

CHAPTER 23

LETHAL INJECTION

Authority

N.J.S.A. 30:1B-6, 30:1B-10 and 2C:11-3.

Source and Effective Date

R.1992 d.283, effective July 6, 1992.
See: 24 N.J.R. 1677(a), 24 N.J.R. 2452(a).

Executive Order No. 66(1978) Expiration Date

Chapter 23, Lethal Injection, expires on July 6, 1997.

Chapter Historical Note

Subchapter 2, Lethal Injection, was originally adopted as a part of R.1987 d.160, effective April 6, 1987, and codified at N.J.A.C. 10A:16-10. See: 18 N.J.R. 1662(a), 19 N.J.R. 535(a).

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SUBCHAPTER 1. INTRODUCTION

10A:23-1.1 Purpose

The purpose of this chapter is to establish guidelines for executing persons sentenced to death pursuant to N.J.S.A. 2C:11-3.

10A:23-1.2 Scope

This chapter shall be applicable to the New Jersey Department of Corrections.

10A:23-1.3 Definitions

The following term, when used in this chapter, shall have the following meaning.

“Capital Sentence Unit (C.S.U.)” means the close custody unit to which persons sentenced to death pursuant to N.J.S.A. 2C:11-3, are assigned until such time that the execution is carried out, or the sentence is commuted or changed to a lesser penalty.

SUBCHAPTER 2. LETHAL INJECTION

10A:23-2.1 Place for execution

(a) The Commissioner shall provide and maintain a suitable and efficient correctional facility enclosed from public view, within the confines of the New Jersey State Prison for the imposition of the punishment of death.

(b) The New Jersey State Prison shall contain the apparatus and equipment necessary for the carrying out of executions pursuant to N.J.S.A. 2C:11-3.

10A:23-2.2 Provision of services within 72 hours preceding execution

(a) During the 72 hour period immediately preceding execution of the condemned, the services listed below shall be provided in accordance with the following procedures.

1. Clergical:

i. The New Jersey State Prison Chaplain or the inmate's private clergy shall, upon request of the condemned, make contact visits to the condemned on a daily basis to provide pastoral services. The time and duration of clergy visits shall be at the discretion of the Superintendent of the New Jersey State Prison;

ii. Clergy from the community must present appropriate clerical credentials to the Superintendent and pass a routine security check; and

iii. The Chaplain or private clergy may accompany the condemned to the execution chamber corridor if so requested by the condemned.

2. Food:

i. At least 24 hours in advance of the scheduled execution, the condemned may request the food of his or her choice to be served at the last regularly scheduled dinner, not less than eight hours prior to the execution. Such request shall be granted subject to reasonable availability and cost of the food desired; and

ii. Alcoholic beverages are prohibited.

3. Visits:

i. Window visits by family members, up to a maximum of six hours per day and two persons at a time shall be permitted;

ii. Contact visits by the authorized attorney of record shall be permitted daily, subject to security requirements of the Capital Sentence Unit (C.S.U.), including prior notice to the Superintendent;

iii. All contact with family members and attorney(s) shall terminate three hours prior to the time scheduled for administration of the pre-execution sedative; and

iv. During the last 72 hours there shall be no contact of any kind permitted between the condemned and any member of the news media.

4. Telephone calls:

i. The condemned may place daily telephone calls to members of his or her family, subject to appropriate scheduling procedures and the New Jersey State Prison rules; and

ii. The condemned may place collect telephone calls to his or her attorney-of-record when the telephone calls are necessary.

5. Recreation:

i. During the 72 hours preceding execution, recreation shall be permitted daily on an individual, isolated basis, if feasible.

6. Personal property:

i. The condemned shall be required to fill out a form indicating disposition of his or her personal property and saving account(s), except for such funds as may be needed to provide for burial expenses.

Administrative correction, effective January 27, 1989.

See: 21 N.J.R. 558(a).

Institutional name change.

10A:23-2.3 Time for execution

(a) Upon receipt of the warrant appointing an execution date, the Commissioner shall schedule the time for implementation of the warrant and begin final arrangements including, but not limited to:

1. Designation of medical and custodial staff;
2. Selection of execution technicians;
3. Selection of witnesses; and
4. Purchase of necessary supplies.

10A:23-2.4 Witnesses

(a) The Commissioner shall select six adults and two alternates who have volunteered to witness the execution. The two alternates shall be selected to be present in the event any of the witnesses may be unavailable on the appointed execution date.

(b) The witnesses shall receive written notice of their selection by registered mail or personal service at least seven days prior to the scheduled execution.

(c) The witnesses shall assemble at least two hours prior to the time set for execution, at a place designated by the Commissioner. The Commissioner shall assign suitable custody or administrative staff to provide security, escort and transportation to the New Jersey State Prison.

(d) The names of the witnesses shall not be disclosed until after the execution.

(e) The Commissioner shall authorize and permit, upon written request of the condemned, two members of the clergy who are not related to the condemned, to be present at the execution. These persons shall be notified of their selection and shall assemble in the same manner as for the witnesses set forth in (c) above. An alternate member of the clergy may be designated in the event either of the two clergy is unavailable.

(f) The Commissioner shall permit eight representatives of the news media to be present at the execution for the purpose of giving their respective newspapers and associations accounts of the execution.

(g) The news media persons shall be from the following services:

1. Two representatives of major wire services;
2. Two representatives of television news services;
3. Two representatives of newspapers; and
4. Two representatives of radio news services.

(h) The New Jersey State Prison shall develop written post orders and procedures for providing:

1. Escort and security for all witnesses while in the New Jersey State Prison;
2. Accommodations for witnesses; and
3. A room designated to be used for a press conference after the execution.

(i) Any person who is related by either blood or marriage to the sentenced person or to the victim shall not be authorized to be present at the execution.

(j) The Commissioner shall not authorize or permit any other person to be present, except those authorized by this subchapter.

Administrative correction, effective January 27, 1989.
See: 21 N.J.R. 558(a).
Institutional name change.

10A:23-2.5 Filming of execution

(a) No cameras or tape recorders are permitted to be brought into the New Jersey State Prison.

(b) There shall be no filming of the execution.

Administrative correction, effective January 27, 1989.
See: 21 N.J.R. 558(a).
Institutional name change.

10A:23-2.6 Stay of proceedings

(a) Written Stay of Proceedings or other official Order shall be received by a supervisory officer at the New Jersey State Prison main command post. Such document shall be delivered immediately to the Superintendent, who shall advise the Commissioner and provide him or her a copy of same as soon as possible. Appropriate steps shall be taken to confirm the authenticity of such Order or Stay.

(b) The New Jersey State Prison Superintendent shall arrange for installation and maintenance of a special telephone line with confidential telephone number, to be available for the sole purpose of receiving incoming calls from the Governor, Chief Justice or other person authorized by law to Stay execution proceedings.

(c) In addition to the telephone bearing the main number, there shall be two additional telephones on the line, sequenced for the purpose of receiving incoming calls in the event the main line is already in use. These telephones shall be located in the Superintendent's office and witness room.

(d) Upon installation of the special telephone line, the confidential telephone number shall be hand delivered to the:

1. Governor;
2. Chief Justice; and
3. Commissioner.

(e) Twenty-four hours prior to the scheduled execution the Superintendent shall arrange to hand deliver to the Governor, Chief Justice and Commissioner a confidential code to be utilized in the event a communication is to be made via the special telephone line. This code shall be changed prior to each scheduled execution. No telephone call on this telephone line during the eight hours prior to the execution shall be deemed authentic unless accompanied by use of the designated code.

(f) During the eight hour period preceding the execution, the special telephone line shall be continuously monitored by a New Jersey State Prison staff person assigned by the Superintendent for this sole purpose. All calls from the Governor, Chief Justice or other authorized person(s) shall be reported to the Superintendent and Commissioner immediately.

Administrative correction, effective January 27, 1989.
See: 21 N.J.R. 558(a).
Institutional name change.

10A:23-2.7 Suspension of execution due to pregnancy

(a) If there is reasonable ground to believe that a female inmate, sentenced to death, is pregnant, the New Jersey State Prison Superintendent shall impanel a committee of three licensed physicians to ascertain her medical condition. This committee shall consist of:

1. The Department's Medical Director;
2. A New Jersey State Prison physician; and
3. A physician from the community, who shall be a specialist in Obstetrics and Gynecology.

(b) The physicians shall conduct such medical examination as is medically indicated to determine facts relative to pregnancy. The physicians shall provide a written report of their findings to the Superintendent, who shall sign the report and transmit it to the Commissioner.

(c) If the physicians find the inmate to be pregnant, the Superintendent shall suspend execution of the death warrant.

(d) Care and services for the pregnant inmate shall be provided in accordance with N.J.A.C. 10A:16-6 PREGNANT INMATES.

(e) When the inmate is no longer pregnant, the Commissioner shall reissue the death warrant, appointing a date and time to carry out the death sentence.

Administrative correction, effective January 27, 1989.
See: 21 N.J.R. 558(a).
Institutional name change.

10A:23-2.8 Operational staff in attendance at an execution

(a) Two physicians shall be in attendance for an execution.

1. One physician shall be the Medical Director of the Department. In the absence of the Medical Director, an alternate shall be selected.

2. The second physician shall be selected from a list of volunteers from correctional facilities other than the New Jersey State Prison.

i. The second physician selected shall be notified in writing, at least five days prior to the scheduled execution.

tion, by the Office of Institutional Support Services (O.I.S.S.) Health Services Supervisor through the correctional facility Superintendent.

ii. In the event no facility physician volunteers, or is available to attend the execution, the O.I.S.S. Health Services Supervisor shall contract with physicians in the community to perform this service.

(b) One Registered Nurse (team nurse) from the same correctional facility as the selected physician, if feasible, shall be assigned by the O.I.S.S. Health Services Supervisor.

(c) One Certified Intravenous Therapist shall be hired on a consultant basis by the O.I.S.S. Health Services Supervisor. The therapist shall provide proper identification documents to the New Jersey State Prison Superintendent at least 48 hours prior to the scheduled execution.

(d) Three persons who are qualified to administer injections shall be selected by the Commissioner as execution technicians. Procedures shall be designed to ensure that the identity of these persons shall be confidential and that these persons shall not be aware of who actually inflicted the lethal injection.

Administrative correction, effective January 27, 1989.
See: 21 N.J.R. 558(a).

Institutional name change.
Amended by R.1992 d.283, effective July 6, 1992.
See: 24 N.J.R. 1677(a), 24 N.J.R. 2452(a).
Revised (a)2, (b)-(c).

10A:23-2.9 Medical supplies and equipment

(a) The Office of Institutional Support Services (O.I.S.S.) Health Services Supervisor and Medical Director of the Department of Corrections shall prepare a list of medical supplies and equipment to be utilized at each execution. These items shall be purchased at least five working days prior to the scheduled execution and shall be set up under the supervision of the Medical Director.

(b) All medications to be utilized in the execution shall be stored in a securely locked box or container, which shall be stored within a securely locked cabinet or closet. The locked box or container shall only be used for the storage of medications to be used in the execution. There shall be only one set of keys to this storage area and this set shall be retained by the Commissioner or his or her designee.

Amended by R.1992 d.283, effective July 6, 1992.
See: 24 N.J.R. 1677(a), 24 N.J.R. 2452(a).
Revised text.

10A:23-2.10 Preparation of the condemned inmate

Medical and custody preparation of the condemned for execution shall be initiated and completed in accordance with written operational procedures developed by the Office of Institutional Support Services (O.I.S.S.) Health Services Supervisor and the New Jersey State Prison Superintendent or his or her designee.

Administrative correction, effective January 27, 1989.
See: 21 N.J.R. 558(a).

Institutional name change.
Amended by R.1992 d.283, effective July 6, 1992.
See: 24 N.J.R. 1677(a), 24 N.J.R. 2452(a).
Revised text.

10A:23-2.11 Staff training

(a) During the 48 hour period preceding an execution, the Office of Institutional Support Services (O.I.S.S.) Health Services Supervisor shall arrange for training all medical personnel in execution procedures.

(b) The New Jersey State Prison Superintendent shall arrange for training in execution procedures for all correction officers who are designated to provide security during an execution.

Administrative correction, effective January 27, 1989.
See: 21 N.J.R. 558(a).

Institutional name change.
Amended by R.1992 d.283, effective July 6, 1992.
See: 24 N.J.R. 1677(a), 24 N.J.R. 2452(a).
Revised (a).

10A:23-2.12 Execution suite

(a) The execution chamber shall be equipped with a cardiac monitor. The monitor shall be positioned to provide visual access to the team physicians, but to be obscured from vision by the witnesses.

(b) An emergency cart will be located at the exterior wall of the room. The emergency cart shall contain such equipment, supplies and medications as may be needed to revive the inmate in the event a last minute Stay of Execution is imposed.

(c) The executioner's room shall contain equipment, supplies and medications as are specified in N.J.A.C. 10A:23-2.9.

Amended by R.1992 d.283, effective July 6, 1992.
See: 24 N.J.R. 1677(a), 24 N.J.R. 2452(a).
Revised (c).

10A:23-2.13 Preparation of execution medications

(a) At least one hour prior to the time set for the execution, the Commissioner or his or her designee shall remove the medications to be used in the execution from the place of storage and give the medications to the team nurse.

(b) Upon receipt of the execution medications, the team nurse shall be escorted to the executioner's room to prepare the execution materials. At this time, a uniformed correction officer shall be posted at the outside entrance to the executioner's room. When the nurse has completed the preparatory procedures, he or she shall exit the room. The executioners shall then enter and take their assigned positions. The uniformed officer shall remain at his or her post throughout the execution procedures, or until ordered to leave by the Superintendent or his or her designee.

10A:23-2.14 Execution

(a) Upon arrival of the condemned at the execution chamber, assigned team members shall position the stretcher and connect necessary operating systems in accordance with operational procedures. Upon completion of these assigned tasks, the condemned shall be left alone in the execution chamber. The team physicians shall take their positions in the witness room to view the condemned and the cardiac monitor.

(b) The Commissioner or his or her designee shall, in the presence of the assembled witnesses and news media representatives, read the official death sentence Warrant.

(c) Upon order of the Commissioner or his or her designee, the executioners shall perform the duties and responsibilities conferred on them by law.

(d) Upon completion of the execution procedures, the team physicians shall enter the execution chamber, examine the deceased and confirm death. The witnesses shall then be escorted from the witness room and the TV monitor turned off. Pursuant to written operational procedures, the deceased shall be removed from the stretcher and transported to a waiting hearse. The executioners shall then depart.

10A:23-2.15 Stay of execution

If, during any stage of the execution, a Stay of Proceedings is ordered, execution procedures shall be halted and the witnesses shall be removed. Team physicians shall then immediately initiate life sustaining procedures. Where medically indicated, the inmate may be transferred to the St. Francis Medical Center for further treatment.

10A:23-2.16 Death certificates

(a) Immediately after the execution, the team physicians shall examine the deceased and shall prepare a written report stating the nature of the examination and occurrence of death.

(b) The Commissioner shall prepare and sign a separate certificate setting forth the time and place of the execution and stating that the execution was conducted in conformity to the sentence of the Court and provisions of N.J.S.A. 2C:11-3.

(c) The Commissioner's certificate shall be filed within 10 days in the Superior Court in the county in which the person executed was convicted.

10A:23-2.17 Disposition of the deceased

(a) Immediately after death has been certified, the deceased shall be transported to the county morgue, and the Commissioner or his or her designee shall consult with the County Medical Examiner to determine whether an autopsy is deemed necessary. The deceased shall be disposed of as follows:

1. If the deceased has a designated relative or bona fide friend willing and able to accept custody of the inmate's body, the body shall be available to the funeral director designated by the relative or bona fide friend within 72 hours after the execution or autopsy.

2. If the deceased is to be buried or cremated within 48 hours after death, embalming shall not be required. After 48 hours, the deceased shall be embalmed immediately. The Department shall pay a fee, not to exceed \$25.00, to the mortician for his or her embalming services.

3. In the event no bona fide friend or relative claims the deceased within 72 hours, the body shall be buried or cremated in accordance with N.J.A.C. 10:16-7 CRITICAL ILLNESS OR DEATH OF INMATES.

10A:23-2.18 Memorial or religious service for the deceased

(a) A memorial or religious service may be held at the New Jersey State Prison for the deceased upon written request by the relatives of the deceased.

(b) Only the relatives, the person conducting the service and prison staff may attend the memorial or religious service.

Administrative correction, effective January 27, 1989.

See: 21 N.J.R. 558(a).

Institutional name change.

10A:23-2.19 Clean up procedures

(a) Upon removal of the deceased, the team nurse shall gather all used and unused medications and syringes. These items shall be maintained in a secure receptacle in an area designated by the Superintendent. The Superintendent shall assign an Internal Affairs Investigator to monitor these activities and provide security therefor.

(b) All stored materials shall be retained in a secure location for a period of 10 working days. Thereafter, the Superintendent shall order them to be destroyed by the New Jersey State Prison pharmacist in accordance with accepted pharmaceutical practices.

(c) All non-disposable equipment shall be cleaned and prepared for further use. This non-disposable equipment, except for the cardiac monitor and the emergency cart, including apparatus located in the execution suite, shall not be utilized for any purpose other than execution.

Administrative correction, effective January 27, 1989.

See: 21 N.J.R. 558(a).

Institutional name change.

10A:23-2.20 Report of execution procedures

(a) The Superintendent shall assign a member of his or her staff to monitor the entire execution process and to keep a detailed written record of the proceedings.

(b) The written record shall be given to the Superintendent in its original form, within one hour after completion of the execution.

(c) The report shall not be considered a public record for any purpose other than as specified by the Superintendent or Commissioner.

10A:23-2.21 Procedures and post orders

(a) The New Jersey State Prison shall develop detailed written procedures and post orders consistent with this Subchapter. Each functional unit or team involved in the execution shall formulate and prepare detailed written procedures, governing their role which shall be consistent with the implementation of the Death Sentence Act and this Subchapter.

(b) The New Jersey State Prison's written procedures and post orders shall be submitted to the Chairperson of the Capital Sentence Unit Committee and the Deputy Commissioner for review.

Administrative correction, effective January 27, 1989.

See: 21 N.J.R. 558(a).

Institutional name change.