

CHAPTER 34
NEW JERSEY MUNICIPAL DETENTION
FACILITIES

Authority

N.J.S.A. 30:1B-6, 30:1B-10, and 2A:4A-37.

Source and Effective Date

R.1992 d.193, effective April 6, 1992.
See: 24 N.J.R. 683(a), 24 N.J.R. 1796(a).

Executive Order No. 66(1978) Expiration Date

Chapter 34, New Jersey Municipal Detention Facilities, expires on April 6, 1997.

Chapter Historical Note

Chapter 34, originally County Correctional Facilities, was adopted prior to the creation of the Department of Corrections, 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 Corrections Department on November 1, 1976, all rules of the former Division of Correction and Parole were transferred to the new executive agency. Subsequently, the Department of Corrections adopted rules on 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 The new rules were codified at N.J.A.C. 10A:31 (Chapter 31) and essentially replaced the former Chapter 34, which was repealed by R.1986 d.182, effective May 19, 1986.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).

The current text of Chapter 34, New Jersey Municipal and County Correctional Facilities, became effective with Subchapter 2, Minimum Standards for New Jersey Municipal Detention Facilities, adopted as R.1987 d.149, effective April 6, 1987. See: 18 N.J.R. 2412(a), 19 N.J.R. 548(a). Subchapter 3, Processing and Housing Juveniles in Municipal Detention Facilities, was adopted as R.1991 d.293, effective June 17, 1991. See: 23 N.J.R. 935(c), 23 N.J.R. 1945(b). Pursuant to Executive Order No. 66(1978), Chapter 34 was readopted as R.1991 d.193. See: Source and Effective Date. The name of Chapter 34 was changed to 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).

See section annotations for specific rulemaking activity.

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SUBCHAPTER 1. (RESERVED)

SUBCHAPTER 2. MINIMUM STANDARDS FOR NEW JERSEY MUNICIPAL DETENTION FACILITIES

10A:34-2.1 Definitions

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

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

“Contraband” means:

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

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

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

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

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

“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.

“Minimum standards” means the basic rules and regulations 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.

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

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

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

Added “Body cavity search”, “Contraband”, “Exigent circumstances”, “Lawfully confined”, “Officer in charge” and “Strip search”.

10A:34-2.2 Legal authority of the Department of Corrections

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

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

10A:34-2.3 Inspection of municipal detention facilities

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

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

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

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

10A:34-2.4 Minimum standard compliance or non-compliance procedure

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

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

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

(d) A written variance from Standards may be granted by the Department of Corrections 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 Department 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.

10A:34-2.5 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. 5:18-1.1 et seq., in all aspects of fire safety.

10A:34-2.6 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 Chief, 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 Chief, 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 Chief, 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 Chief, Bureau of County Services and other authorities as required by law.

10A:34-2.7 Cells 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 reinforcement rods every 12 inches.

(d) Cell ceilings shall be constructed of pre-cast concrete slabs or reinforced concrete.

(e) Cell floors shall be constructed of terrazzo or sealed concrete and shall be sloped to a drain outside of the cell.

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

(g) Cell doors shall be security type hollow core metal (minimum 12 gauge) steel. The doors shall slide or swing into the cell corridor and shall contain a standard food pass/cuff port, a pull type safety door handle and observation port of security glass at least nine-sixteenths inch thick or security type lexan at least one half inch thick. Doors shall be secured with detention type locks (preferably lever tumbler and paracentric keyway) with independent dead bolts.

(h) Natural light is recommended for each cell. All windows in the cell block area shall be of the approved security type (a tool resistant type steel frame with nine-sixteenths inch security glazing or one-half inch security type lexan).

(i) Each cell shall be numbered or lettered for proper identification.

Amended by R.1992 d.193, effective May 4, 1992.
See: 24 N.J.R. 683(a), 24 N.J.R. 1796(a).

Revised (f)-(h).
Amended by R.1996 d.405, effective August 19, 1996.
See: 28 N.J.R. 3050(a), 28 N.J.R. 3960(a).

In (f) and (g) eliminated references to bars in cell fronts and doors, and in (g) substituted a food pass/cuff port for a food passage.

10A:34-2.8 Cell equipment

(a) Cells shall contain a steel bunk firmly affixed to the wall or floor or both. The use of a raised platform bunk in lieu of a steel bunk is acceptable. When sliding barred doors are utilized, the bunk shall be located no closer than 12 inches from the door.

(b) Bunks or raised platforms shall be topped with hardwood at least two inches thick or a fire retardant mattress which is approved by the State, county or local fire officials. Mattresses shall be provided for detainees confined overnight in those cells that have bunks or raised platforms topped with hardwood.

(c) Cells shall be equipped with a detention type toilet and lavatory with drinking font, preferably of stainless steel construction.

(d) Sanitary units shall be serviced via a chase located outside the cell and equipped with a shutoff valve.

(e) Cell equipment shall be secured with tamper-resistant screws.

(f) Approved security type light fixtures affording a minimum of 20 foot candle illumination shall be provided for each cell.

(g) Ventilation grilles used inside cells shall be rated for maximum security use.

Amended by R.1988 d.583, effective December 19, 1988.

See: 20 N.J.R. 2442(b), 20 N.J.R. 3155(b).

Deleted (e); renumbered (f)-(g) as (e)-(f).

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

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

Revised (c).

Amended by R.1996 d.405, effective August 19, 1996.

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

Added provision relating to ventilation grilles.

10A:34-2.9 Holding rooms

(a) Holding rooms shall have a minimum of 100 square feet of floor space with eight foot high ceilings.

(b) Construction and equipment of holding rooms shall be the same as required in N.J.A.C. 10A:34-2.7 and N.J.A.C. 10A:34-2.8, except the bunk shall be either:

1. A steel bench firmly affixed to the floor, wall, or both; or
2. A raised concrete platform.

(c) The hardwood topping on the steel bench or concrete platform shall be firmly affixed.

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); added new (c).

10A:34-2.10 Cell corridors

(a) Cell corridors shall be at least four and one half feet in width.

(b) Security type light fixtures secured with tamper-resistant screws which afford a minimum of 20 foot candle illumination shall be provided.

(c) Corridor windows, if provided, shall be at least nine-sixteenths inch security glazing or one half inch security type lexan. If windows open, security screening shall be provided.

(d) Floors shall be constructed of terrazzo or sealed concrete and slope to a floor drain secured with a cover held in place by tamper-resistant screws.

(e) Exterior cell corridor walls shall be constructed of six inch reinforced concrete or eight inch concrete block filled with cement containing reinforcement rods every 12 inches.

(f) Cell corridor doors shall be either:

1. The hinged type (if hinged they shall swing outwardly); or
2. The slide type.

(g) Cell corridor ceilings in new or renovated municipal detention facilities shall be constructed of pre-cast concrete slabs or reinforced concrete.

(h) Cell corridor doors shall be constructed of either:

1. Solid wood; or
2. Security type hollow core metal of 12 gauge steel.

(i) Hollow core metal or wood doors shall contain a vision port of nine-sixteenths inch security glass or one half inch security type lexan. Pull type safety handles shall be provided where necessary.

(j) An emergency panic button (not accessible to detainees) shall be provided.

(k) A telephone jack shall be provided in the cell corridor.

(l) A water outlet for cleaning of the cell block area shall be installed in the cell corridor.

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

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

Added new (g); redesignated existing (g) through (l) as (h) through (m).

Amended by R.1996 d.405, effective August 19, 1996.

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

Deleted provisions relating to cell corridor doors constructed of bars and to heat and smoke detectors.

10A:34-2.11 Monitoring systems

(a) The need for an audio or audio/video system to monitor detainees shall be determined by the Department of Corrections based upon the design of the detention area.

(b) The monitoring systems provide an added measure of safety and security but shall not be used as a substitute for physical cell checks of detainees. The monitoring system shall remain activated at all times when detainees are present.

(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.

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).

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:34-2.12 Sallyport

(a) A vehicle sallyport area shall be provided for the transfer of prisoners to and from the municipal detention facility.

(b) The sallyport shall be in close proximity to the detention area and shall contain the following:

1. Interlocking doors;
2. Audio and video communication; and

3. Emergency alarm button.

(c) A weapons' locker shall be provided in the sallyport area or in a location convenient to the detainee entrance.

10A:34-2.13 Sanitation

(a) The detention facility shall develop written procedures for the control of vermin and pests.

(b) The detention facility shall develop written procedures which require daily sanitation inspections of all detention areas.

Recodified from 10A:34-2.14 by R.1996 d.405, effective August 19, 1996.

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

Former section, "Fire safety", repealed.

10A:34-2.14 Security and 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 block 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.

(e) The municipal detention facility shall develop written 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.

10A:34-2.15 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 sex.

(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. Security risks;
2. Suicidal risks;
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 book which shall contain, at the minimum, the following information on the detainee:

1. Full name;
2. Sex;
3. Date and time initially placed in cell;
4. Date and time of release;
5. Date and 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 a physician 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 nearest 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 the purpose of notifying relatives, obtaining legal representation, posting bail, etc. 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.

10A:34-2.16 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.

10A:34-2.17 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 officer 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 officer in charge.

(b) Strip searches shall be conducted, in private, by a person of the same sex.

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.

10A:34-2.18 Strip searches of a person(s) lawfully confined in 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 officer in charge to conduct the search.

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

1. The officer in charge authorizes confinement in a municipal detention facility or transfer to an adult county correctional facility; and
2. The officer 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, in private, by a person of the same sex.

(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 sex and/or in the presence of only those officers deemed necessary for security of the opposite sex as ordered by the officer 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.

10A:34-2.19 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 officer 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 sex as the detained or arrested person; and
4. In the presence of only those officers deemed necessary by the officer in charge for security, who are of the same sex 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 an officer of the same sex 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 officer 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 officer in charge, the physician, or the registered nurse has determined that nonmetal 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.

10A:34-2.20 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 officer 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 officer 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 sex 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 officer(s) assigned by the officer 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 officer 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 officer in charge, the physician, or the registered nurse has determined that nonmetal 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.

10A:34-2.21 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 to 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 officer in charge who authorized the search;
5. The name(s) of the officer(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) 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 officer 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.

10A:34-2.22 Housing of detainees

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

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).

10A:34-2.23 Suicide prevention and control

(a) Each municipal detention facility shall develop written policies and 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; and
3. Procedures for handling attempts to commit suicide.

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).

10A:34-2.24 Reporting deaths

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

(b) Following this notification and within two weeks, a written report shall be submitted by the Chief of Police to the Chief, Bureau of County Services, Department of Corrections. This report shall contain, at minimum, the following information:

1. Detainee's name, age and sex;
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 officer.

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).

10A:34-2.25 Written policy and procedures

(a) Each municipal detention facility shall be responsible for developing written policies and procedures consistent with this subchapter.

(b) All written policies and procedures shall be available during inspection by 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).

SUBCHAPTER 3. PROCESSING AND HOUSING JUVENILES IN MUNICIPAL DETENTION FACILITIES

Authority

N.J.S.A. 30:1B-6, 30:1B-10 and 2A:4A-37.

Source and Effective Date

R.1991 d.293, effective June 17, 1991.

See: 23 N.J.R. 935(c), 23 N.J.R. 1945(b).

10A:34-3.1 Definitions

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

"Delinquency" means the commission of an act by a juvenile which if committed by an adult would constitute:

1. A crime;
2. A disorderly persons offense or petty disorderly persons offense; or
3. A violation of any other penal statute, ordinance or regulation (see N.J.S.A. 2A:4A-23).

"Detention" means the temporary care of juveniles in physically restricting facilities pending court disposition (see N.J.S.A. 2A:4A-22c).

“Juvenile” means an individual who is under the age of 18 years (see N.J.S.A. 2A:4A-22a).

“Juvenile-family crisis” means behavior, conduct or a condition of a juvenile, parent or guardian or other family member which presents or results in:

1. A serious threat to the well-being and physical safety of a juvenile;
2. A serious conflict between a parent or guardian and a juvenile regarding rules of conduct which has been manifested by repeated disregard for lawful parental authority by a juvenile or misuse of lawful parental authority by a parent or guardian;
3. Unauthorized absence by a juvenile for more than 24 hours from his home; or
4. A pattern of repeated unauthorized absences from school by a juvenile subject to the compulsory absences from school by a juvenile subject to the compulsory education provision of Title 18A of the New Jersey Statutes. (See N.J.S.A. 2A:4-22g.)

“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 a brief period of time, juveniles who have been taken into custody who are awaiting release or transfer to other authorities.

“Secure detention” means physical detainment or confinement of a juvenile in a locked room, set of rooms, or cell, or physically securing a juvenile to a cuffing rail or other stationary object.

10A:34-3.2 Taking juveniles into custody

(a) Pursuant to N.J.S.A. 2A:4A-31, a juvenile may be taken into custody as follows:

1. Pursuant to an order or warrant of any court having jurisdiction; or
2. For delinquency, by a law enforcement officer when there has been no process issued by a court, pursuant to the laws of arrest and the Rules of Court.

(b) Except where delinquent conduct is alleged, a juvenile may be taken into short-term custody by a law enforcement officer without order of the court when:

1. The law enforcement officer has reasonable grounds to believe that the health and safety of the juvenile is seriously endangered and taking the juvenile into immediate custody is necessary for the protection of the juvenile;
2. The law enforcement officer has reasonable grounds to believe the juvenile has left the home and care of his or her parents or guardian without the consent of such persons; or
3. An agency legally charged with the supervision of a child has notified the law enforcement agency that the child has run away from out-of-home placement, provided, however, that in any case where the law enforcement officer believes that the juvenile is an “abused or neglected child” as defined in N.J.S.A. 9:6-8.21, the law enforcement officer shall handle the case pursuant to the procedure set forth in the act (see N.J.S.A. 9:6-8.21 et seq.).

(c) The taking of a juvenile into custody shall not be construed as an arrest, but shall be deemed a measure to protect the health, morals and well-being of the juvenile.



10A:34-3.3 Custody of juveniles

(a) A juvenile delinquent may be held in a police station only for a brief period if such holding is necessary to allow release to his parent, guardian, other suitable person, or approved facility (see N.J.S.A. 2A:4A-37c).

(b) Under no circumstances shall any juvenile taken into custody pursuant to a juvenile-family crisis be held more than six hours (see N.J.S.A. 2A:4A-32a).

10A:34-3.4 Notification to parents

(a) Any person taking a juvenile into custody shall immediately notify the juvenile's parents or guardian, if any, that the juvenile has been taken into custody (see N.J.S.A. 2A:4A-33).

(b) Such notice shall be given notwithstanding that further processing time may be required before a decision is made to release or detain the juvenile.

10A:34-3.5 Processing juveniles

(a) Juveniles taken into short-term custody for a juvenile-family crisis shall be held and processed in an unlocked area of the police department (see N.J.S.A. 2A:4A-32a).

(b) Every effort shall be made to process juvenile delinquents in an unlocked area of the police station such as:

1. A booking area;
2. A juvenile aid bureau office;
3. A detective area; or
4. An interview room.

(c) Only in extraordinary situations when juvenile delinquents are assaultive, disruptive, unmanageable or charged with a serious violent crime shall they be placed in a secure cell or holding room.

(d) When the conditions delineated in (c) above are met, in lieu of placing a juvenile in a secure cell or holding room, a cuffing bar may be used provided that:

1. The juvenile is under continuous face-to-face visual supervision by a law enforcement officer or other facility staff; and
2. The juvenile does not have regular contact with adults in secure detention or confinement.

(e) If a juvenile is in custody during a regular meal period, the juvenile shall be provided with a meal.

10A:34-3.6 Separation from adult prisoners or detainees

A juvenile detainee or adjudicated delinquent shall be held in a place separate and apart from any adult charged with or convicted of crime (see N.J.S.A. 2A:4A-37c).

10A:34-3.7 Recordkeeping

(a) Whenever a juvenile is placed in secure detention (secure cell, secure holding room or cuffing bar), an entry shall be made in a separate logbook or in a separate section of the adult cell logbook. Such entry shall contain, at minimum, the following information about the juvenile:

1. Name;
2. Age;
3. Sex;
4. Charge;
5. Date and time of admission into the cell or holding room;
6. Date and time of release from the cell or holding room;
7. Cell number;
8. Time of each physical cell check (continuous face-to-face visual supervision if confined in a barred front cell); and
9. Signature of law enforcement officer conducting each physical cell check.

10A:34-3.8 Reporting suicides or suicide attempts, sexual or physical assaults or substantial injury

(a) All cells or holding rooms in which juveniles are placed shall be free of suicide hazards.

(b) If a juvenile, while in custody at a municipal police department, attempts or commits suicide, is sexually or physically assaulted, or has a substantial injury which requires medical attention, Form 192-I INCIDENT REPORT shall be completed and forwarded within three working days to the Juvenile Monitoring Unit, New Jersey Department of Corrections.

(c) A follow-up detailed internal report must be furnished to the Juvenile Monitoring Unit which includes, at minimum, the following:

1. A detailed chronology of events regarding the incident;
2. The reason for placement into the cell or holding room;
3. Logbook entries noting the times of each physical cell check;
4. Statements by all appropriate law enforcement officers; and
5. Copies of all reports from outside agencies such as:
 - i. The Division of Youth and Family Services (D.Y.F.S.);
 - ii. The Prosecutor's Office;

- iii. The Medical Examiner's Office; and
- iv. The hospital(s).

(d) In the event of a death of a juvenile from a suicide or any other reason, the Juvenile Monitoring Unit shall be notified immediately by telephone at (609) 984-6539.

(e) If a death of a juvenile occurs during the evening, weekend or holiday, the telephone report to the Juvenile Monitoring Unit shall be made immediately on the morning of the next regular working day.

(f) All juvenile suicides in municipal lockups shall be thoroughly evaluated by the New Jersey Department of Corrections to determine if all applicable policies and procedures were adhered to as well as to identify possible physical plant problems.

(g) At the discretion of the New Jersey Department of Corrections, juvenile suicide attempts, sexual and physical assaults, and substantial injuries to juveniles may be evaluated.

10A:34-3.9 Supervision of juveniles

(a) As noted in N.J.A.C. 10A:34-3.5(d), in lieu of placing juveniles in a secure cell or holding room, a cuffing bar may be used provided that:

1. The juvenile is under continuous face-to-face visual supervision by a law enforcement officer or other facility staff; and
2. The juvenile does not have regular contact with adults in secure detention or confinement.

(b) Juveniles placed in cells or holding rooms with security type hollow core metal doors shall be checked at least every 15 minutes.

(c) A reporting form shall be placed on the door whenever a juvenile is placed in the holding room, and the person checking on the juvenile shall initial the form during each check.

(d) Continuous face-to-face visual supervision shall be provided by a law enforcement officer or other facility staff, if the juvenile placed in the holding room is:

1. Visibly intoxicated;
2. Under the influence of drugs; or
3. Shows outward signs of depression.

(e) Extreme caution should be exercised before admitting juveniles in the condition outlined in (d) above into municipal detention facilities. Existing municipal police policies and procedures should be reviewed to determine if the situation warrants a medical clearance.

(f) For juveniles placed in cells or holding rooms with barred fronts, continuous face-to-face visual supervision shall be provided by a law enforcement officer or other facility staff.

(g) While audio/video monitoring systems provide an added measure of safety and security, these systems shall not be used as a substitute for continuous face-to-face visual supervision of juveniles.

10A:34-3.10 Physical facilities

(a) Municipal detention facilities shall conform to all applicable public health and safety codes, set forth by:

1. The State of New Jersey;
2. The county; and
3. The municipality in which the municipal detention facility is located.

(b) New construction, alterations, additions and repairs of municipal detention facilities shall comply with:

1. The State Uniform Construction Code Act, N.J.S.A. 52:27D-1.19 et seq.;
2. The Uniform Construction Code Rules, N.J.A.C. 5:23;
3. The New Jersey Uniform Fire Code, N.J.A.C. 5:18; and
4. With this subchapter.

10A:34-3.11 The construction and renovation of juvenile holding rooms

(a) The requirements in (b) through (k) below shall be followed when juvenile holding rooms are constructed or renovated at municipal police departments.

(b) The need for a newly constructed or renovated juvenile holding room(s) shall be determined by:

1. Past practice;
2. The volume of juveniles processed; and
3. Current compliance with appropriate laws and regulations.

(c) The Bureau of County Services, New Jersey Department of Corrections, is available to provide technical assistance from the conceptual planning stage through final blueprint review upon request.

(d) Prior to construction, blueprints for the construction of a juvenile holding room(s) shall be reviewed and approved by the Bureau of County Services, New Jersey Department of Corrections.

(e) Juveniles shall be separated by "sight and sound" from all adult detainees. The juvenile holding room should be as far removed from the adult cellblock as is practical.

(f) The holding room shall be located in an area which facilitates separate processing of juveniles (admission and release).

(g) The entrance to the holding room shall be situated so that juveniles have no contact with adult detainees being admitted or released and, if possible, away from areas utilized by the general public.

(h) The juvenile holding room shall be as non-jail like as possible, but must be secure and provide for controlled entry and exiting, and must not be a room or cell which is ordinarily used for the detention of adults.

(i) Steel mesh detention screens and/or impact-resistant security glazing must be used in place of traditional bars to secure windows and provide observation ports.

(j) When a separate holding room is provided, it must include the following:

1. A minimum of 60 square feet of floor space, with a seven foot width and an eight foot ceiling for single occupancy;

2. A minimum of 100 square feet of floor space for multi-occupancy holding rooms;

3. A bench or other seating secured to the floor and/or wall;

4. Adequate lighting, which provides a minimum of 20 foot candle illumination, with tamperproof security fixtures;

5. A minimum of 10 cubic feet per minute of fresh or purified air for each juvenile;

6. An audio or audio/video system to monitor detainees, if the need for such a system is determined by the New Jersey Department of Corrections based upon the design of the juvenile holding room(s);

7. Audio/video monitoring devices, if installed in the juvenile holding room(s), shall not provide any means by which a suicide attempt may be made;

8. No projections over two feet from the floor from which a juvenile could hang himself or herself;

9. Grills covering the air vents, that are designed to prevent articles of clothing from being tied to the grills to minimize the occurrence of suicide or suicide attempts;

10. A security type hollow core metal door, which swings outward, equipped with:
 - i. A viewport which shall be at least 10 inches by 12 inches, and constructed of $\frac{3}{8}$ inch security glazing or $\frac{1}{2}$ inch lexan;
 - ii. A detention type lock; and
 - iii. No inside doorknob;

11. A detention type combination toilet/lavatory with drinking font, preferably of stainless steel construction;

12. Floors constructed of terrazzo or sealed concrete which slope to a floor drain secured with a cover held in place by tamper-resistant screws;

13. Exterior corridor walls constructed of six inch reinforced concrete or eight inch concrete block filled with cement containing reinforcement rods every 12 inches; and

14. Ceilings constructed of pre-cast concrete slabs or reinforced concrete.

(k) A written exemption from the rules in this subchapter may be granted by the New Jersey Department of Corrections (see N.J.A.C. 10A:1-2.7) in instances where:

1. The juvenile holding room is not in compliance with one or several of the requirements listed above; but

2. The juvenile holding room(s) is in compliance with the general intent and purpose of the rules; and

3. The New Jersey Department of Corrections has determined that to require the municipal facility to comply strictly with all the rules in this section would result in an undue hardship to the overall management of the juvenile holding room(s).

10A:34-3.12 Forms

(a) The following form related to processing and housing juveniles in municipal detention facilities may be reproduced by each municipal detention facility from an original that is available by contacting the Juvenile Monitoring Unit of the Department of Corrections:

1. 192-I INCIDENT REPORT.