
 <p>STATE OF NEW YORK DEPARTMENT OF CORRECTIONAL SERVICES</p> <p>DIRECTIVE</p>	TITLE		No. 0402
	<p>Media Access to the Unit for Condemned Persons and Capital Punishment Unit</p>		
SUPERSEDES Dir. #0402 dtd.	DISTRIBUTION A B	PAGE 1 OF 3 PAGES	DATE 8/31/95
REFERENCES (includes but are not limited to):	APPROVING AUTHORITY 		

- I. **PURPOSE.** This directive sets forth media access to inmates under sentence of death and assigned to either the Unit for Condemned Persons ("death row") or the Capital Punishment Unit ("death house") operated by the Department of Correctional Services.

Correction Law §652 (3), as added by Chapter 1 of the Laws of 1995, states that "The commissioner may promulgate rules and regulations concerning visitation of inmates sentenced to death. Such rules and regulations may provide that inmates sentenced to death are subject to different visitation policies and procedures than inmates who are not sentenced to death."

It is the policy of the Department of Correctional Services to balance openness and public access versus the need to provide security and safety for employees as well as inmates. Toward that goal, media access will be granted to death row under the following rules.

II. **DEATH ROW**

- A. Inmates on death row are allowed one non-legal, face-to-face visit per week. If inmates opt to do so, they may use that one non-legal visit for an interview with a single media outlet. Telephone interviews are prohibited, as are "live" radio or TV broadcasts.
- B. Like other inmates, those on death row may commit rules infractions that warrant placement in disciplinary status. If that occurs, like any other inmate, death row inmates will lose the privilege of media visits while they are in disciplinary status.
- C. It is the obligation of the media to contact death row inmates by mail and ascertain their interest in being interviewed. In its letter, it is the media's obligation to remind inmates that, if they agree to the interview, it is the inmate's obligation under Directive 401 to obtain and to sign an Interview Consent Form, and for the inmate to then submit it to the Superintendent in order to begin the interview approval process.
- D. Such interviews shall be scheduled by the Office of Public Information no fewer than three work days after being advised by the Superintendent of the inmate's written decision to forego the weekly non-legal visit for a media visit instead. If the inmate signs consent forms to be interviewed by more than one media, interviews will be scheduled at the rate of one each week. They will be scheduled in chronological order consistent with the date upon which the inmate signed each form.
- E. Media access to death row inmates shall be limited to:
1. For radio, a single reporter with one battery-operated tape recording device.
 2. For print, a single reporter plus one photographer with one camera, no more than three lenses and a battery-operated flash attachment.
 3. For television, a single reporter and a combined sound/light/camera operator, and a battery-operated camera with light attachment. No detached lighting will be allowed.
 4. Each of the above may bring writing implements and paper for note-taking to the interview.

- F. All media "tools of the trade" shall be rendered inactive during the escort to and from the interview site. That includes the removal of all film from still and video cameras as well as batteries from tape recorders. No interviews will be conducted enroute to or from death row. Media interviews will not be allowed to exceed two hours without the prior written consent of the Office of Public Information. No other facility access will be granted to media allowed into the facility to interview inmates on death row.
- G. It is not the Department's intention to promote or to hinder interviews. Employees will not ask inmates if they wish to agree to an interview, nor will staff offer any recommendation as to whether or not an inmate should agree to any interview.
- H. A media interview is defined as a meeting between the inmate subject and the reporter/photographer preparing the story. Hence, no other party shall be approved to be present at a media interview. Any request by the inmate for a third party shall be interpreted as the inmate declining the interview. Any request by the media for the presence of a third party will result in the denial of the interview.
- I. All such interviews will, however, be supervised through direct observation by staff to ensure the safety and security of the institution. However, such observation is to occur in a manner that minimizes interference with the interview.
- J. Media visits will be allowed up to seven days before the week of execution set in the warrant, which must be between 30-60 days after the issuance of the warrant. Hence, media will be aware on the date the warrant is issued of the time frames in which inmates are eligible to be interviewed.

III. THE DEATH HOUSE

- A. Correction Law §660, as added by Chapter 1 of the Laws of 1995, states in part that "The commissioner shall also select and invite the presence, by at least three days' prior notice, of a justice of the supreme court, the counsel for the convicted person, the district attorney and the sheriff of the county where the conviction was had, *together with six adult citizens.*" (Italic emphasis added.)
- B. The Commissioner has determined that, to report immediately upon the execution to the public, four of those "six adult citizens" shall be members of the media. They will be admitted to the correctional facility housing the death house, as opposed to the facility housing death row, in accordance with the following rules.
 - 1. There will be no inmate interviews in the death house.
 - 2. Once any inmate is confined to the death house, no media will be allowed access to the death house until the time of execution, and only then in the manner described herein.
 - 3. The law requires that, at least seven days prior to the date of execution, the public be made aware of the pending execution. It is at that time the obligation of the media interested in witnessing the execution to:
 - a. Mail a certified letter of interest to be present as a witness to the Director of Public Information, New York State Department of Correctional Services, Building Two - Room 203, 1220 Washington Avenue, Albany, N.Y. 12226-2050.
 - b. Consent in their letter that they agree to the standard media pool arrangement. That means agreeing to serve as a principal in a post-execution press conference with other media witnesses before transmitting any information on the execution. Any media found in violation of this rule after an execution may be found ineligible to serve as witnesses at future executions.
 - c. Consent to the public release of the name of the reporter and news organization if they are selected to be a witness or alternate to the execution.

4. Four media witnesses and two alternates will be selected from among the certified letters consenting to the pool arrangement and release of the reporter's name and organization. The selection will occur at least five days before the date of execution in the following manner:
 - a. One media witness from The Associated Press, whose members include virtually every media outlet in the State. The reporter shall be selected as The Associated Press determines.
 - b. Three media witnesses and two alternates to be selected through a lottery to be conducted by the Department of Correctional Services:
 - (1) Lottery #1: From among daily print media who generally cover the county in which the person to be executed committed the crime for which the execution was ordered. The first name selected is the witness, the second is an alternate.
 - (2) Lottery #2: From among the broadcast media who generally cover the county in which the person to be executed committed the crime for which the execution was ordered. The first name selected is the witness, the second is an alternate.
 - (3) Lottery #3: From among the daily print and the broadcast media who generally cover the county in which the execution will take place.
5. The balance of media seeking to be on-site but non-witnesses to the execution must notify the Office of Public Information, by certified mail, no less than three days before the date of the scheduled execution.
6. The witnesses, alternates and balance of media will be allowed access on the day of the execution to a "remote site" at the prison, defined for these purposes as a location on the facility grounds but separate from the death house. This remote site will be the staging area for the media, it is the site from which witnesses or alternates will be taken to observe the execution, it is the site where the balance of media will remain during the execution procedure, and is the site where the post-execution press conference and interviews will be conducted.
7. At the remote site, the Department will provide risers and a "mult box" for use during the post-execution press conference by media witnesses and appropriate Departmental officials. No other interviews of Departmental staff will be allowed.
8. All audio and video communication and transmittal needs of the media are the obligation of the individual media. None will be provided by the Department.
9. The day of the execution, media will be allowed access to the remote site from four hours prior to the time of execution until 90 minutes prior to the time of execution. No media access will be granted within the 90 minutes prior to the time of execution.
10. All media access, except for witnesses, will be restricted to the remote site. Any reporters who leave the remote site prior to the time of execution, for any reason, will be readmitted only at the discretion of Departmental staff.
11. Media witnesses to the execution will be escorted from the remote site to the death house approximately one hour before the scheduled execution. Media witnesses will not be allowed to carry any cameras or tape recorders from the remote site. All witnesses will be searched prior to entering the death house. Any media witnesses carrying contraband will immediately be escorted from facility grounds.
12. Once inside the death house, media witnesses will follow the rules and regulations applicable to all witnesses.
13. Following the post-execution press conference, media will be allowed one hour at the remote site to file write-throughs and/or to transmit video or audio tape. They will then be escorted from the remote site.