

## CHAPTER 23

### LETHAL INJECTION

#### Authority

N.J.S.A. 30:1B-6, 30:1B-10, 2C:11-3 and 2C:49-1 et seq.

#### Source and Effective Date

R.1996 d.530, effective October 24, 1996.  
See: 28 N.J.R. 4157(a), 28 N.J.R. 4875(a).

#### Executive Order No. 66(1978) Expiration Date

Chapter 23, Lethal Injection, expires on October 24, 2001.

#### Chapter Historical Note

Chapter 23, Lethal Injection, was adopted as R.1992 d.283, effective July 6, 1992. See: 24 N.J.R. 1677(a), 24 N.J.R. 2452(a). Subchapter 2, Lethal Injection, was originally adopted as part of R.1987 d.160, effective April 6, 1987, and codified at N.J.A.C. 10A:16-10. See: 18 N.J.R. 1662(a), 19 N.J.R. 535(a).

Pursuant to Executive Order No. 66(1978), Chapter 23, Lethal Injection, was readopted as R.1996 d.530, effective October 24, 1996. See: Source and Effective Date. See, also, section annotations.

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#### SUBCHAPTER 1. INTRODUCTION

##### 10A:23-1.1 Purpose

The purpose of this chapter is to establish guidelines for executing persons sentenced to death pursuant to N.J.S.A. 2C:11-3.

##### 10A:23-1.2 Scope

This chapter shall be applicable to the New Jersey Department of Corrections.

##### 10A:23-1.3 Definitions

The following terms, when used in this chapter, shall have the following meanings.

“Capital Sentence Unit (C.S.U.)” means the close custody unit to which persons sentenced to death pursuant to N.J.S.A. 2C:11-3, are assigned until such time that the execution is carried out, or the sentence is commuted or changed to a lesser penalty.

“Immediate family” means:

1. Father;
2. Mother;
3. Husband;
4. Wife;
5. Child;
6. Brother;
7. Sister;
8. Legal guardian; or
9. Grandparents.

Amended by R.1996 d.530, effective November 18, 1996.  
See: 28 N.J.R. 4157(a), 28 N.J.R. 4875(a).

#### SUBCHAPTER 2. LETHAL INJECTION

##### 10A:23-2.1 Place for execution

(a) The Commissioner shall provide and maintain a suitable and efficient unit enclosed from public view, within the confines of the New Jersey State Prison for the imposition for the punishment of death.

(b) The New Jersey State Prison shall contain the apparatus and equipment necessary for the carrying out of executions pursuant to N.J.S.A. 2C:11-3.

Amended by R.1996 d.530, effective November 18, 1996.  
See: 28 N.J.R. 4157(a), 28 N.J.R. 4875(a).

##### 10A:23-2.2 Provisions of services preceding execution

(a) Seven days immediately preceding the scheduled date of execution, the condemned inmate shall be placed in an isolated area to be designated by the Administrator of the New Jersey State Prison. During this isolation period, only

the following persons authorized pursuant to N.J.S.A. 2C:49-6, approved in accordance with Capital Sentence Unit visit procedures and Departmental internal management procedures regarding security shall have access to the condemned inmate;

1. Correction officers and officials;
2. Immediate family of the condemned inmate as defined in N.J.A.C. 10A:23-1.3;
3. Counsel of the inmate;
4. Person(s) authorized by court order; and
5. Upon request from the condemned inmate, a clergy or a member of the press.

(b) During the 72 hour period immediately preceding execution of the condemned, the services listed below shall be provided in accordance with the following procedures.

1. Clergical:

i. The New Jersey State Prison Chaplain or the inmate's private clergy shall, upon request of the condemned, make contact visits to the condemned on a daily basis to provide pastoral services. The time and duration of clergy visits shall be at the discretion of the Administrator of the New Jersey State Prison;

ii. Clergy from the community must present appropriate clerical credentials to the Administrator and pass a routine security check; and

iii. The Chaplain or private clergy may accompany the condemned to the execution chamber corridor if so requested by the condemned.

2. Food:

i. At least 24 hours in advance of the scheduled execution, the condemned may request the food of his or her choice to be served at the last regularly scheduled dinner, not less than eight hours prior to the execution. Such request shall be granted subject to reasonable availability and cost of the food desired; and

ii. Alcoholic beverages are prohibited.

3. Visits:

i. Window visits by immediate family members, up to a maximum of six hours per day and two persons at a time shall be permitted;

ii. Contact visits by the authorized attorney of record shall be permitted daily, subject to security requirements of the Capital Sentence Unit (C.S.U.), including prior notice to the Administrator.

iii. All contact with family members and attorney(s) shall terminate three hours prior to the time scheduled for administration of the pre-execution sedative; and

iv. During the last 72 hours there shall be no contact of any kind permitted between the condemned and any member of the news media.

4. Telephone calls:

i. The condemned may place daily telephone calls to members of his or her family, subject to appropriate scheduling procedures and the New Jersey State Prison rules; and

ii. The condemned may place collect telephone calls to his or her attorney-of-record when the telephone calls are necessary.

5. Recreation:

i. During the 72 hours preceding execution, recreation shall be permitted daily on an individual, isolated basis, if feasible.

6. Personal property:

i. The condemned shall be required to fill out a form indicating disposition of his or her personal property and saving account(s), except for such funds as may be needed to provide for burial expenses.

Administrative correction, effective January 27, 1989.

See: 21 N.J.R. 558(a).

Institutional name change.

Amended by R.1996 d.530, effective November 18, 1996.

See: 28 N.J.R. 4157(a), 28 N.J.R. 4875(a).

### 10A:23-2.3 Time for execution

(a) Upon receipt of the warrant appointing an execution date, the Commissioner shall schedule the time for implementation of the warrant and begin final arrangements including, but not limited to:

1. Designation of medical and custodial staff;
2. Selection of execution technicians;
3. Selection of witnesses; and
4. Purchase of necessary supplies.

### 10A:23-2.4 Witnesses

(a) The Commissioner shall select six adult citizens and two alternates who have volunteered to witness the execution. The two alternates shall be selected to be present in the event any of the witnesses may be unavailable on the appointed execution date.

(b) The witnesses shall receive written notice of their selection by registered mail or personal service at least seven days prior to the scheduled execution.

(c) The witnesses shall assemble at least two hours prior to the time set for execution, at a place designated by the Commissioner. The Commissioner shall assign suitable custody or administrative staff to provide security, escort and transportation to the New Jersey State Prison.

(d) The names of the witnesses shall not be disclosed until after the execution.

(e) The Commissioner shall authorize and permit, upon written request of the condemned, two members of the clergy who are not related to the condemned, to be present at the execution. These persons shall be notified of their selection and shall assemble in the same manner as for the witnesses set forth in (c) above. An alternate member of the clergy may be designated in the event either of the two clergy is unavailable.

(f) The Commissioner shall permit eight representatives of the news media to be present at the execution for the purpose of giving their respective newspapers and associations accounts of the execution. Selection of news media representatives shall be via lottery if more than two representatives from the news media services listed in (g) below request to be present at the execution.

(g) The news media persons shall be from the following services:

1. Two representatives of major wire services;
2. Two representatives of television news services;
3. Two representatives of newspapers; and
4. Two representatives of radio news services.

(h) The New Jersey State Prison shall develop written post orders and procedures for providing:

1. Escort and security for all witnesses while in the New Jersey State Prison;
2. Accommodations for witnesses; and
3. A room designated to be used for a press conference after the execution.

(i) Any person who is related by either blood or marriage to the sentenced person or to the victim shall not be authorized to be present at the execution.

(j) The Commissioner shall not authorize or permit any other person to be present, except those authorized by this subchapter.

Administrative correction, effective January 27, 1989.  
See: 21 N.J.R. 558(a).

Institutional name change.

Amended by R.1996 d.530, effective November 18, 1996.  
See: 28 N.J.R. 4157(a), 28 N.J.R. 4875(a).

#### 10A:23-2.5 Filming of execution

(a) No cameras or tape recorders are permitted to be brought into the New Jersey State Prison.

(b) There shall be no filming of the execution.

Administrative correction, effective January 27, 1989.  
See: 21 N.J.R. 558(a).

Institutional name change.

#### 10A:23-2.6 Stay of proceedings

(a) Written Stay of Proceedings or other official Order shall be received by a supervisory officer at the New Jersey State Prison main command post. Such document shall be delivered immediately to the New Jersey State Prison Administrator, who shall advise the Commissioner and provide him or her a copy of same as soon as possible. Appropriate steps shall be taken to confirm the authenticity of such Order or Stay.

(b) The New Jersey State Prison Administrator shall arrange for installation and maintenance of a special telephone line with confidential telephone number, to be available for the sole purpose of receiving incoming calls to Stay execution proceedings.

(c) In addition to the telephone bearing the main number, there shall be two additional telephones on the line, sequenced for the purpose of receiving incoming calls in the event the main line is already in use. These telephones shall be located in the New Jersey State Prison Administrator's office and witness room.

(d) Upon installation of the special telephone line, the confidential telephone number shall be hand delivered to the:

1. Governor;
2. Attorney General;
3. Commissioner; and
4. Prosecutor

(e) Twenty-four hours prior to the scheduled execution the Administrator shall arrange to hand deliver to the Governor, Attorney General, Commissioner and prosecutor a confidential code to be utilized in the event a communication is to be made via the special telephone line. This code shall be changed prior to each scheduled execution. No telephone call on this telephone line during the eight hours prior to the execution shall be deemed authentic unless accompanied by use of the designated code.

(f) During the eight hour period preceding the execution, the special telephone line shall be continuously monitored by a New Jersey State Prison staff person assigned by the New Jersey State Prison Administrator for this sole purpose. All calls from the Governor, Chief Justice or other authorized person(s) shall be reported to the New Jersey State Prison Administrator and Commissioner immediately.

Administrative correction, effective January 27, 1989.  
See: 21 N.J.R. 558(a).

Institutional name change.

Amended by R.1996 d.530, effective November 18, 1996.  
See: 28 N.J.R. 4157(a), 28 N.J.R. 4875(a).

**10A:23-2.7 Suspension of execution due to pregnancy**

(a) If there is reasonable ground to believe that a female inmate, sentenced to death, is pregnant, the New Jersey State Prison Administrator shall impanel a committee of three licensed physicians, at least one of whom shall be a specialist in obstetrics and gynecology, to conduct medical testing and ascertain her medical condition.

(b) The physicians shall conduct such medical examination as is medically indicated to determine facts relative to pregnancy. The physicians shall provide a written report of their findings to the New Jersey State Prison Administrator, who shall sign the report and transmit it to the Commissioner.

(c) If the physicians find the inmate to be pregnant, the New Jersey State Prison Administrator shall suspend execution of the death warrant.

(d) Care and services for the pregnant inmate shall be provided in accordance with N.J.A.C. 10A:16-6 PREGNANT INMATES.

(e) When the inmate is no longer pregnant, the Commissioner shall reissue the death warrant, appointing a date and time to carry out the death sentence.

Administrative correction, effective January 27, 1989:  
See: 21 N.J.R. 558(a).

Institutional name change.  
Amended by R.1996 d.530, effective November 18, 1996.  
See: 28 N.J.R. 4157(a), 28 N.J.R. 4875(a).

**10A:23-2.8 Operational staff in attendance at an execution**

(a) Two physicians shall be in attendance for an execution and shall be notified in writing, at least five days prior to the scheduled execution, by the Director, Office of Institutional Support Services (O.I.S.S.).

1. One physician may be the Medical Director of the Department of Corrections.

2. In the event the Medical Director chooses not, or is unavailable, to attend the execution, the O.I.S.S. Director shall contract with physicians to perform this service.

(b) One Registered Nurse from the community may be contracted by the O.I.S.S. Director to be in attendance during the execution.

(c) One Certified Intravenous Therapist may be hired on a consultant basis by the O.I.S.S. Director. The therapist shall provide proper identification documents to the New Jersey State Prison Administrator at least 72 hours prior to the scheduled execution.

(d) Two persons who are qualified to operate the equipment utilized to administer the lethal substance shall be selected by the Commissioner as execution technicians. Procedures shall be designed to ensure that the identity of these persons shall be confidential and that these persons shall not be aware of who actually administered the lethal substance.

Administrative correction, effective January 27, 1989.  
See: 21 N.J.R. 558(a).

Institutional name change.  
Amended by R.1992 d.283, effective July 6, 1992.  
See: 24 N.J.R. 1677(a), 24 N.J.R. 2452(a).  
Revised (a)2, (b)-(c).  
Amended by R.1996 d.530, effective November 18, 1996.  
See: 28 N.J.R. 4157(a), 28 N.J.R. 4875(a).

**10A:23-2.9 Medical supplies and equipment**

(a) The Office of Institutional Support Services (O.I.S.S.) Director of the Department of Corrections shall prepare a list of medical supplies, execution substances and equipment to be utilized at each execution. These items shall be purchased at least five working days prior to the scheduled execution and shall be set up under the supervision of the O.I.S.S. Director.

(b) All execution substances and medications to be utilized in the execution shall be stored in a securely locked box or container, which shall be stored within a securely locked cabinet or closet. The locked box or container shall only be used for the storage of execution substances and medications to be used in the execution. There shall be only one set of keys to this storage area and this set shall be retained by the Commissioner or his or her designee.

Amended by R.1992 d.283, effective July 6, 1992.  
See: 24 N.J.R. 1677(a), 24 N.J.R. 2452(a).  
Revised text.  
Amended by R.1996 d.530, effective November 18, 1996.  
See: 28 N.J.R. 4157(a), 28 N.J.R. 4875(a).

**10A:23-2.10 Preparation of the condemned inmate**

(a) A sedative shall be administered to the condemned inmate prior to the time set for the execution in accordance with N.J.S.A. 2C:49-2.

(b) Preparation of the condemned inmate for execution shall be initiated and completed in accordance with written operational procedures developed by the Office of Institutional Support Services (O.I.S.S.) and the New Jersey State Prison Administrator or his or her designee.

Administrative correction, effective January 27, 1989.  
See: 21 N.J.R. 558(a).  
Institutional name change.  
Amended by R.1992 d.283, effective July 6, 1992.  
See: 24 N.J.R. 1677(a), 24 N.J.R. 2452(a).  
Revised text.  
Amended by R.1996 d.530, effective November 18, 1996.  
See: 28 N.J.R. 4157(a), 28 N.J.R. 4875(a).

**10A:23-2.11 Training**

During the 48 hour period preceding an execution, the Office of Institutional Support Services (O.I.S.S.) and the New Jersey State Prison Administrator shall arrange for training in execution procedures for all personnel who are designated to provide a service during an execution.

Administrative correction, effective January 27, 1989.

See: 21 N.J.R. 558(a).

Institutional name change.

Amended by R.1992 d.283, effective July 6, 1992.

See: 24 N.J.R. 1677(a), 24 N.J.R. 2452(a).

Revised (a).

Amended by R.1996 d.530, effective November 18, 1996.

See: 28 N.J.R. 4157(a), 28 N.J.R. 4875(a).

**10A:23-2.12 Execution chamber and executioners' room**

(a) The execution chamber shall be equipped with a cardiac monitor. The monitor shall be positioned to provide visual access to the team physicians, but to be obscured from vision by the witnesses.

(b) An emergency cart will be located at the exterior wall of the room. The emergency cart shall contain such equipment, supplies and medications as may be needed to revive the inmate in the event a last minute Stay of Execution is imposed.

(c) The executioners' room shall contain equipment, supplies, execution substances and medications as are specified pursuant to N.J.A.C. 10A:23-2.9.

Amended by R.1992 d.283, effective July 6, 1992.

See: 24 N.J.R. 1677(a), 24 N.J.R. 2452(a).

Revised (c).

Amended by R.1996 d.530, effective November 18, 1996.

See: 28 N.J.R. 4157(a), 28 N.J.R. 4875(a).

**10A:23-2.13 Preparation of the execution substances and medications**

At least one hour prior to the time set for the execution, the Commissioner or his or her designee shall remove the execution substances and medications to be used in the execution from the place of storage and give the substances and medications to the person(s) designated by the O.I.S.S. Director. Upon receipt of the execution substances and medications, the designated person(s) shall be escorted to the executioners' room to prepare the execution materials.

Amended by R.1996 d.530, effective November 18, 1996.

See: 28 N.J.R. 4157(a), 28 N.J.R. 4875(a).

**10A:23-2.14 Execution**

(a) Upon arrival of the condemned at the execution chamber, assigned personnel shall position the stretcher and connect necessary operating systems in accordance with Capital Sentence Unit procedures. The physicians shall take their positions to observe the condemned inmate and the cardiac monitor.

(b) The Commissioner or his or her designee shall, in the presence of the assembled witnesses and news media representatives, read the official death sentence Warrant.

(c) Upon order of the Commissioner or his or her designee, the executioners shall perform the duties and responsibilities conferred on them by law.

(d) Upon completion of the execution procedures, the physicians shall enter the execution chamber, examine the deceased and confirm death. The witnesses shall then be escorted from the witness room. Pursuant to written Capital Sentence Unit procedures, the deceased shall be removed from the execution chamber and transported to a waiting vehicle.

Amended by R.1996 d.530, effective November 18, 1996.

See: 28 N.J.R. 4157(a), 28 N.J.R. 4875(a).

**10A:23-2.15 Stay of execution**

If, during any stage of the execution, a Stay of Proceedings is ordered, execution procedures shall be halted and the witnesses shall be removed. Life sustaining procedures shall immediately be initiated. Where medically indicated, the inmate may be transferred to the health care facility designated by the Commissioner or his or her designee for further treatment.

Amended by R.1996 d.530, effective November 18, 1996.

See: 28 N.J.R. 4157(a), 28 N.J.R. 4875(a).

**10A:23-2.16 Death certificates**

(a) Immediately after the execution, the physicians shall examine the deceased and shall prepare a written report stating the nature of the examination and occurrence of death.

(b) The Commissioner shall prepare and sign a separate certificate setting forth the time and place of the execution and stating that the execution was conducted in conformity to the sentence of the Court and provisions of N.J.S.A. 2C:11-3.

(c) The Commissioner's certificate shall be filed within 10 days in the Superior Court in the county in which the person executed was convicted.

Amended by R.1996 d.530, effective November 18, 1996.

See: 28 N.J.R. 4157(a), 28 N.J.R. 4875(a).

**10A:23-2.17 Disposition of the deceased**

Immediately after the execution, the deceased shall be transported to the county morgue. The disposition of the body shall be in accordance with N.J.S.A. 2C:49-9 and N.J.A.C. 10A:16-7, Critical Illness or Death of Inmates.

Amended by R.1996 d.530, effective November 18, 1996.

See: 28 N.J.R. 4157(a), 28 N.J.R. 4875(a).

**10A:23-2.18 Memorial or religious service for the deceased**

Except as provided under N.J.S.A. 2C:49-9b, no memorial, religious or other services shall be held at New Jersey State Prison over the body of the deceased.

Administrative correction, effective January 27, 1989.

See: 21 N.J.R. 558(a).

Institutional name change.

Amended by R.1996 d.530, effective November 18, 1996.

See: 28 N.J.R. 4157(a), 28 N.J.R. 4875(a).

**10A:23-2.19 Clean up procedures**

(a) Upon removal of the deceased, personnel designated by the New Jersey State Prison Administrator shall gather all used and unused execution substances, medications and syringes. These items shall be maintained in a secure receptacle in an area designated by the Administrator. The Administrator shall request that a Special Investigations Division Investigator monitor these activities and provide security.

(b) All stored materials shall be retained in a secure location for a period of 10 working days. Thereafter, the Administrator shall order them to be destroyed and/or disposed of in accordance with internal management procedures and accepted practices.

Administrative correction, effective January 27, 1989.

See: 21 N.J.R. 558(a).

Institutional name change.

Amended by R.1996 d.530, effective November 18, 1996.

See: 28 N.J.R. 4157(a), 28 N.J.R. 4875(a).

Administrative change.

See: 32 N.J.R. 303(a).

**10A:23-2.20 Report of execution procedures**

(a) The New Jersey State Prison Administrator shall assign a member of his or her staff to monitor the entire execution process and to keep a detailed written record of the proceedings.

(b) The written record shall be given to the Administrator in its original form, within 24 hours after completion of the execution.

(c) The report shall not be considered a public record for any purpose other than as specified by the New Jersey State Prison Administrator or Commissioner.

Amended by R.1996 d.530, effective November 18, 1996.

See: 28 N.J.R. 4157(a), 28 N.J.R. 4875(a).

**10A:23-2.21 Procedures and post orders**

(a) The New Jersey State Prison shall develop detailed written procedures and post orders consistent with this Subchapter. Each functional unit or team involved in the execution shall formulate and prepare detailed written procedures, governing their role which shall be consistent with the implementation of the Death Sentence Act and this Subchapter.

(b) The New Jersey State Prison's written procedures and post orders shall be submitted to the Chairperson of the Capital Sentence Unit Committee for review.

Administrative correction, effective January 27, 1989.

See: 21 N.J.R. 558(a).

Institutional name change.

Amended by R.1996 d.530, effective November 18, 1996.

See: 28 N.J.R. 4157(a), 28 N.J.R. 4875(a).