

CHAPTER 34

NEW JERSEY MUNICIPAL DETENTION FACILITIES

Authority

N.J.S.A. 30:1B-6 and 30:1B-10.

Source and Effective Date

R.2007 d.225, effective June 27, 2007.
See: 39 N.J.R. 1394(a), 39 N.J.R. 3384(a).

Chapter Expiration Date

Chapter 34, New Jersey Municipal Detention Facilities, expires on June 27, 2012.

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 The new rules at adopted N.J.A.C. 10A:31 replaced Chapter 34, County Correctional Facilities, which was repealed by R.1986 d.182, effective May 19, 1986.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, New Jersey Municipal and County Correctional Facilities, 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: 29 N.J.R. 298(a), 29 N.J.R. 886(a). 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was adopted as new rules and Subchapter 3, Processing and Housing Juveniles in Municipal Detention Facilities, was repealed.

Chapter 34, New Jersey Municipal Detention Facilities, was readopted as R.2002 d.206, effective June 7, 2002. See: 34 N.J.R. 1307(a), 34 N.J.R. 2312(b).

Chapter 34, New Jersey Municipal Detention Facilities, was readopted as R.2007 d.225, effective June 27, 2007. As a part of R.2007 d.225, Subchapter 2, Minimum Standards for New Jersey Municipal Detention Facilities, was renamed Inspection and Minimum Standards for New Jersey Municipal Detention Facilities and Subchapter 3, Security and Control, and Subchapter 4, Supervision and Care of Detainees, were adopted as new rules via recodification of various sections of former Subchapter 2, effective August 6, 2007. See: Source and Effective Date. 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 establish the minimum standards for the:

1. Planning, design, inspection, and construction of new adult municipal detention facilities or renovation of existing facilities; and

2. Administration of adult municipal detention facilities. These minimum standards include guidelines for:

- i. Security and control; and
- ii. The supervision and care of detainees.

Amended by R.2002 d.206, effective July 1, 2002.

See: 34 N.J.R. 1307(a), 34 N.J.R. 2312(b).

In (a), rewrote the introductory paragraph and deleted "Establish the minimum criteria for the" in 1 and 2.

Amended by R.2007 d.225, effective August 6, 2007.

See: 39 N.J.R. 1394(a), 39 N.J.R. 3384(a).

In (a)1, inserted ", inspection;"; in (a)2, inserted "These minimum standards include guidelines for;"; and added (a)2i and (a)2ii.

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.

"Canine search" means a search conducted by a canine team consisting of a handler(s) and a dog(s) specially trained to discover and indicate to the handler(s) the presence of various substances and/or materials.

"Commissioner" means the Commissioner of the New Jersey Department of Corrections.

"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 that 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;

ix. Where prohibited, currency and stamps; and

x. Electronic communication devices.

"Crime" means an indictable offense or equivalent in another state.

"Custody staff member in charge" means the law enforcement officer in charge of the municipal detention facility.

"Electronic communication device" means a device or related equipment or peripheral that is capable of electronically receiving, transmitting or storing a message, image or data. Examples of such electronic devices include, but are not limited to, all types and sizes of a computer, telephone, two-way radio, camera or video/audio player/recorder, fax machine, pager or beeper, personal data assistant, hand-held e-mail system, or any other device containing a means of internet access or receiving, transmitting or storing information electronically by means of audio, visual or recorded data.

"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.

"Licensed medical professional" means an appropriately licensed health care provider who is a physician, registered nurse, nurse practitioner or physician assistant.

"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.

"Offense other than a crime" means a non-indictable offense or equivalent in another state.

"Pat search" means a thorough search of a fully-clothed inmate, including the clothing and personal property in the inmate's possession.

"Probable cause" means reasonable ground(s) of suspicion, supported by circumstances sufficiently strong to warrant a

cautious person to believe that criminal activity is taking place.

“Reasonable suspicion” means a belief that an action is necessary based upon specific and articulable facts that, taken together with rational inferences from those facts, reasonably support a conclusion.

“Scanning/testing device” means a mechanical and/or electronic instrument used to identify or to detect certain substances and materials.

“Scanning/testing device search” means a search of a person or object by exposure to a mechanical and/or electronic instrument used to detect certain substances and materials.

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

Amended by R.2002 d.206, effective July 1, 2002.
See: 34 N.J.R. 1307(a), 34 N.J.R. 2312(b).

Inserted “Custody staff member in charge” and deleted “Officer in charge”.

Amended by R.2007 d.225, effective August 6, 2007.
See: 39 N.J.R. 1394(a), 39 N.J.R. 3384(a).

In the introductory paragraph, substituted a colon for the period at the end; added definitions “Canine search”, “Commissioner”, “Electronic communication device”, “Pat search”, “Scanning/testing device” and “Scanning/testing device search”; in definition “Contraband”, in the introductory paragraph of subsection 2, substituted “that” for “which”, in subsection 2viii, deleted “and” from the end, in subsection 2ix, substituted “; and” for a period at the end, and added subsection 2x; and in definition “Strip search”, substituted “to permit” for “and”.

Amended by R.2010 d.134, effective July 6, 2010.
See: 42 N.J.R. 34(a), 42 N.J.R. 1379(a).

Added definitions “Crime”, “Licensed medical professional”, “Offense other than a crime”, “Probable cause” and “Reasonable suspicion”.

10A:34-1.4 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 shall be deemed 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”. Amended by R.2002 d.206, effective July 1, 2002.

See: 34 N.J.R. 1307(a), 34 N.J.R. 2312(b).

In (b), substituted “as shall be deemed” for “as he or she shall deem” prior to “necessary”.

Recodified from N.J.A.C. 10A:34-2.1 by R.2007 d.225, effective August 6, 2007.

See: 39 N.J.R. 1394(a), 39 N.J.R. 3384(a).

10A:34-1.5 Written policy and internal management procedures

(a) Designated staff at each municipal detention facility shall be responsible for developing written policies and internal management procedures consistent with this chapter.

(b) All written policies and internal management procedures shall be available during inspection by designated staff of the New Jersey Department of Corrections.

New Rule, R.1992 d.193, effective May 4, 1992.

See: 24 N.J.R. 683(a), 24 N.J.R. 1796(a).

Recodified from 10A:34-2.21 by R.1996 d.405, effective August 19, 1996.

See: 28 N.J.R. 3050(a), 28 N.J.R. 3960(a).

Recodified from 10A:34-2.25 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:34-2.23.

Amended by R.2002 d.206, effective July 1, 2002.

See: 34 N.J.R. 1307(a), 34 N.J.R. 2312(b).

Inserted “internal management” preceding “procedures” throughout.

Recodified from N.J.A.C. 10A:34-2.24 and amended by R.2007 d.225, effective August 6, 2007.

See: 39 N.J.R. 1394(a), 39 N.J.R. 3384(a).

In (a), substituted “Designated staff at each” for “Each” and “chapter” for “subchapter”; and in (b), inserted “designated staff of”.

SUBCHAPTER 2. INSPECTION AND MINIMUM STANDARDS FOR NEW JERSEY MUNICIPAL DETENTION FACILITIES

10A:34-2.1 Inspection of municipal detention facilities

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

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

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 Commissioner or designee that the facility complies with the rules in this subchapter that 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.

Amended by R.2002 d.206, effective July 1, 2002.

See: 34 N.J.R. 1307(a), 34 N.J.R. 2312(b).

In (b), deleted “following” at the end of the introductory paragraph.

Recodified from N.J.A.C. 10A:34-2.2 and amended by R.2007 d.225, effective August 6, 2007.

See: 39 N.J.R. 1394(a), 39 N.J.R. 3384(a).

In (a), inserted "Commissioner of the" and "to designate Departmental staff"; in the introductory paragraph of (b), inserted "staff designated by the Commissioner of"; and in (c), substituted "Commissioner or designee" for "Department of Corrections", "the facility" for "it" and "that" for "which".

Former N.J.A.C. 10A:34-2.1, Legal authority of the Department of Corrections, recodified to N.J.A.C. 10A:34-1.4.

10A:34-2.2 Minimum standard compliance or non-compliance procedure

(a) Upon completion of an inspection, the municipal detention facility shall be given written notice by the Commissioner or designee of facility compliance or noncompliance 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) that was rated in non-compliance.

(c) In accordance with N.J.S.A. 30:1-16, the Commissioner has the authority to institute a civil action in the appropriate Superior Court to remedy improper conditions in a municipal detention facility.

(d) In accordance with the applicable provisions of N.J.A.C. 10A:1-2, the Commissioner or designee may exempt a municipal detention facility from adherence to a rule regarding minimum standards in instances where:

1. The municipal detention facility is not in compliance with one or several of the requirements of the minimum standards; but
2. The municipal detention facility is in compliance with the general intent and purpose of the minimum standards; and
3. The Commissioner or designee has determined that to require the facility to comply strictly with all requirements of the minimum standards would result in an undue hardship to the overall management of the municipal detention facility.

Recodified from 10A:34-2.4 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 (d), substituted "minimum standards" for "Standards". Former section recodified to N.J.A.C. 10A:34-2.2.

Amended by R.2002 d.206, effective July 1, 2002.

See: 34 N.J.R. 1307(a), 34 N.J.R. 2312(b).

In (d), rewrote the introductory paragraph.

Recodified from N.J.A.C. 10A:34-2.3 and amended by R.2007 d.225, effective August 6, 2007.

See: 39 N.J.R. 1394(a), 39 N.J.R. 3384(a).

In (a), substituted "Commissioner or designee of facility" for "Department of Corrections of its"; in (b), substituted "that" for "which" following "standard(s)"; in (c), substituted "Commissioner" for "Department of Corrections" and deleted "county court or" preceding "Superior Court"; in (d), substituted "Commissioner or designee" for "Department of Corrections"; and in (d)3, substituted "Commissioner or designee" for "Department".

Former N.J.A.C. 10A:34-2.2, Inspection of municipal detention facilities, recodified to N.J.A.C. 10A:34-2.1.

10A:34-2.3 Compliance with orders from a court of jurisdiction, codes, regulations and laws

(a) Municipal detention facilities shall be in conformance with all applicable public health and safety codes, set forth by the State of New Jersey, the county and municipality in which the facility is located.

(b) New construction, alterations, additions and repairs of municipal detention facilities shall comply with the State Uniform Construction Code Act, N.J.S.A. 52:27D-119 et seq., the Uniform Construction Code Rules, N.J.A.C. 5:23-1.1 et seq., and with this subchapter.

(c) All municipal detention facilities shall be in compliance with the New Jersey Uniform Fire Code, N.J.A.C. 5:70, in all aspects of fire safety.

(d) All municipal detention facilities shall be in compliance with orders from a court of jurisdiction, and applicable Federal and State codes, regulations and laws, as amended and supplemented.

Recodified from 10A:34-2.5 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:34-2.3.

Administrative change.

See: 32 N.J.R. 1772(b).

Recodified from N.J.A.C. 10A:34-2.4 and amended by R.2007 d.225, effective August 6, 2007.

See: 39 N.J.R. 1394(a), 39 N.J.R. 3384(a).

Section was "Compliance with codes, regulations and laws". Added (d).

Former N.J.A.C. 10A:34-2.3, Minimum standard compliance or non-compliance procedure, recodified to N.J.A.C. 10A:34-2.2.

10A:34-2.4 Notification of intent to construct or renovate a municipal detention facility

(a) A letter of intent to construct or renovate a municipal detention facility shall be submitted to the Coordinator, Bureau of County Services, Department of Corrections, by the authority responsible for the municipal detention facility.

(b) Upon receipt of the letter of intent, the Coordinator, Bureau of County Services, shall furnish technical assistance throughout the planning process to assure that the detention facility complies with this subchapter.

(c) All plans and specifications shall be submitted to the Coordinator, Bureau of County Services and copies also shall be submitted to any other authorities as required by law.

(d) Contracts for new construction, alterations, additions and repairs shall not be executed until final plan approval is received in writing from the Coordinator, Bureau of County Services and other authorities as required by law.

Recodified from 10A:34-2.6 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:34-2.4.

Amended by R.2002 d.206, effective July 1, 2002.

See: 34 N.J.R. 1307(a), 34 N.J.R. 2312(b).

Substituted "Coordinator" for "Chief" throughout.

Recodified from N.J.A.C. 10A:34-2.5 by R.2007 d.225, effective August 6, 2007.

See: 39 N.J.R. 1394(a), 39 N.J.R. 3384(a).

Former N.J.A.C. 10A:34-2.4, Compliance with codes, regulations and laws, recodified to N.J.A.C. 10A:34-2.3.

10A:34-2.5 Cells construction specifications

(a) Cells shall provide for single occupancy and, when feasible, shall be located in close proximity to the control area.

(b) Cells in new or renovated facilities shall have a minimum of 60 square feet of floor space, with a seven foot width and eight foot high ceiling.

(c) Cell walls shall be constructed of six inch reinforced concrete or eight inch concrete block filled with cement containing vertical reinforcement rods every 12 inches.