

**CHAPTER 21
REPORTS**

Authority

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Chapter Historical Note

Chapter 21, Reports, and Subchapter 5, Reports of Unusual Incidents or Events, were adopted as new rules by R.1991 d.53, effective February 4, 1991. See: 22 N.J.R. 3304(a), 23 N.J.R. 304(a).

Subchapter 8, Reporting Violations of the Criminal Statutes, was adopted as R.1991 d.43, effective February 4, 1991. See: 22 N.J.R. 3440(a), 23 N.J.R. 306(a).

Pursuant to Executive Order No. 66(1978), Chapter 21, Reports, was readopted as R.1996 d.63, effective January 11, 1996. See: 27 N.J.R. 4849(a), 28 N.J.R. 854(a).

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SUBCHAPTER 1. GENERAL PROVISIONS

10A:21-1.1 Purpose

(a) The purpose of this chapter is to establish:

1. Guidelines for providing telephone and written reports to persons within the Department of Corrections and, when necessary, to outside law enforcement agencies;
2. Guidelines for an observer from a law enforcement agency in an unusual incident or event;
3. Guidelines for providing written reports of the release, critical illness or death of an inmate;
4. Procedures for handling reportable and non-reportable suspected violations of criminal statutes; and
5. Reporting responsibilities of the Special Investigations Division.

10A:21-1.2 Scope

Unless otherwise stated, this chapter shall be applicable to State correctional facilities under the jurisdiction of the Department of Corrections.

10A:21-1.3 Definitions

The following, when used in this chapter, shall have the following meaning, unless the context clearly indicates otherwise:

“Public Information Officer” means a staff member of the Department of Corrections designated by the Commissioner or Chief of Staff to disseminate information to authorized persons or agencies.

SUBCHAPTER 2. (RESERVED)

(d) All written reports provided in accordance with this section shall include the inmate's name, identifying information and anticipated residence.

SUBCHAPTER 3. WRITTEN REPORTS OF INMATE RELEASE

10A:21-3.1 Written reports regarding inmate release into a community program

Written reports regarding the release of an inmate into a community program shall be provided pursuant to N.J.S.A. 30:4-91.8 through 91.12, and in accordance with N.J.A.C. 10A:20-4.

10A:21-3.2 Written reports regarding release of an inmate from custody

(a) Written reports regarding the release of an inmate from custody shall be provided in accordance with N.J.S.A. 30:4-6.1 and 82.4.

(b) No less than 90 days before the date on which an inmate's maximum term is scheduled to expire, the Assistant Commissioner or designee shall provide written notification of the inmate's status to the Attorney General and the prosecutor of the county from which the inmate was committed when:

1. The inmate's term includes a sentence imposed for conviction of aggravated sexual assault, sexual assault or aggravated criminal sexual contact, and the court imposing sentence found that the offender's conduct was characterized by a pattern of repetitive, compulsive behavior;

2. The Administrator of the facility in which the inmate has been confined has advised the Commissioner or designee that the conduct of the inmate during the period of confinement, the inmate's mental condition, or the inmate's past history indicates that the inmate may be in need of involuntary commitment pursuant to N.J.S.A. 30:4-27.2; or

3. The inmate's term includes a sentence imposed for conviction of a "sexually violent offense" as defined in N.J.S.A. 30:4-27.26.

(c) Except as provided in (b) above, pursuant to N.J.S.A. 30:4-6.1 and 123.53a, the Administrator or designee of the correctional facility in which an inmate is confined shall provide written notification to the prosecutor of the county from which the inmate was committed 90 days before an inmate's anticipated release whenever possible, but in no event fewer than 30 days before release if such release is due to the expiration of the inmate's maximum term or is authorized by the State Parole Board, order of the Governor upon commutation of a sentence of incarceration or any other release of an inmate from custody.

SUBCHAPTER 4. WRITTEN REPORTS OF THE CRITICAL ILLNESS OR DEATH OF AN INMATE

10A:21-4.1 Written reports regarding the critical illness or death of an inmate

(a) Notification to the inmate's next of kin of an inmate's critical illness or death shall be in accordance with N.J.A.C. 10A:16-7.

(b) Written reports of the death of an inmate shall be provided to the prosecutor of the county from which the inmate was committed by the Administrator or designee of the correctional facility that maintains the inmate's classification and medical files as soon as possible on the next business day after the death of the inmate.

(c) Written reports of the death of an inmate shall be provided to the Supervisor, Health Services Unit via facsimile.

SUBCHAPTER 5. REPORTS OF UNUSUAL INCIDENTS OR EVENTS

10A:21-5.1 Preliminary inquiry

(a) When an Administrator or designee becomes aware of the occurrence of an unusual incident or event, he or she shall notify the Special Investigations Division which shall make an immediate preliminary inquiry to determine the facts in the case.

(b) If there is a delay in the arrival of a staff member from the Special Investigations Division, the Administrator shall assign a custody supervisor with a rank not lower than sergeant to secure and/or cordon off the location of the incident or event, when appropriate.

(c) No one, including non-custody staff and custody staff, shall be permitted access to the secured area and nothing shall be touched, moved or destroyed until the staff from the Special Investigations Division has completed the examination of the secured area.

10A:21-5.2 Telephone reports within the Department of Corrections; reportable unusual incidents or events

(a) If, after the preliminary inquiry, it is the determination of the Administrator or designee that the incident or event is of such significance that the incident or event has the potential for disrupting the secure or orderly operation of the correctional facility, or if the secure or orderly operation of the correctional facility has been disrupted because of the incident or event, the Administrator or designee shall promptly contact the Assistant Commissioner, Division of Operations or designee and the Public Information Officer by telephone and give them a summary of:

1. What happened;
2. Persons involved;
3. The action taken; and
4. The current assessment of the situation.

(b) The unusual incidents and events that have the potential to disrupt the secure or orderly operation of the correctional facility which shall be reported by telephone to the Assistant Commissioner, Division of Operations or designee and the Public Information Officer shall include, but are not limited to:

1. A homicide;
2. A suspicious death;
3. A suicide or serious suicide attempt;
4. A disturbance involving a considerable number of inmates or employees which threatens the maintenance of security or the orderly operation of the correctional facility, for example:
 - i. A riot;
 - ii. A work stoppage; or
 - iii. A melee;
5. A medical emergency;
6. A medical problem requiring expeditious handling because of its special nature;
7. All escapes or walkaways. The telephone report shall include, but not be limited to when:
 - i. Force was used;
 - ii. A weapon was used;
 - iii. An injury to an inmate(s) or a staff member resulted;
 - iv. A crime was committed;
 - v. The inmate(s) escaped from a secure or self contained unit;

vi. The inmate(s) involved is widely and/or unfavorably known by virtue of his or her offense history; and/or

vii. The inmate(s) involved is considered capable of committing violent acts;

8. The taking of a hostage(s);
9. A serious injury to an inmate(s) or staff member(s);
10. Suspected introduction of prohibited substances into the correctional facility by staff;
11. Suspected use of prohibited substances by staff on correctional facility grounds;
12. A serious mechanical or engineering difficulty which could result in the loss of steam, electric power, sanitary facilities;
13. A natural disaster such as, but not limited to, a flood, tornado, earthquake, hurricane, or cyclone and the extent of damage that resulted;
14. A fire which resulted in considerable damage or in which there is the potential for extensive property damage and/or loss of lives; and
15. A situation involving an inmate(s) in which the life of an inmate or a group of inmates is in danger and an immediate transfer is needed to provide safety for the inmate(s) involved.

10A:21-5.3 Telephone and written reports in the event of an escape

(a) Pursuant to N.J.S.A. 30:4-6.1, all inmate escapes from custody and returns to custody following an escape from a medium or maximum security correctional facility shall be reported immediately by telephone whenever possible, followed by written notification within 48 hours, by the Administrator of the correctional facility in which the inmate(s) is confined to the prosecutor of the county from which the inmate was committed and the prosecutor of the county in which the facility is located.

(b) All escapes from medium and maximum security correctional facilities shall be reported by telephone to the sentencing judge as soon as possible after the escape.

(c) If an escape from a medium or maximum security correctional facility occurs during the evening, weekend or on a holiday, the Administrator or designee shall notify the Assistant Commissioner, Division of Operations. The Assistant Commissioner shall be responsible for notifying the sentencing judge at his or her home. In cases when contact cannot be made with the Assistant Commissioner, Division of Operations, attempts shall then be made to contact the Chief of Staff, New Jersey Department of Corrections.

(d) The sentencing judge, who has been notified of an escape from a medium or maximum security correctional

facility, shall also be notified of the capture and/or return of the escapee(s).

10A:21-5.4 Correctional facility liaison to outside law enforcement agencies

(a) At the direction of the Commissioner, Department of Corrections, the Special Investigations Division shall serve as the liaison to all outside law enforcement agencies.

(b) The liaison shall have the general responsibility of effecting a cooperative relationship with outside law enforcement agencies during investigations conducted and/or associated with a correctional facility. These outside law enforcement agencies shall include, but are not limited to:

1. County prosecutors;
2. State and local police agencies;
3. The New Jersey Division of Criminal Justice;
4. The Federal Bureau of Investigations; and
5. The United States Department of Treasury.

10A:21-5.5 Telephone reports to outside law enforcement agencies; reportable unusual incidents and events

(a) Upon notification by the Administrator, an investigator from the Special Investigations Division shall promptly report by telephone to the appropriate county prosecutor, the following unusual incidents or events:

1. All inmate acts which may constitute crimes of the first, second, third or fourth degree under the Criminal Code of the State of New Jersey (N.J.S.A. 2C:1-1 et seq.) such as, but not limited to:

- i. A homicide;
- ii. A serious injury to an inmate(s) or staff member(s);
- iii. A suspicious death;
- iv. The taking of a hostage(s);
- v. A sexual assault;
- vi. An escape from a secure or self-contained unit; or
- vii. A return to a secure or self-contained unit following an escape;

2. A disturbance involving a considerable number of inmates or employees wherein the security or the orderly operation of the correctional facility is threatened, such as, but not limited to:

- i. A riot; or
- ii. A staff work stoppage;

3. A serious mechanical or engineering difficulty, the occurrence of which threatens the security of the correctional facility;

4. A natural disaster such as, but not limited to, a flood, tornado, earthquake, hurricane, or cyclone, whereby the security of the correctional facility is threatened; and

5. A fire which resulted in considerable damage or in which there is the potential for extensive property damage and/or loss of lives.

(b) For all incidents and events cited in (a)1 through 3 above, the Administrator or designee shall, when deemed appropriate by the Administrator or designee, contact:

1. The local State Police Commander;
2. The local police agency having jurisdiction; and/or
3. The Division of Criminal Justice.

(c) In the event that the unusual incident or event occurs after working hours, on weekends or on holidays and the Administrator or designee has determined that the Division of Criminal Justice must be contacted, a telephone call shall be made to the Division of Criminal Justice's 24 hours Control Number to be provided with a telephone number at which these persons can be reached.

(d) At the direction of the Administrator, an investigator from the Special Investigations Division shall promptly report by telephone to those parties notified in (a) above, the capture and/or return of an escapee from a secure or self-contained unit to the custody of the Department of Corrections.

10A:21-5.6 Observers from law enforcement agencies

If, based upon information received in the telephone account of the unusual incident or event, the county prosecutor, State Police Commander and/or the Division of Criminal Justice liaison decide to send an observer to the correctional facility, the Administrator shall have the observer met by an investigator from the Special Investigations Division for a briefing of the situation.

10A:21-5.7 Correctional facility cooperation with investigation

(a) Determinations regarding assistance in investigations by outside law enforcement agencies shall be made by the Commissioner, New Jersey Department of Corrections or designee.

(b) If it is determined that an investigation is warranted, the Administrator of the correctional facility or designee shall be responsible for ensuring that all involved parties to an incident or event including custody staff, non-custody staff and inmates are available for interviews, if so requested, by representatives of the Special Investigations Division, the New Jersey State Police, the Division of Criminal Justice or the county prosecutor's office until such time as the investigation is completed.

(c) All information relative to the incident or event shall be shared with outside law enforcement agencies in order to facilitate an accurate, timely and complete investigation.

10A:21-5.8 Written reports

(a) As soon as possible following the occurrence of an unusual incident or event, the Administrator or designee shall prepare and submit a written report to the Chief of Staff, New Jersey Department of Corrections, with copies to:

1. The Commissioner;
2. The Assistant Commissioner, Division of Operations; and
3. The Chief Investigator of the Special Investigations Division.

(b) A follow-up report may be submitted following the completion of the investigation.

10A:21-5.9 Dissemination of reporting procedures

(a) Each correctional facility shall be responsible for developing written procedures and post orders that are consistent with this subchapter.

(b) Copies of the written procedures and/or post orders regarding the reporting of unusual incidents or events shall be disseminated to all supervisory custody personnel.

(c) Copies of the procedures and post orders shall be maintained at the Center Control.

10A:21-5.10 (Reserved)

SUBCHAPTERS 6 THROUGH 7. (RESERVED)

SUBCHAPTER 8. REPORTING VIOLATIONS OF THE CRIMINAL STATUTES

10A:21-8.1 Role of the prosecutor's office

(a) The county prosecutor's office is responsible for prosecuting violations of the criminal statutes. Decisions concerning prosecution are within the purview of that office.

(b) Prosecutors who have questions with respect to this subchapter should contact the Prosecutor's Advisory Unit in the Division of Criminal Justice.

10A:21-8.2 Reportable suspected violations of criminal statutes

(a) The Special Investigations Division shall be responsible for ensuring that the following suspected violations of criminal statutes are reported in writing to the prosecutor of the county in which the correctional facility is located, if the act occurred in a correctional facility, or to the county prosecutor where the suspected violation of the criminal statutes occurred:

1. All acts committed by inmates, staff or visitors, which could constitute offenses of the first, second, third or fourth degree under the New Jersey Criminal Statutes or the Controlled Dangerous Substance Act, N.J.S.A. 24:21-1 et seq.;
2. Simple assaults committed by inmates, staff or visitors, which become aggravated assaults if committed upon any law enforcement officer acting in the performance of his or her duties while in uniform or while exhibiting evidence of his or her authority, pursuant to N.J.S.A. 2C:12-1a and b;
3. Any act which would constitute an indictable offense under the Controlled Dangerous Substance Act; or
4. The introduction of, or providing an inmate with, any weapon, tool or other item which could be used in an escape.

10A:21-8.3 Non-reportable violations of criminal statutes

(a) The following violations of criminal statutes need not be reported by the Special Investigations Division to the county prosecutor:

1. Possession or introduction of contraband unless said contraband constitutes an implement of escape or unless said contraband would constitute an indictable offense under the Controlled Dangerous Substance Act; or
2. Any act which would constitute a disorderly or petty disorderly persons offense under the New Jersey Criminal Statutes.

10A:21-8.4 (Reserved)

10A:21-8.5 Special Investigations Division reporting procedures

(a) The Special Investigations Division shall be responsible for investigating and preparing written investigative reports upon the occurrence of incidents and events as established in this chapter.

(b) The Special Investigations Division shall ensure that all inmate acts which may constitute crimes of the first, second, third or fourth degree under the Criminal Code of the State of New Jersey (N.J.S.A. 2C:1-1 et seq.) requiring written prosecutor notification shall be timely forwarded to the appropriate county prosecutor.

(c) Any additional pertinent information compiled subsequent to the primary investigative report shall be forwarded by the Special Investigations Division to the appropriate Prosecutor as expeditiously as possible.

(d) The Special Investigations Division shall be responsible to ensure that all investigative reports shall be made available upon request to the:

1. Commissioner;
2. Chief of Staff; and
3. Assistant Commissioner, Division of Operations.