

CHAPTER 5

CLOSE CUSTODY UNITS

Authority

N.J.S.A. 30:1B-6, 30:1B-10, and *Pack, et al. v. Beyer, et al.*, DKT No. 91-3709 (D.N.J. 1995).

Source and Effective Date

R.1996 d.369, effective August 5, 1996.
See: 28 N.J.R. 2782(a), 28 N.J.R. 3791(b).

Executive Order No. 66(1978) Expiration Date

Chapter 5, Close Custody Units, expires on August 5, 2001.

Chapter Historical Note

Chapter 5, Close Custody Units, was originally adopted as R.1986 d.409, effective October 6, 1986. See: 18 N.J.R. 1067(a), 18 N.J.R. 2016(a).

Pursuant to Executive Order No. 66(1978), Chapter 5 was readopted as R.1991 d.358, effective June 17, 1991. See: 23 N.J.R. 1260(a), 23 N.J.R. 2143(a).

Subchapter 7, Temporary Close Custody, was adopted as R.1992 d.365, effective September 21, 1992. See: 24 N.J.R. 1676(a), 24 N.J.R. 3314(a).

Pursuant to Executive Order No. 66(1978), Chapter 5, Close Custody Units, expired on June 17, 1996. Chapter 5, Close Custody Units, was adopted as new rules by R.1996 d.369, effective August 5, 1996. See: Source and Effective Date. As part of R.1996 d.369, Subchapter 6, Transitional Protective Custody, was repealed. See, also, section annotations.

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SUBCHAPTER 1. INTRODUCTION

10A:5-1.1 Purpose

(a) The purpose of this chapter is to establish guidelines for:

1. Assigning inmates to close custody units;
2. Reviewing the progress of inmates assigned to close custody units;
3. Releasing inmates from close custody units, when appropriate;
4. Operating the Management Control, Administrative Segregation, Capital Sentence, Protective Custody; and
5. Placement in Temporary Close Custody

Amended by R.1996 d.369, effective August 5, 1996.
See: 28 N.J.R. 2782(a), 28 N.J.R. 3791(b).

In (a)4 deleted Transitional Protective Custody, and added (a)5, Placement in Temporary Close Custody.

10A:5-1.2 Scope

This chapter shall be applicable to the Division of Operations unless otherwise indicated.

Amended by R.1996 d.369, effective August 5, 1996.
See: 28 N.J.R. 2782(a), 28 N.J.R. 3791(b).

Substituted "Operations" for "Adult Institutions".

10A:5-1.3 Definitions

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

"Asterisk Offense" means a prohibited act preceded by a number and an asterisk.

"Adjustment Committee" means the Committee within a correctional facility that is authorized to hear and adjudicate inmate violations of prohibited acts.

"Administrative Segregation" means removal of an inmate from the general population of a correction facility to a long term close custody unit because of one or more disciplinary infractions or other administrative considerations.

"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.

"Close Custody Unit" means an area within a correctional facility designated for assigning inmates who are removed from the general population for disciplinary or administrative reasons.

"Custody Status" means the degree of supervision that is required for an inmate to enter or leave a correctional facility.

"Disciplinary Detention" means removal of an inmate from the general population of a correctional facility to a short term close custody unit because of a disciplinary infraction(s).

"Disciplinary Hearing Officer" means a Department staff member designated to hear and adjudicate inmate violations of prohibited acts.

"Disciplinary Report" means a form on which a violation of prohibited act is recorded along with other pertinent information.

"Disciplinary Sanction" means a prescribed penalty that is imposed for violation of a prohibited act.

"Major violations" mean the violation of a prohibited act that is preceded by an asterisk.

"Management Control Unit (M.C.U.);" means a close custody unit to which an inmate may be assigned if the inmate poses a substantial threat to the safety of others; of damage to or destruction of property; or of interrupting the operation of a State correctional facility.

"Management Control Unit Review Committee (M.C.U.R.C.);" means the Committee within New Jersey State Prison that is responsible for hearing cases of inmates referred for placement in the Management Control Unit (M.C.U.) and for conducting three month status reviews of inmates assigned to M.C.U.

"Minor violations" means the violation of a prohibited act that is not preceded by an asterisk.

"On-the-Spot Correction" means the immediate imposition of a sanction upon an inmate for the violation of a minor prohibited act.

"Prehearing detention" means removal of an inmate from the general population pending an investigation and a hearing into an alleged violation of a prohibited act.

"Protective custody" means confinement to a secure unit designated to restrict or limit an inmate's activities and contacts with others, in order to provide protection to the inmate from injury or harm actually threatened, or reasonably believed to exist based on events, investigative reports, informants' reports or other reliable sources of information.

"Special Administrative Segregation Review Committee (S.A.S.R.C.);" means the administrators, designated by the Director, Division of Operations, who are responsible for the bimonthly review of the status of inmates assigned to all Administrative Segregation Units.

"Special Classification Committee (S.C.C.);" means the Committee composed of representatives from the Prison Complex, Youth Complex and Juvenile Services which consider the transfer of inmates between Complexes.

"Superintendent" means the chief executive officer of any State correctional facility in the New Jersey Department of Corrections.

"Temporary close custody" means the non-punitive removal of an inmate from the inmate general population, or other assigned housing, with restriction to the inmate's cell or to a close custody unit for a period not to exceed 72 hours, for special observation or investigation.

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

Institutional name change.

Amended by R.1996 d.369, effective August 5, 1996.

See: 28 N.J.R. 2782(a), 28 N.J.R. 3791(b).

Deleted "Commissioner", "Department", "Institutional Classification Committee (I.C.C.)", "Inter-Institutional Classification Committee (I.I.C.C.)", "Prison Complex", "Prohibited Acts", "Transitional Protec-

tive Custody Unit", "Vroom-Administrative Segregation Review Committee", "Vroom Readjustment Unit (V.R.U.)" and "Youth Complex".

10A:5-1.4 Forms

(a) The following forms related to close custody units shall be reproduced by each correctional facility from originals that are available by contacting the Standards Development Unit, New Jersey Department of Corrections:

1. 141-I AUTHORIZATION FOR PREHEARING M.C.U.;
2. 146-I VOLUNTARY—PROTECTIVE CUSTODY CONSENT;
3. 146-II NOTICE OF PROTECTIVE CUSTODY HEARING—INVOLUNTARY;
4. 146-III PROTECTIVE CUSTODY HEARING ADJUDICATION.

(b) The following form related to the Management Control Unit is available by contacting the New Jersey State Prison:

1. L.C. 36 CRITERIA RECORD SHEET.

Amended by R.1996 d.369, effective August 5, 1996.

See: 28 N.J.R. 2782(a), 28 N.J.R. 3791(b).

Added (b).

SUBCHAPTER 2. MANAGEMENT CONTROL UNIT (M.C.U.)

10A:5-2.1 Referrals for placement in the Management Control Unit (M.C.U.)

(a) Recommendations for placement of inmates in the Management Control Unit (M.C.U.) may be submitted to the Management Control Unit Review Committee (M.C.U.R.C.) by the:

1. Inter-Institutional Classification Committee (I.I.C.C.);
2. Institutional Classification Committee (I.C.C.);
3. Disciplinary Hearing Officer/Adjustment Committee;
4. Administrative Segregation Review Committees;
5. Superintendent; and/or
6. Director of Custody Operations.

Administrative Correction, effective January 27, 1989.

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

Institutional name change.

Amended by R.1996 d.369, effective August 5, 1996.

See: 28 N.J.R. 2782(a), 28 N.J.R. 3791(b).

Deleted references to New Jersey State Prison and to the Director of Professional Services.

10A:5-2.2 Composition of the Management Control Unit Review Committee (M.C.U.R.C.)

(a) The Management Control Unit Review Committee (M.C.U.R.C.) shall be composed of:

1. The Assistant Superintendent;
2. A representative from the Education or Social Services Department; and
3. The person designated as the Supervisor of the Management Control Unit (M.C.U.).

Amended by R.1996 d.369, effective August 5, 1996.
See: 28 N.J.R. 2782(a), 28 N.J.R. 3791(b).

In (a)1 deleted Director of the Vroom Readjustment Unit and in (a)2 substituted a representative from the Education or Social Services Department for the Director of Professional Services.

10A:5-2.3 Responsibilities of the Management Control Unit Review Committee (M.C.U.R.C.)

(a) The Management Control Unit Review Committee (M.C.U.R.C.) shall meet at least once a week, when necessary, to deliberate on matters related to its responsibilities. The M.C.U.R.C. shall be responsible for:

1. Hearing the cases of inmates referred for placement in M.C.U.; and
2. Reviewing the progress of each inmate placed in M.C.U. at least every three months to determine whether continued placement in the Unit is appropriate.

Amended by R.1996 d.369, effective August 5, 1996.
See: 28 N.J.R. 2782(a), 28 N.J.R. 3791(b).

10A:5-2.4 Criteria for assigning inmates to the Management Control Unit (M.C.U.)

(a) The following criteria shall be utilized by the Management Control Unit Review Committee (M.C.U.R.C.) in determining the appropriateness of assigning inmates to the Management Control Unit (M.C.U.)

1. Disciplinary records during the inmates present term of confinement and any previous terms served. Weight shall be assigned to this criterion where there are a substantial number of minor charges, or one or more charges of a serious nature;
2. Past criminal offenses including those for which incarcerated, which indicate the capability and propensity to commit or precipitate serious acts of disruption or violence;
3. Number and location of previous institutionalizations including the disciplinary records, progress reports, classification reports, or any other records which indicate involvement in serious misbehavior;
4. Reports by professional staff (for example, psychologists, social workers, psychiatrists);

5. Reports indicating present involvement in criminal activities in the community or within the correctional facility;

6. Evidence of an attitude which indicates an unwillingness to follow rules and obey orders;

7. Inability to maintain a satisfactory work record as indicated in reports by work supervisors and/or frequency of job changes;

8. Information indicating unsatisfactory adjustment to, or performance in, treatment or rehabilitative programs; and

9. Evidence of the inmate's inability or unwillingness to house with other inmates in a nondisruptive and non-destructive manner.

Amended by R.1996 d.369, effective August 5, 1996.
See: 28 N.J.R. 2782(a), 28 N.J.R. 3791(b).

Case Notes

Prison regulations regarding placement of inmates in restrictive custody created liberty interest. *Layton v. Beyer*, C.A.3 (N.J.)1992, 953 F.2d 839.

Fact that inmate ultimately belonged in restrictive custody was irrelevant to issue of violation of liberty interest. *Layton v. Beyer*, C.A.3 (N.J.)1992, 953 F.2d 839.

Failure to hold hearing following placement of inmate in restrictive custody within specified 5 day period is not necessarily unconstitutional. *Layton v. Beyer*, C.A.3 (N.J.)1992, 953 F.2d 839.

Totality of circumstances must be evaluated to determine whether post-restrictive custody hearing was timely. *Layton v. Beyer*, C.A.3 (N.J.)1992, 953 F.2d 839.

Inmate's release on parole mooted appeal from decision upholding his assignment to special confinement unit. *Cinque v. New Jersey Dept. of Corrections*, 261 N.J.Super. 242, 618 A.2d 868 (A.D.1993).

10A:5-2.5 Assignment to the Management Control Unit (M.C.U.)

(a) An inmate shall be assigned to the Management Control Unit (M.C.U.) when the Management Control Unit Review Committee (M.C.U.R.C.), after considering the criteria in N.J.A.C. 10A:5-2.4, concludes that the inmate poses a substantial threat:

1. To the safety of others;
2. Of damage to or destruction of property; or
3. Of interrupting the operation of a State correctional facility.

(b) Procedures for Management Control Unit Classification Committee (M.C.U.R.C.) hearings described in N.J.A.C. 10A:5-2.6 shall be followed and completed prior to placement in M.C.U.

(c) If there is a need for immediate placement in the M.C.U., such placement shall be made in accordance with N.J.A.C. 10A:5-2.8.

Recodified from 10A:5-5.21 by R.1996 d.369, effective August 5, 1996.
See: 28 N.J.R. 2782(a), 28 N.J.R. 3791(b).

Former N.J.A.C. 10A:5-5.17, "Correspondence, visits and telephone calls", recodified to 10A:5-5.13.

10A:5-5.18 Psychological examination

Every inmate assigned to a Protective Custody Unit shall have a psychological examination every six months or whenever it appears that he or she is suffering from an emotional or psychological disorder.

Recodified from 10A:5-5.22 by R.1996 d.369, effective August 5, 1996.
See: 28 N.J.R. 2782(a), 28 N.J.R. 3791(b).

Former N.J.A.C. 10A:5-5.18, "Recreation", recodified to 10A:5-5.14.

10A:5-5.19 Withdrawal of personal items or activities

(a) Whenever in the judgment of the custody supervisor of the Protective Custody Unit there is imminent danger that an inmate will destroy his or her clothing or any item usually permitted the inmate in his or her cell or will do injury to himself or herself, to another person or to property with such items, an officer of the rank of Sergeant or above may deprive the inmate of such items, if practicable. In such case, however, every effort shall be made to supply a substitute for the item or to permit the inmate to use the item under the supervision of the officer.

(b) Whenever an inmate is deprived of any usually authorized item or activity, a written report shall immediately be forwarded to the Superintendent or his or her designee and the supervisor of the Protective Custody Unit identifying the inmate and the item.

(c) The Institutional Classification Committee (I.C.C.) shall review any such restriction within one week. Any continued restriction shall be permitted only with the written authorization of the Institutional Classification Committee (I.C.C.).

(d) Such restrictions shall be reviewed on a weekly basis to determine whether there is reasonable certainty that the danger to person or property is no longer imminent and the restriction may be lifted.

Recodified from 10A:5-5.23 and amended by R.1996 d.369, effective August 5, 1996.

See: 28 N.J.R. 2782(a), 28 N.J.R. 3791(b).

Former N.J.A.C. 10A:5-5.19, "Education", recodified to 10A:5-5.15.

10A:5-5.20 Selection of staff

All custody treatment and administrative staff for Protective Custody Units shall be selected in accordance with New Jersey Department of Personnel regulations and the terms and conditions of all collective bargaining arrangements and contracts entered into between the various working units and the Department of Corrections.

Recodified from 10A:5-5.24 and amended by R.1996 d.369, effective August 5, 1996.

See: 28 N.J.R. 2782(a), 28 N.J.R. 3791(b).

Former N.J.A.C. 10A:5-5.20, "Visits by professional and correctional supervisory staff", recodified to 10A:5-5.16.

10A:5-5.21 Records

(a) The following information on inmates confined to Protective Custody shall be available in the Unit for the use of appropriate staff members:

1. Inmate's name and number;
2. Religion;
3. Previous housing location;
4. Unit cell or room assignment;
5. Date admitted;
6. Special medical or psychiatric problems; and
7. Date on which yearly review hearing is required.

(b) All unusual behavior shall be noted in the Unit log book together with the time and date of the incident. Unusual incidents shall also be reported pursuant to N.J.A.C. 10A:21 REPORTS.

Recodified from 10A:5-5.25 by R.1996 d.369, effective August 5, 1996.
See: 28 N.J.R. 2782(a), 28 N.J.R. 3791(b).

Former N.J.A.C. 10A:5-5.21, "Work opportunities", recodified to 10A:5-5.17.

10A:5-5.22 Disciplinary action within Protective Custody Units

The rules set forth in N.J.A.C. 10A:4, INMATE DISCIPLINE shall be in full force and effect in the Protective Custody Units.

Recodified from 10A:5-5.26 by R.1996 d.369, effective August 5, 1996.
See: 28 N.J.R. 2782(a), 28 N.J.R. 3791(b).

Former N.J.A.C. 10A:5-5.22, "Psychological examination", recodified to 10A:5-5.18.

10A:5-5.23 Transfers; record maintenance

All transfers into or out of a Protective Custody Unit shall be entered on the inmate's classification progress record.

Recodified from 10A:5-5.27 by R.1996 d.369, effective August 5, 1996.
See: 28 N.J.R. 2782(a), 28 N.J.R. 3791(b).

Former N.J.A.C. 10A:5-5.23, "Withdrawal of personal items or activities", recodified to 10A:5-5.19.

10A:5-5.24 Correctional facility procedures

(a) Each correctional facility which has a Protective Custody Unit shall be responsible for developing written post orders/procedures consistent with this Subchapter.

(b) These written post orders/procedure shall be forwarded to the Chief of Staff, New Jersey Department of Corrections, for review and approval on or before September 15 of each year.

Recodified from 10A:5-5.28 and amended by R.1996 d.369, effective August 5, 1996.

See: 28 N.J.R. 2782(a), 28 N.J.R. 3791(b).
 Former N.J.A.C. 10A:5-5.24, "Selection of staff", recodified to 10A:5-5.20.

10A:5-5.25 (Reserved)

Recodified by R.1996 d.369, effective August 5, 1996.
 See: 28 N.J.R. 2782(a), 28 N.J.R. 3791(b).
 Former N.J.A.C. 10A:5-5.25, "Records", recodified to 10A:5-5.21.

10A:5-5.26 (Reserved)

Recodified by R.1996 d.369, effective August 5, 1996.
 See: 28 N.J.R. 2782(a), 28 N.J.R. 3791(b).
 Former N.J.A.C. 10A:5-5.26, "Disciplinary action within Protective Custody Units", recodified to 10A:5-5.22.

10A:5-5.27 (Reserved)

Recodified by R.1996 d.369, effective August 5, 1996.
 See: 28 N.J.R. 2782(a), 28 N.J.R. 3791(b).
 Former N.J.A.C. 10A:5-5.27, "Transfers; record maintenance", recodified to 10A:5-5.23.

10A:5-5.28 (Reserved)

Recodified by R.1996 d.369, effective August 5, 1996.
 See: 28 N.J.R. 2782(a), 28 N.J.R. 3791(b).
 Former N.J.A.C. 10A:5-5.28, "Correctional facility procedures", recodified to 10A:5-5.24.

SUBCHAPTER 6. (RESERVED)

SUBCHAPTER 7. TEMPORARY CLOSE CUSTODY

10A:5-7.1 Placement in temporary close custody

(a) An inmate may be placed in temporary close custody for a period not to exceed 72 hours, unless exceptional circumstances, such as other information received or other substantial evidence found, warrant extension of this time period.

(b) Criteria for placement of an inmate in temporary close custody status are:

1. Reasonable suspicion exists to indicate that the inmate is engaged in, or is planning a serious violation (asterisked offenses under N.J.A.C. 10A:4-4.1(a)) of correctional facility rules, on which disciplinary action is considered premature;

2. Reasonable suspicion exists to indicate that the inmate is in possession of, or plans to obtain, contraband which may pose a danger to the inmate or others;

3. The inmate exhibits assaultive, self-mutilating and/or threatening behavior related to a medical or psychiatric condition, in the written opinion of a psychiatrist, psychologist or medical doctor; and/or

4. Any other reason, which, in the opinion of the Superintendent, or his or her designee, requires temporary close custody confinement to protect the inmate, staff, general public, and/or the security and control of the correctional facility.

(c) When placement of an inmate in temporary close custody is ordered by the Superintendent's designee, the designee shall, as soon as possible, within 72 hours inform the Superintendent and shall provide a written report to the Superintendent setting forth the reason for every such placement.

(d) On or before the expiration of the 72 hour period, unless there are emergent reasons for extension, the inmate shall be released from temporary close custody to:

1. General population;
2. Pre-hearing detention;
3. Detention in connection with a disciplinary action pursuant to N.J.A.C. 10A:4;
4. A medical or psychiatric housing unit for continued observation, treatment, or commitment procedures (N.J.A.C. 10A:16-13); or
5. Another close custody unit in accordance with procedures set forth in this chapter, such as, Protective Custody, Management Control Unit.

(e) Release from temporary close custody may be ordered only by the Superintendent or his or her designee.

(f) In consideration of the reason for an inmate's placement in temporary close custody, the chief custody officer, or his or her designee, shall determine the personal property and other services, such as visits and telephone calls, which the inmate may be afforded while in temporary close custody.

(g) The superintendent shall forward a monthly written report to the Assistant Commissioner, Division of Operations, for review of all placements and releases from temporary close custody.

Amended by R.1996 d.369, effective August 5, 1996.
 See: 28 N.J.R. 2782(a), 28 N.J.R. 3791(b).