

CHAPTER 34

NEW JERSEY MUNICIPAL DETENTION FACILITIES

Authority

N.J.S.A. 30:1B-6, 30:1B-10, 30:1B-16 and 52:17B-169.

Source and Effective Date

R.1997 d.129, effective February 21, 1997.
See: 29 N.J.R. 298(a), 29 N.J.R. 886(a).

Executive Order No. 66(1978) Expiration Date

Chapter 34, New Jersey Municipal Detention Facilities, expires on February 21, 2002.

Chapter Historical Note

Chapter 34, County Correctional Facilities, was adopted by the Department of Institutions and Agencies as R.1975 d.300, effective October 15, 1975. See: 7 N.J.R. 506(c). With the formation of the Department of Corrections on November 1, 1976, all rules of the Department of Institutions and Agencies, Division of Correction and Parole, were transferred to the Department of Corrections. The Department of Corrections adopted N.J.A.C. 10A:31, Adult County Correctional Facilities, as R.1979 d.438, effective November 1, 1979. See: 11 N.J.R. 284(a), 11 N.J.R. 627(e). The new rules at adopted at N.J.A.C. 10A:31 replaced Chapter 34, County Correctional Facilities, which was repealed by R.1986 d.182, effective May 19, 1986. See: 17 N.J.R. 2525(a), 18 N.J.R. 1103(a).

Chapter 34, New Jersey Municipal and County Correctional Facilities, was adopted as Subchapter 2, Minimum Standards for New Jersey Municipal Detention Facilities, by R.1987 d.149, effective April 6, 1987. See: 18 N.J.R. 2412(a), 19 N.J.R. 548(a). Subchapter 3, Processing and Housing Juveniles in Municipal Detention Facilities, was adopted as R.1991 d.293, effective June 17, 1991. See: 23 N.J.R. 935(c), 23 N.J.R. 1945(b).

Pursuant to Executive Order No. 66(1978), Chapter 34 was readopted as R.1992 d.193, effective April 6, 1992. See: 24 N.J.R. 683(a), 24 N.J.R. 1796(a). Chapter 34, New Jersey Municipal and County Correctional Facilities, was renamed New Jersey Municipal Detention Facilities by R.1996 d.405, effective August 19, 1996. See: 28 N.J.R. 3050(a), 28 N.J.R. 3960(a).

Pursuant to Executive Order No. 66(1978), Chapter 34, New Jersey Municipal Detention Facilities, was readopted as R.1997 d.129, effective February 21, 1997. See: Source and Effective Date. As part of R.1997 d.129, effective March 17, 1997 (operative April 6, 1997), Subchapter 1, General Provisions, was adopted as new rules and Subchapter 3, Processing and Housing Juveniles in Municipal Detention Facilities, was repealed. See, also, section annotations.

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SUBCHAPTER 1. GENERAL PROVISIONS

10A:34-1.1 Purpose

- (a) The purpose of this chapter is to:
 1. Establish the minimum criteria for the planning, design and construction of new adult municipal detention facilities or renovation of existing facilities; and
 2. Establish the minimum criteria for the administration of adult municipal detention facilities.

10A:34-1.2 Scope

This chapter shall be applicable to the New Jersey Department of Corrections, the Bureau of County Services, and all adult municipal detention facilities.

10A:34-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

“Body cavity search” means the visual inspection or manual search of a person’s anal or vaginal cavity.

“Contraband” means:

1. Any item, article or material which is not authorized for retention or receipt, found in the possession of, or under the control of, a person who has been detained, arrested or lawfully confined; and/or

2. Any article which may be harmful or presents a threat to the security and orderly operation of a municipal detention facility. Items of contraband shall include, but shall not be limited to:

- i. Guns and firearms of any type;
- ii. Ammunition;
- iii. Explosives;
- iv. Knives, tools and other implements not provided in accordance with municipal detention facility regulations;
- v. Hazardous or poisonous chemicals and gases;
- vi. Unauthorized drugs and medications;
- vii. Medicines dispensed or approved by the municipal detention facility but not consumed or utilized in the manner prescribed;
- viii. Intoxicants, including, but not limited to, liquor or alcoholic beverages; and
- ix. Where prohibited, currency and stamps.

“Exigent circumstances” means the probable cause to believe that the person is concealing a weapon, contraband or evidence of crime, and circumstances prevent obtaining a search warrant.

“Lawfully confined” means custodial confinement in a municipal detention facility, county correctional facility or a Department of Corrections facility.

“Minimum standards” means this chapter, the rules promulgated by the Department of Corrections for the construction and management of a municipal detention facility and for the care and treatment of persons who have been arrested.

“Municipal detention facility” means a holding or lockup facility, usually located in and operated by a municipal police department, which receives and temporarily detains for no more than 24 hours, excluding holidays or weekends, persons who have been arrested who are awaiting release or transfer to other authorities.

“Officer in charge” means the law enforcement officer in charge of the municipal detention facility.

“Strip search” means the removal or rearrangement of clothing and the visual inspection of the person’s undergarments, buttocks, anus, genitals, or breasts.

SUBCHAPTER 2. MINIMUM STANDARDS FOR NEW JERSEY MUNICIPAL DETENTION FACILITIES

10A:34-2.1 Legal authority of the Department of Corrections

(a) N.J.S.A. 30:1B-10 grants the Commissioner of the Department of Corrections the authority to establish minimum standards for municipal detention facilities.

(b) The Commissioner of the Department of Corrections may, in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., promulgate such rules and regulations as he or she shall deem necessary to establish minimum standards for the care, treatment, government and discipline of persons confined in municipal detention facilities.

Recodified from 10A:34-2.2 and amended by R.1997 d.129, effective March 17, 1997 (operative April 6, 1997).

See: 29 N.J.R. 298(a), 29 N.J.R. 886(a).

In (b), inserted text “persons confined in”. Section was “Definitions”.

10A:34-2.2 Inspection of municipal detention facilities

(a) As provided by N.J.S.A. 30:1-15, the Department of Corrections has the authority to visit and inspect all municipal detention facilities.

(b) Each municipal detention facility shall be subject to visits by the Department of Corrections for the purpose of inspecting and observing the following:

1. Physical condition of the facility;
2. Management and operation methods; and
3. Physical care and treatment of arrestees.

(c) The municipal detention facility shall demonstrate to the satisfaction of the Department of Corrections that it complies with the rules in this subchapter which shall be interpreted as constituting minimum standards only.

Recodified from 10A:34-2.3 by R.1997 d.129, effective March 17, 1997 (operative April 6, 1997).

See: 29 N.J.R. 298(a), 29 N.J.R. 886(a).

Former section recodified to N.J.A.C. 10A:34-2.1.

10A:34-2.3 Minimum standard compliance or non-compliance procedure

(a) Upon completion of an inspection, the municipal detention facility shall be given written notice by the Department of Corrections of its compliance or non-compliance with these minimum standards.

(b) The municipal detention facility shall be given a period of time within which to come into compliance with any standard(s) which was rated in non-compliance.