

**CHAPTER 21
REPORTS**

Authority

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

Executive Order No. 66(1978) Expiration Date
Chapter 21, Reports, expires on February 4, 1996.

CHAPTER TABLE OF CONTENTS

SUBCHAPTERS 1 THROUGH 4. (RESERVED)

SUBCHAPTER 5. REPORTS OF UNUSUAL INCIDENTS OR EVENTS

- 10A:21-5.1 Preliminary inquiry
- 10A:21-5.2 Telephone reports within the Department of Corrections; reportable unusual incidents or events
- 10A:21-5.3 Telephone reports to judges in the event of an escape
- 10A:21-5.4 Correctional facility liaison to outside law enforcement agencies
- 10A:21-5.5 Telephone reports to outside law enforcement agencies; reportable unusual incidents and events
- 10A:21-5.6 Observers from law enforcement agencies
- 10A:21-5.7 Correctional facility cooperation with investigation
- 10A:21-5.8 Written reports
- 10A:21-5.9 Dissemination of reporting procedures
- 10A:21-5.10 Forms

SUBCHAPTERS 6 THROUGH 7. (RESERVED)

SUBCHAPTER 8. REPORTING VIOLATIONS OF THE CRIMINAL STATUTES

- 10A:21-8.1 Role of the prosecutor's office
- 10A:21-8.2 Reportable suspected violations of criminal statutes
- 10A:21-8.3 Non-reportable violations of criminal statutes
- 10A:21-8.4 Referral of questionable violations
- 10A:21-8.5 Reporting procedures

SUBCHAPTERS 1 THROUGH 4. (RESERVED)

SUBCHAPTER 5. REPORTS OF UNUSUAL INCIDENTS OR EVENTS

Source and Effective Date

R.1991 d.53, effective February 4, 1991.
See: 22 N.J.R. 3304(a), 23 N.J.R. 304(a).

10A:21-5.1 Preliminary inquiry

(a) When a Superintendent or his or her designee becomes aware of the occurrence of an unusual incident or event, he or she shall notify the Internal Affairs Unit 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 Internal Affairs Unit, the Superintendent 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 Internal Affairs Unit 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 Superintendent or his or her designee that the incident or event is of such significance that the incident or event has the potential for disrupting the orderly operation of the correctional facility, or if the orderly operation of the correctional facility has been disrupted because of the incident or event, the Superintendent or his or her designee shall promptly contact the Assistant Commissioner of the appropriate Division or his or her designee and the Public Information Officer, New Jersey Department of Corrections, 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 which shall be reported by telephone to the Assistant Commissioner or his or her 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. An escape or walkaway in which:

- 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 drugs, narcotics or intoxicants into the correctional facility by staff;
 11. Suspected drug, narcotic or intoxicant abuse 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 a flood, tornado, earthquake 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 reports to judges in the event of an escape

(a) 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.

(b) If an escape from a medium or maximum security correctional facility occurs during the evening, weekend or on a holiday, the Superintendent or his or her designee shall notify the appropriate Assistant Commissioner. 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 appropriate Assistant Commissioner, attempts shall then be made to contact the Deputy Director or the Deputy Commissioner if the Deputy Director is also unavailable.

(c) 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 Superintendent, the Internal Affairs Unit assigned to a correctional facility 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) At the direction of the Superintendent, an investigator from the Internal Affairs Unit shall promptly report, by telephone, the following unusual incidents or events to the appropriate county prosecutor, the local State Police Commander, and/or the local police agency having primary jurisdiction:

1. A homicide;
2. A serious injury to an inmate(s) or staff member(s);
3. A suspicious death;
4. A suicide;
5. The taking of a hostage(s);
6. A disturbance involving a considerable number of inmates or employees wherein the security or the orderly operation of the correctional facility is threatened, for example:
 - i. A riot; or
 - ii. A work stoppage;
7. An escape or walkaway in which:
 - i. Force was used;
 - ii. A weapon was used;
 - iii. An injury to an inmate(s) or staff member(s) resulted;
 - iv. A crime was committed;

v. The inmate(s) involved escaped from a secure or self-contained unit;

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

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

8. An indictable drug offense involving a staff member(s) or visitor(s);

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

10. A natural disaster such as a flood, tornado, earthquake or cyclone, whereby the security of the correctional facility is threatened; and

11. 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 6 above, the Superintendent or his or her designee shall contact one of the following persons in the Division of Criminal Justice:

1. The Director, whose office telephone number is (609) 984-0027; or

2. The Deputy Director, whose office telephone number is (609) 984-0029 in the Director's absence; or

3. The Chief, Special Prosecutions Section, whose office telephone number is (609) 984-7596 in the absence of the Deputy Director.

(c) In the event that the unusual incident or event occurs after working hours, on weekends or on holidays and one of the above named persons must be contacted, a telephone call shall be made to the Division of Criminal Justice's 24 hour Control Number, (609) 984-6122, to be provided with a telephone number at which these persons can be reached.

(d) At the direction of the Superintendent, an investigator from the Internal Affairs Unit shall promptly report, by telephone, to those parties notified in (a) above the capture and/or return of an escapee 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 Criminal Justice liaison decide to send an observer to the correctional facility, the Superintendent shall have the observer met by an investigator from the Internal Affairs Unit 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 his or her designee.

(b) If it is determined that an investigation is warranted, the Superintendent of the correctional facility or his or her designee shall be responsible for ensuring that all involved parties to an incident or event including corrections officers, non-custody staff members and inmates are available for interviews, if so requested, by representatives of the Internal Affairs Unit, 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) Within 10 working days following the occurrence of an unusual incident or event, the Superintendent or his or her designee shall always prepare and submit Form 844-I INCIDENT REPORT to the Deputy Commissioner, New Jersey Department of Corrections, with copies to:

1. The Commissioner;
2. The appropriate Assistant Commissioner; and
3. The Chief Investigator of the Internal Affairs Unit.

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

(c) In addition to preparing and submitting Form 844-I INCIDENT REPORT upon the occurrence of incidents and events listed in N.J.A.C. 10A:21-5.2, Form 844-I shall also be prepared and submitted to the Deputy Commissioner when the following types of incidents or events occur:

1. Homosexual incidents between inmates in which force was used;
2. Undue familiarity between staff and inmates if there is evidence of a sexual relationship;
3. The introduction of contraband into the correctional facility, such as:
 - i. Firearms;
 - ii. Narcotics;
 - iii. Dangerous drugs; and
 - iv. Money in excess of 20 dollars;
4. Disturbances or breaches of good order involving four or more inmates or any incident symptomatic of possible general disturbance or unrest;

5. Instances where an employee or an inmate has been injured during an act of physically restraining an inmate;

6. Serious injuries to inmates or employees requiring medical or surgical treatment;

7. Allegations of theft made against staff members;

8. Suspicions of theft by staff members;

9. Investigations of allegations or suspicions of theft by staff members;

10. Arrests of employees; and

11. Incidents involving assaults on officers.

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 Forms

Form 844-I INCIDENT REPORT may be reproduced by each correctional facility from originals that are available by contacting the Standards Development Unit, New Jersey Department of Corrections.

SUBCHAPTERS 6 THROUGH 7. (RESERVED)

SUBCHAPTER 8. REPORTING VIOLATIONS OF THE CRIMINAL STATUTES

Source and Effective Date

R.1991 d.43, effective February 4, 1991.
See: 22 N.J.R. 3440(a), 23 N.J.R. 306(a).

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 Superintendent of each correctional facility shall be responsible for ensuring that the following suspected violations of criminal statutes are reported in writing to the county prosecutor of the county in which the correctional facility is located, if the act occurred in the 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 Superintendent 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 only a disorderly or petty disorderly persons offense under either the New Jersey Criminal Statutes or Controlled Dangerous Substance laws, in which case said reports of such acts should be reported to the police department in the jurisdiction where the act occurred.

10A:21-8.4 Referral of questionable violations

In instances where uncertainty exists with respect to the correct classification or gradation of an offense, the matter immediately shall be referred to the Office of the Commissioner for advice as to appropriate disposition.

10A:21-8.5 Reporting procedures

(a) The Internal Affairs Unit of the correctional facility shall review the facts of a violation of criminal statutes to determine whether the actions constitute a crime of the first, second, third or fourth degree.

(b) If the violation of the criminal statutes is determined to be one of the degrees in (a) above, the Internal Affairs Unit shall prepare a report which shall include:

1. The name of the accused person;
2. All available pertinent facts concerning the nature and circumstances of the violation;
3. In the case of inmate violators, a statement as to the status of disciplinary action taken thus far; for example, what charges have been written and how much of the adjudication process has been completed at the time of the report; and
4. In the case of staff or visitor violations, a statement as to what actions have been taken or are being considered by the correctional facility; for example, suspension, termination, removal from visit list and banning from the correctional facility.

(c) The report shall be signed by the Superintendent and forwarded to the appropriate county prosecutor within five days of the occurrence of the violation.

(d) Any additional pertinent information compiled subsequent to the primary report also shall be forwarded to the Prosecutor as expeditiously as possible. The prosecutor shall be informed of the final outcome of the disciplinary process and what sanctions were imposed.

(e) The Deputy Commissioner shall be notified, in writing, of all cases referred to the prosecutor. Said notice shall consist of a copy of the report to the prosecutor in (b) above.

(f) Decisions concerning prosecution shall be at the discretion of the prosecutor's office.