

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 The new rules at adopted N.J.A.C. 10A:31 replaced Chapter 34, County Correctional Facilities, which was repealed by R.1986 d.182, effective May 19, 1986.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was adopted as new rules and Subchapter 3, Processing and Housing Juveniles in Municipal Detention Facilities, was repealed.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

"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.

"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.

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

"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”.

#### 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 or 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.

**10A:34-2.11 (Reserved)**

Recodified to N.J.A.C. 10A:34-2.9 by R.2007 d.225, effective August 6, 2007.  
See: 39 N.J.R. 1394(a), 39 N.J.R. 3384(a).  
Section was "Sallyport".

**10A:34-2.12 (Reserved)**

Recodified to N.J.A.C. 10A:34-2.10 by R.2007 d.225, effective August 6, 2007.  
See: 39 N.J.R. 1394(a), 39 N.J.R. 3384(a).  
Section was "Sanitation".

**10A:34-2.13 (Reserved)**

Recodified to N.J.A.C. 10A:34-3.1 by R.2007 d.225, effective August 6, 2007.  
See: 39 N.J.R. 1394(a), 39 N.J.R. 3384(a).  
Section was "Security and control".

**10A:34-2.14 (Reserved)**

Recodified to N.J.A.C. 10A:34-4.1 by R.2007 d.225, effective August 6, 2007.  
See: 39 N.J.R. 1394(a), 39 N.J.R. 3384(a).  
Section was "Supervision and care of detainees".

**10A:34-2.15 (Reserved)**

Recodified to N.J.A.C. 10A:34-3.2 by R.2007 d.225, effective August 6, 2007.  
See: 39 N.J.R. 1394(a), 39 N.J.R. 3384(a).  
Section was "Search of persons detained, arrested or lawfully confined".

**10A:34-2.16 (Reserved)**

Recodified to N.J.A.C. 10A:34-3.4 by R.2007 d.225, effective August 6, 2007.  
See: 39 N.J.R. 1394(a), 39 N.J.R. 3384(a).  
Section was "Strip search of a person(s) who has been detained or arrested for commission of an offense other than a crime".

**10A:34-2.17 (Reserved)**

Recodified to N.J.A.C. 10A:34-3.5 by R.2007 d.225, effective August 6, 2007.  
See: 39 N.J.R. 1394(a), 39 N.J.R. 3384(a).  
Section was "Strip searches of a person(s) lawfully confined in a municipal detention facility who is charged with committing a crime".

**10A:34-2.18 (Reserved)**

Recodified to N.J.A.C. 10A:34-3.6 by R.2007 d.225, effective August 6, 2007.  
See: 39 N.J.R. 1394(a), 39 N.J.R. 3384(a).  
Section was "Body cavity searches of a person(s) who has been detained or arrested for commission of an offense other than a crime".

**10A:34-2.19 (Reserved)**

Recodified to N.J.A.C. 10A:34-3.7 by R.2007 d.225, effective August 6, 2007.  
See: 39 N.J.R. 1394(a), 39 N.J.R. 3384(a).  
Section was "Body cavity searches of a person(s) lawfully confined in a municipal detention facility who is charged with committing a crime".

**10A:34-2.20 (Reserved)**

Recodified to N.J.A.C. 10A:34-3.8 by R.2007 d.225, effective August 6, 2007.  
See: 39 N.J.R. 1394(a), 39 N.J.R. 3384(a).  
Section was "Reports regarding strip or body cavity searches".

**10A:34-2.21 (Reserved)**

Recodified to N.J.A.C. 10A:34-4.2 by R.2007 d.225, effective August 6, 2007.  
See: 39 N.J.R. 1394(a), 39 N.J.R. 3384(a).  
Section was "Housing of detainees".

**10A:34-2.22 (Reserved)**

Recodified to N.J.A.C. 10A:34-4.3 by R.2007 d.225, effective August 6, 2007.  
See: 39 N.J.R. 1394(a), 39 N.J.R. 3384(a).  
Section was "Suicide prevention and control".

**10A:34-2.23 (Reserved)**

Recodified to N.J.A.C. 10A:34-4.4 by R.2007 d.225, effective August 6, 2007.  
See: 39 N.J.R. 1394(a), 39 N.J.R. 3384(a).  
Section was "Reporting deaths".

**10A:34-2.24 (Reserved)**

Recodified to N.J.A.C. 10A:34-1.5 by R.2007 d.225, effective August 6, 2007.  
See: 39 N.J.R. 1394(a), 39 N.J.R. 3384(a).  
Section was "Written policy and internal management procedures".

**10A:34-2.25 (Reserved)**

Recodified to 10A:34-2.24 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).

**SUBCHAPTER 3. SECURITY AND CONTROL****10A:34-3.1 Security and key control**

(a) A security inspection of the cell block area shall be conducted at least weekly and a written report submitted to the administrator or officer in charge of security.

(b) Cells, cell blocks and sallyport areas shall not be used as storage areas.

(c) Weapons shall be prohibited within the security perimeter of the cell block area.

(d) A key control system shall provide an accurate accounting of the location and possession of each key. All keys shall be numbered and the detention facility shall maintain at least one duplicate key for each lock. The duplicate keys shall be maintained in an area accessible to staff at all times.

(e) The municipal detention facility shall develop written internal management procedures to be followed by staff in the event of an escape.

Recodified from 10A:34-2.15 by R.1996 d.405, effective August 19, 1996.

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

Former N.J.A.C. 10A:34-2.14, "Sanitation", recodified to 10A:34-2.13.

Recodified from 10A:34-2.14 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:34-2.12.

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), inserted the third sentence; in (e), inserted "internal management" following "written".

Recodified from N.J.A.C. 10A:34-2.13 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 "Security and control".

### 10A:34-3.2 Search of persons detained, arrested or lawfully confined

(a) Each person detained, arrested or lawfully confined to a municipal detention facility shall be thoroughly searched prior to placement in a cell.

(b) Searches shall be conducted in a professional and dignified manner, with maximum courtesy and respect for the person.

(c) No detainee shall be searched as punishment or discipline.

(d) All objects or property in the possession of the person detained, arrested or lawfully confined in a municipal detention facility, whether the objects or property are opened or closed, shall be thoroughly searched and an inventory of the contents prepared. A copy of the inventory shall be provided to the person confined in the municipal detention facility.

Recodified from 10A:34-2.17 and amended by R.1996 d.405, effective August 19, 1996.

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

Former N.J.A.C. 10A:34-2.16, "Supervision and care of detainees", recodified to 10A:34-2.15.

Recodified from 10A:34-2.16 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:34-2.14.

Recodified from N.J.A.C. 10A:34-2.15 by R.2007 d.225, effective August 6, 2007.

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

### 10A:34-3.3 Pat search

(a) A pat search shall be conducted while the detainee is fully clothed. A pat search includes both the touching of the detainee's body through clothing, including hair, dentures, etc., and a thorough examination into pockets, cuffs, seams, etc., and all personal property in the detainee's possession.

(b) Pat searches of detainees may be conducted at any time where conditions indicate a need for such searches.

(c) In addition to the foregoing routine searches, a pat search may be conducted at any time when there is a rea-

sonably clear indication that the detainee is carrying contraband.

(d) Pat searches may be conducted by either male or female custody staff members regardless of the gender of the inmate.

New Rule, R.2007 d.225, effective August 6, 2007.

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

### 10A:34-3.4 Strip search of a person(s) who has been detained or arrested for commission of an offense other than a crime

(a) A person who has been detained or arrested for commission of an offense other than a crime and who is confined in a municipal detention facility shall not be subject to a strip search unless:

1. The search is authorized by a warrant or consent; or
2. The search is based on reasonable suspicion that the person is concealing a weapon, contraband or evidence of a crime; and
  - i. The search is authorized by the custody staff member in charge; or
  - ii. Exigent circumstances require immediate action to prevent bodily harm and these circumstances prevent obtaining a search warrant or approval of the custody staff member in charge.

(b) Strip searches shall be conducted:

1. At a location where the search cannot be observed by unauthorized persons;
2. By a person of the same gender; and
3. By the number of custody staff deemed necessary to provide security.

New Rule, R.1996 d.405, effective August 19, 1996.

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

Former N.J.A.C. 10A:34-2.17, "Search of detainees", recodified to 10A:34-2.16.

Recodified from 10A:34-2.17 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:34-2.15.

Amended by R.1998 d.263, effective May 18, 1998.

See: 30 N.J.R. 966(a), 30 N.J.R. 1811(a).

Rewrote (b).

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

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

Substituted "custody staff member" for "officer" throughout; in (b), substituted "gender" for "sex" following "same" in 2 and substituted "custody staff" for "law enforcement officers" preceding "deemed" in 3. Recodified from N.J.A.C. 10A:34-2.16 by R.2007 d.225, effective August 6, 2007.

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

**10A:34-3.5 Strip searches of a person(s) lawfully confined in a municipal detention facility who is charged with committing a crime**

(a) The person authorized to conduct a strip search on a person lawfully confined in a municipal detention facility shall obtain the approval of the custody staff member in charge to conduct the search.

(b) Strip searches may be conducted in the following circumstances:

1. The custody staff member in charge authorizes confinement in a municipal detention facility or transfer to an adult county correctional facility; and
2. The custody staff member in charge authorizes the search; and
  - i. A search warrant has been issued authorizing the strip search; or
  - ii. The person lawfully confined has voluntarily consented to the search; or
  - iii. There is reasonable suspicion to believe that the person is concealing a weapon, contraband or controlled dangerous substances; or
  - iv. The person lawfully confined will be placed under psychological observation or suicide watch.

(c) The authorized strip search of a person who has been confined in a municipal detention facility for the commission of a crime shall be conducted:

1. At a location where the search cannot be observed by unauthorized persons;
2. By a person of the same gender except as set forth in (e) below; and
3. By the number of custody staff deemed reasonably necessary to provide security.

(d) A strip search shall include a check for:

1. Body vermin;
2. Cuts;
3. Bruises;
4. Needle scars; and
5. Other injuries, where appropriate.

(e) Under exigent circumstances, a strip search may be conducted by a person of the opposite gender and/or in the presence of only those custody staff deemed necessary for security of the opposite gender, as ordered by the custody staff member in charge.

New Rule, R.1996 d.405, effective August 19, 1996.  
See: 28 N.J.R. 3050(a), 28 N.J.R. 3960(a).

Former N.J.A.C. 10A:34-2.18, "Housing of detainees", recodified to 10A:34-2.22.

Recodified from 10A:34-2.18 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:34-2.16.

Amended by R.1998 d.263, effective May 18, 1998.

See: 30 N.J.R. 966(a), 30 N.J.R. 1811(a).

Rewrote (c).

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

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

Substituted references to custody staff for officer throughout; in (c) and (e), substituted "gender" for "sex" throughout; in (c)3, substituted "custody staff" for "law enforcement" preceding "deemed".

Recodified from N.J.A.C. 10A:34-2.17 by R.2007 d.225, effective August 6, 2007.

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

**10A:34-3.6 Body cavity searches of a person(s) who has been detained or arrested for commission of an offense other than a crime**

(a) The person who has been detained or arrested for the commission of an offense other than a crime shall not be subject to a body cavity search unless:

1. The search is authorized by a warrant or consent; and
2. The search is authorized by the custody staff member in charge.

(b) An authorized body cavity search of a person who has been detained or arrested for commission of an offense other than a crime shall be conducted:

1. Under sanitary conditions;
2. At a location where the search cannot be observed by unauthorized persons;
3. By a physician or a registered nurse who must be of the same gender as the detained or arrested person; and
4. In the presence of only those custody staff deemed necessary by the custody staff member in charge for security, who are of the same gender as the detained or arrested person.

(c) The person who has been detained or arrested for the commission of an offense other than a crime may:

1. Remove the object in the presence of the physician or registered nurse, and a custody staff member of the same gender as the person; or
2. Be examined by the physician or registered nurse who may remove the object, without the use of force.

(d) In the event it is determined that a foreign object which contains metal is present in the body cavity of the person who has been detained or arrested for the commission of an offense other than a crime, such object may be removed only by the physician with or without the use of force if the custody staff member in charge has authorized a body cavity search

based on a duly authorized search warrant or a valid consent of the person involved.

(e) In the event the custody staff member in charge, the physician, or the registered nurse has determined that non-metal contraband is being concealed in the body cavity of the person who has been detained or arrested for the commission of an offense other than a crime, and police are not able to obtain a search warrant for the search, and that person refuses to permit contraband removal, the person may be placed in isolation. During isolation, that person may be kept under visual surveillance to detect removal or elimination of the contraband.

New Rule, R.1996 d.405, effective August 19, 1996.

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

Former N.J.A.C. 10A:34-2.19, "Suicide prevention and control", recodified to 10A:34-2.23.

Recodified from 10A:34-2.19 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:34-2.17.

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

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

Substituted references to custody staff for officer throughout; in (b)4 and (c)1, substituted "gender" for "sex" following "same".

Recodified from N.J.A.C. 10A:34-2.18 by R.2007 d.225, effective August 6, 2007.

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

#### **10A:34-3.7 Body cavity searches of a person(s) lawfully confined in a municipal detention facility who is charged with committing a crime**

(a) Under no circumstances may a body cavity search be conducted on a person who is lawfully confined in a municipal detention facility unless:

1. A reasonable suspicion exists that contraband will be found in a body cavity;
2. The custody staff member in charge authorizes such a search; and
3. There is either a search warrant authorizing the search or a consent authorizing the search.

(b) In the event the custody staff member in charge authorizes a body cavity search that is supported by a search warrant authorizing the search or a valid consent authorizing the search, the lawfully confined person shall be escorted immediately to the hospital utilized by the municipal detention facility or other medically acceptable environment, and removal of contraband shall be conducted:

1. By a physician or registered nurse of the same gender as the lawfully confined person; and
2. Under sanitary conditions.

(c) The lawfully confined person may:

1. Remove the object in the presence of the physician or registered nurse, and custody staff member(s) assigned

by the custody staff member in charge to provide the security, if necessary; or

2. Be examined by the physician or registered nurse who may remove the object without the use of force.

(d) If the custody staff member in charge authorizes a body cavity search based on a duly authorized search warrant or a valid consent, the foreign object which contains metal may be removed only by the physician with or without the use of force.

(e) In the event the custody staff member in charge, the physician, or the registered nurse has determined that non-metal contraband is being concealed in the body cavity of the lawfully confined person, and police are not able to obtain a search warrant for the body cavity search, and the person refuses to permit contraband removal, the person may be placed in isolation. During isolation, that person may be kept under visual surveillance to detect removal or elimination of the contraband.

New Rule, R.1996 d.405, effective August 19, 1996.

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

Former N.J.A.C. 10A:34-2.20, "Reporting deaths", recodified to 10A:34-2.24.

Recodified from 10A:34-2.20 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:34-2.18.

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

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

Substituted "custody staff member" for "officer" throughout; in (b)1, substituted "gender" for "sex" throughout.

Recodified from N.J.A.C. 10A:34-2.19 by R.2007 d.225, effective August 6, 2007.

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

#### **10A:34-3.8 Reports regarding strip or body cavity searches**

(a) The person who performs the strip search or authorizes a body cavity search shall file a written report which shall be made part of the detained or arrested person's record which shall include, but not be limited to, the following information:

1. A statement of facts indicating the reasonable suspicion or probable cause for the search;
2. A copy of the search warrant, if appropriate;
3. A copy of the consent form, if appropriate;
4. The name of the custody staff member in charge who authorized the search;
5. The name(s) of the custody staff member(s) present during the search and the reason for his or her presence;
6. The name(s) of the person(s) conducting the search;
7. An inventory of any item(s) found during the search;
8. The reason for use of force, if necessary; and

9. An explanation of the exigent circumstances which required immediate action for the search to be conducted as an exception to the regulations including the reason(s) why a search warrant could not be obtained.

(b) Pursuant to N.J.S.A. 2A:161A-4, reports regarding strip search or body cavity search shall not be deemed public records, but, upon request, shall be made available to:

1. The Commissioner, New Jersey Department of Corrections;
2. The Attorney General;
3. The county prosecutor;
4. The municipal detention facility custody staff member in charge; and/or
5. The person searched.

New Rule, R.1996 d.405, effective August 19, 1996.

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

Former N.J.A.C. 10A:34-2.21, "Written policy and procedures", recodified to 10A:34-2.25.

Recodified from 10A:34-2.21 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:34-2.19.

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

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

Substituted references to custody staff member for officer throughout; in (a), substituted "which shall" for "to" following "report" in the introductory paragraph; in (b), inserted a N.J.S.A. reference preceding "reports" in the introductory paragraph.

Recodified from N.J.A.C. 10A:34-2.20 by R.2007 d.225, effective August 6, 2007.

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

### 10A:34-3.9 Use of scanning/testing devices

Searches of detainees, areas and objects by the use of scanning/testing devices may be done routinely and randomly where necessary for security purposes. Scanning/testing devices may be, but are not limited to, a walk-through device or a handheld device.

New Rule, R.2007 d.225, effective August 6, 2007.

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

### 10A:34-3.10 Monitoring systems

(a) The Commissioner or designee shall determine the need for an audio and/or video system to monitor detainees based upon the design of the detention area.

(b) The monitoring system shall remain activated at all times that detainees are present due to the added measure of safety and security the system provides. The monitoring system shall not be used as a substitute for physical cell checks of detainees.

(c) If video is used for surveillance of the cells, care shall be taken that there is no intrusion of privacy in the area around the sanitary unit.

(d) If a determination is made that audio and video monitoring of the cell(s) is required, and is either not installed or not functioning as designed, face-to-face monitoring of the detainees shall be required, as set forth in N.J.A.C. 10A:34-4.1.

Amended by R.1992 d.193, effective May 4, 1992.

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

Revised (b).

Recodified from 10A:34-2.11 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:34-2.9.

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

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

Rewrote (a) and (b); added (d).

Recodified from N.J.A.C. 10A:34-2.10 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" for "Department of Corrections"; in (b), substituted "the system" for "it" and deleted "1." preceding "The monitoring system"; and in (d), inserted ". as set forth in N.J.A.C. 10A:34-4.1".

### Case Notes

Arrestee failed to show that city maintained policy or custom of deliberate indifference as to intoxicated and potentially suicidal detainees, thus precluding his civil rights claim; arrestee, although not subject to suicide watch, was checked every 15 minutes as required by department suicide protocol, monitoring systems of cells complied with applicable regulations, and arrestee failed to point to any regulation requiring medical examination due to his intoxication. *Vallejo by Morales v. Rahway Police Dept.*, 292 N.J. Super. 333, 678 A.2d 1135 (A.D.1996).

### 10A:34-3.11 Canine searches

All detainees and their possessions and all municipal detention facilities, areas, objects and properties may be subject to searches by a canine team(s), specially trained to discover and indicate to the handler(s) the presence of various substances and materials.

New Rule, R.2007 d.225, effective August 6, 2007.

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

## SUBCHAPTER 4. SUPERVISION AND CARE OF DETAINEES

### 10A:34-4.1 Supervision and care of detainees

(a) Staff assigned to supervise detainees shall receive training in the supervision and care of detainees. Special training shall be provided for supervision and care of detainees of the opposite gender.

(b) Physical cell checks of detainees shall be made every 30 minutes.

(c) Closer surveillance, which includes cell checks at least every 15 minutes, shall be made for detainees who are:

1. A security risk;
2. A suicide risk;

3. Demonstrating unusual or bizarre behavior; and/or
4. Exhibiting signs of mental illness.

(d) A record of the physical cell checks shall be maintained in a log that shall contain, at the minimum, the following information on the detainee:

1. Full name;
2. Gender;
3. Date and time initially placed in cell;
4. Date and time of release;
5. Date and actual time of each physical cell check; and
6. Signature of staff member conducting physical cell checks.

(e) Detainees who are injured or who become ill while in custody shall be seen by appropriate medical personnel without delay. A record of the date and time of the medical visit shall be maintained. Seriously ill or injured detainees shall be transported immediately to the designated hospital.

(f) Special medication shall be provided to detainees if the need is verified by a physician.

(g) If a detainee is confined during regular meal periods, the detainee shall be provided a meal.

(h) Telephone calls shall be permitted for purposes of, but not limited to, notifying relatives, obtaining legal representation, and posting bail. Long distance telephone calls may be made "collect."

Amended by R.1989 d.401, effective August 7, 1989.  
See: 21 N.J.R. 969(b), 21 N.J.R. 2385(b).

Revised section to clarify meaning of closer surveillance. Restructured (b) and added new (c), changing time requirement regarding cell checks from "every 30 minutes" to "at least every 15 minutes." Recodified existing (c)-(g) as (d)-(h), with no change in text.  
Recodified from 10A:34-2.16 by R.1996 d.405, effective August 19, 1996.

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

Former N.J.A.C. 10A:34-2.15, "Security and control", recodified to 10A:34-2.14.

Recodified from 10A:34-2.15 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:34-2.13.

Amended by R.1999 d.194, effective June 21, 1999.

See: 31 N.J.R. 919(a), 31 N.J.R. 1616(a).

In (e), substituted a reference to appropriate medical personnel for a reference to physicians.

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

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

Substituted "gender" for "sex" throughout; in (c), substituted "A security risk" for "Security risks" in 1 and substituted "A suicide risk" for "Suicidal risks" in 2; in (d)5, inserted "actual" preceding "time"; in (h), inserted "but not limited to," preceding "notifying" and deleted "etc." following "bail".

Recodified from N.J.A.C. 10A:34-2.14 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 the introductory paragraph of (d), substituted "that" for "book which"; and in (e), substituted "designated" for "nearest".

### 10A:34-4.2 Housing of detainees

Male and female detainees shall be separated from each other by sight and sound.

Recodified from 10A:34-2.18 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:34-2.22 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:34-2.20.

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

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

Recodified from N.J.A.C. 10A:34-2.21 by R.2007 d.225, effective August 6, 2007.

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

### 10A:34-4.3 Suicide prevention and control

(a) Each municipal detention facility shall develop written policies and internal management procedures to govern the identification, placement and monitoring of detainees who are deemed to be at a risk for suicide. These policies and procedures shall include, but not be limited to:

1. Evaluation procedures at admission;
2. Close observation procedures for those deemed at risk;
3. Procedures for handling attempts to commit suicide; and
4. The location of the emergency rescue tool.

(b) An emergency rescue tool shall be made available to a custody staff member(s) working in a cell block or holding room area.

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

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

Section was "Juvenile detainees".

Recodified from 10A:34-2.19 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:34-2.23 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:34-2.21.

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), inserted "internal management" preceding "procedures" in the introductory paragraph and added 4; added (b).

Recodified from N.J.A.C. 10A:34-2.22 by R.2007 d.225, effective August 6, 2007.

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

### 10A:34-4.4 Reporting deaths

(a) At the death of a detainee, notification shall be given by the Chief of Police to the Coordinator, Bureau of County Services, Department of Corrections, within three business days.

(b) Following this notification and within two weeks, a written report shall be submitted by the Chief of Police to the Coordinator, Bureau of County Services, Department of Cor-

rections. This report shall contain, at minimum, the following information:

1. Detainee's name, age and gender;
2. Date and time of admission into the cell or holding room;
3. Reason for placement in cell or holding room;
4. Logbook entries noting the times of each physical cell check;
5. Circumstances surrounding the death; and
6. Findings of the investigating custody staff member.

New Rule, R.1989 d.401, effective August 7, 1989.

See: 21 N.J.R. 969(b), 21 N.J.R. 2385(b).

Recodified from 10A:34-2.20 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:34-2.24 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:34-2.22.

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" preceding ", Bureau" throughout; in (a), substituted "business" for "working" preceding "days"; in (b), substituted "gender" for "sex" in 1 and "custody staff member" for "officer" following "investigating" in 6.

Recodified from N.J.A.C. 10A:34-2.23 by R.2007 d.225, effective August 6, 2007.

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