procurement, procuration, production, possession of and dealing in illegal objects such as weapons and weapon-like objects or documents and cash by circumventing checks or any other objects declared inadmissible by the management of the Regional Prison;
- import and export, procurement, procuration, production, possession of and dealing in alcohol and narcotic drugs or substances with similar effects, as well as the abuse of medication;

- the improper use of electronic communication appliances, of consumer electronics appliances, of electronic hardware and software and of electronic storage media;
- the prevention or circumvention of checks or the falsification of check results;
- any other disruption to the facility's everyday life.

Attempting to commit an offence, instigating others to commit an offence, and aiding and abetting others in the commission of an offence, may also be sanctioned.

Criminal prosecution is reserved.

14.1.2 Juvenile detainees

Infringements of the Act on the Penitentiary System, the Ordinance on the Penitentiary System, the Institutional Rules, additional instructions and orders issued by the management of by members of staff of the Regional Prison may be sanctioned as disciplinary offences insofar as they jeopardise orderly life together in the Regional Prison.

The following instances are regarded as disciplinary offences:

- physical, sexual or verbal violence against members of staff, other juveniles or any third parties present in the institution;
- dealing in, possession of and consumption of alcohol and narcotic drugs, as well as the abuse of medication;
- possession of inadmissible objects;
- unlawful interventions in other people's assets;
- disruptions at work, in school and in accommodation;
- the improper use of electronic communication appliances, of consumer electronics appliances, of electronic hardware and software and of electronic storage media;
- escaping or preparing to do so;
- abuse of leave.

Attempting to commit an offence, instigating others to commit an offence, and aiding and abetting others in the commission of an offence, may also be sanctioned.

Criminal prosecution is reserved.

14.2 Disciplinary sanctions

14.2.1 Adult detainees

The disciplinary sanctions:

- a written reprimand;
- if there is a factual connection with the disciplinary offence, a temporary withdrawal or restriction of
 1. leisure activities for up to two months;
 2. external contact for up to two months, although communication with authorities, legal representatives and pastors is reserved;
 3. the use of money for up to two months;
- a fine of up to CHF 200;
- arrest in the detainee's cell, an empty cell or a security cell prepared for the purpose for a maximum of 14 days.

Disciplinary sanctions can be combined, with the exceptions of

- the combination of a written reprimand in conjunction with another sanction,
- the simultaneous imposition of an arrest and a fine.

14.2.2 Juvenile detainees

The disciplinary sanctions are:

- a written reprimand;
- restriction of participation in leisure activities for up to a month;
- withdrawal or restriction of the right to receive visits and go on leave for up to two months;
- withdrawal or restriction of the possession of electronic communication appliances, of consumer electronics appliances, of electronic hardware, of data carriers with software and of electronic storage media for up to two months;
- cell arrest for up to five days;
- light arrest of up to 14 days;
- strict arrest of up to seven days.

Visits by family members may only be restricted if the disciplinary infringement is closely connected to the visit.

Disciplinary sanctions can be combined, with the exception of the written reprimand.

14.2.3 Suspended enforcement and early termination

Disciplinary sanctions can be suspended as a whole or in part during a probationary period of up to six months.

Suspended enforcement is revoked if the detainee commits another disciplinary offence during the probationary period and has to be disciplined.

An arrest sanction can be reduced if the objective of the disciplinary sanction has been reached early.

15 Special security measures

15.1.1 Adult detainees

If there is an increased danger that a detainee may intend to escape or use violence against third parties, himself or objects, the management of the Regional Prison may order special security measures.

The following can be taken into consideration as security measures, in particular:

- arrest in the detainee's own cell, an empty cell or a security cell prepared for the purpose for a maximum of 14 days;
- withdrawal of furnishings and everyday items or clothes whose improper use is to be feared;
- a change of cells;
- restraint for the detainee's protection.

The referring authority may order that the detainee be transferred to a higher security ward for up to six months on the basis of the reasons in accordance with para. 2 or on the basis of reasons stipulated in the Swiss Criminal Code.

A transfer to another facility is reserved.

Special security measures may only be imposed as long as there is a compelling reason for them.

15.1.2 Juvenile detainees

If there is an increased danger that a juvenile detainee may intend to escape or use violence against third parties, himself or objects, and if there is a threat to or any other serious disruption of life in the institution, the management of the Regional Prison may order special security measures.

The following are regarded as security measures:

- withdrawal of items whose improper use is to be feared,
- segregation from other juveniles,
- withdrawal of the right to spend time in the communal rooms,
- restriction of contact with the outside world,
- accommodation in a specially secured room or in a cell.

15.2 Order

The management of the Regional Prison issues a disciplinary sanction and imposes special security measures by means of an order. Disciplinary sanctions on account of infringements against the management of the Regional Prison are issued by the superior authority of the Office of Penitentiary Affairs.

The facts of the case are clarified by the members of staff of the Regional Prison who are directly present and are reported in writing.

The management of the Regional Prison assesses the facts of the case and specifies the disciplinary offence. Before a possible disciplinary order is issued, the management of the Regional Prison then grants the detainee an opportunity to make a statement concerning the reproaches (right to be heard). After weighing up the reported facts of the case and the detainee's statement, the management of the Regional Prison issues a disciplinary order when appropriate, in which it stipulates the disciplinary sanction as a legal consequence.

After the order for a special security measure that has to be taken with immediate effect, the facts of the case are also recorded and assessed by the management of the Regional Prison. After the detainee has been granted his or her right to be heard, the reasoned order is issued with information concerning the right of appeal.

Disciplinary orders and orders for special security measures are issued with a brief statement of the grounds and information concerning the right of appeal. The competent referring authority is notified of such orders.

15.3 Appeal

15.3.1 General provisions

The detainee concerned may lodge an appeal against the disciplinary sanction with the Police and Military Department of the Canton of Bern within 3 days of notification.

Appeals against an order for a special security measure have to be lodged within 30 days.

The appeal has to be written in German or French (official languages). It must contain an application, the reasons for it and the detainee's signature. The order that is being appealed against and any available evidence must be enclosed. Receipt of the appeal is confirmed by the members of staff of the Regional Prison with date, time and signature. The appeal must be submitted to the following address: Amt für Justizvollzug (AJV), Gerechtigkeitsgasse 36, Postfach, 3001 Bern.

Appeals against orders for special security measures and disciplinary sanctions do not have any suspensive effect unless the management of the Regional Prison or the Appeals Service of the Police and Military Department grants suspensive effect to the appeal for important ex officio reasons or at the request of the detainee concerned.

15.3.2 Juvenile detainees

Appeals against measures restricting freedom in accordance with the Act on Measures Restricting Freedom in the Juvenile Penitentiary System and in the Imposition of Child Protection Measures have to be lodged within 10 days after notification. The appeal may be submitted by the juvenile concerned or by his or her legal representative.

16 Departure

16.1 Departure

When detainees depart from a Regional Prison, they receive a statement of their accounts.

When detainees leave the Regional Prison, the return of inventoried objects (effects) is recorded in the directory and confirmed by their signature. If a detainee's signature is not available, the return will have to be confirmed by the detainee's representative or by the official who takes over the detainee on their departure.

16.2 Release

16.2.1 General provisions

Detainees are released on the basis of a written release order issued by the referring authority or the authority in charge of the proceeding in accordance with the Criminal Procedure Code / Swiss Juvenile Criminal Procedure Code.

When detainees are released, the management of the Regional Prison decides in agreement with the referring authority whether the assets should be transferred wholly or in part to the released detainee or an appropriate authority. When detainees are released, their effects are returned to them in accordance with the directory against receipt. The detainee's assets are documented in a statement of accounts. Any balance is handed over to the detainee, their representative or the accompanying official against receipt. Cash payments are made against receipt.

16.2.2 Special provisions concerning coercive custodial measures under the Foreign Nationals Act

The referring authority may decide that the detainee's assets that exceed CHF 1,000 are to be spent on paying for their repatriation costs.

17 Liability

Detainees are fully liable for any damage they inflict on premises and furniture with intent or by gross negligence. The amounts required to cover the costs of such damage may be directly debited to the detainee's free and special purposes accounts. A criminal complaint against the detainee for damage to property is reserved.

18 Final provisions

18.1 Supplementary regulations

The management of the Regional Prison may issue supplementary regulations on the basis of these Institutional Rules.

18.2 Entry into force

With the entry into force of these Institutional Rules as from 1 March 2019, the Institutional Rules for the Regional Prisons of 1 June 2016 are repealed.

Bern, 1 March 2019

Office of Penitentiary Affairs



Romilda Stämpfli
Head of Office

Appendix

Specification of inadmissible objects (not exhaustive):

Foodstuffs

- Beverages, liquids, syrup, honey, jam/marmalade
- Perishable foodstuffs, fruit and vegetables
- Eggs, meat, milk and dairy products (butter, ice-cream, yoghurt, etc.)
- Fast food (pizza, doner kebabs, hamburgers, chicken, etc.)
- Unpackaged bakery products (bread, bread rolls, cakes, etc.)
- Nuts, chewing gum
- Home-cooked or home-baked food
- Dishes which have to be warmed/cooked prior to eating (instant soups, etc.)

Packaging material

- Tinned food (tins, glass jars, tubes, etc.)
- Aerosols (any type of pressurised container)
- Packaging made of or containing sheet metal (Pringles, tobacco tins, etc.)
- Glass packaging (bottles, etc.)

Weapons and weapon-like tools

- Tools, candles, lighters and matches

Electronic devices

- Mobile telephones
- Smartwatches, wristbands
- TV sets
- Radios, music systems, playback devices
- Cameras
- Video sets
- Games consoles
- Computers and notebooks with their peripheral equipment and accessories
- Electronic cigarettes

Narcotic substances

- Drugs, medicines, herbs and spices
- Alcoholic beverages
- CBD smoking products

Other

- Taxcard
- Any kinds of flowers and plants
- Pornographic, sexist, racist media or media glorifying violence
- Any objects that have a component that is relevant under criminal law