

**CHAPTER 5
CLOSE CUSTODY UNITS**

Authority

N.J.S.A. 30:1B-6 and 30:1B-10; and P.L. 2007, c. 204.

Source and Effective Date

R.2008 d.97, effective March 25, 2008.
See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 5, Close Custody Units, expires on March 25, 2015. See: 43 N.J.R. 1203(a).

Chapter Historical Note

Chapter 5, Close Custody Units, was 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, Close Custody Units, 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. As part of R.1996 d.369, Subchapter 6, Transitional Protective Custody, was repealed. See: 28 N.J.R. 2782(a), 28 N.J.R. 3791(b).

Subchapter 6, Security Threat Group Management Unit, was adopted as new rules by R.1998 d.465, effective September 8, 1998. See: 30 N.J.R. 2148(a), 30 N.J.R. 3242(b).

Pursuant to Executive Order No. 66(1978), Chapter 5, Close Custody Units, expired on August 5, 2001.

Chapter 5, Close Custody Units, was adopted as new rules by R.2002 d.388, effective December 2, 2002. See: 34 N.J.R. 2929(a), 34 N.J.R. 4205(a).

Chapter 5, Close Custody Units, was readopted as R.2008 d.97, effective March 25, 2008. As a part of R.2008 d.97, Subchapter 1, Introduction, was renamed General Provisions; and Subchapter 4, Capital Sentence Unit (C.S.U.), was repealed, effective April 21, 2008. See: Source and Effective Date. See, also, section annotations.

Subchapter 6, Security Threat Group Management Unit, was recodified in part to Subchapter 11 of Chapter 3 of this Title and repealed in part by R.2011 d.277, effective November 7, 2011. See: 43 N.J.R. 1562(a), 43 N.J.R. 3024(a).

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SUBCHAPTER 1. GENERAL PROVISIONS

10A:5-1.1 Purpose

(a) The purpose of this chapter is to establish rules 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 Unit, Administrative Segregation Unit and Protective Custody Unit; and
5. Placement in temporary close custody.

Amended by R.2008 d.97, effective April 21, 2008.

See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

In (a)4, deleted "Capital Sentence Unit" preceding "Protective Custody Unit"; and in (a)5, substituted "temporary close custody" for "Temporary Custody".

Amended by R.2011 d.277, effective November 7, 2011.

See: 43 N.J.R. 1562(a), 43 N.J.R. 3024(a).

In (a)4, substituted "and" for a comma following "Segregation Unit" and deleted ", and Security Threat Group Management Unit" following "Custody Unit".

10A:5-1.2 Scope

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

10A:5-1.3 Definitions

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

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

"Administrative segregation" means removal of an inmate from the general population of a correctional facility to a close custody unit because of one or more disciplinary infractions.

"Administrative Segregation Level Program" means a three level program established within an Administrative Segregation Unit. The levels are described as follows:

1. Level 1 is the program entry level in which an inmate's possessions, activities, privileges and amenities shall be most highly restricted;
2. Level 2 is the level in which an inmate's possessions, activities, privileges and amenities shall be less restricted than level 1 and more restricted than level 3; and
3. Level 3 is the level in which an inmate's possessions, activities, privileges and amenities shall be less than level 1 and level 2 but more restricted than general population.

"Disciplinary detention" means removal of an inmate from the general population or any other housing unit of a correctional facility to a short-term close custody unit because of a disciplinary infraction(s).

"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 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.

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

"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.

Amended by R.2006 d.151, effective May 1, 2006.

See: 38 N.J.R. 96(a), 38 N.J.R. 1836(a).

In the introductory paragraph, substituted "unless the context clearly indicates otherwise:" for a period; deleted the definitions for "Capital Sentence Unit (C.S.U.)", "Close Custody Unit", "Custody status", "Disciplinary hearing officer", "Disciplinary report", "Disciplinary sanction", "On-the-spot correction", "Prehearing detention" and "Protective custody".

Amended by R.2008 d.97, effective April 21, 2008.

See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

In definition "Disciplinary detention", inserted "or any other housing unit"; and deleted definition "Special Classification Committee (S.C.C.)".

Amended by R.2011 d.277, effective November 7, 2011.

See: 43 N.J.R. 1562(a), 43 N.J.R. 3024(a).

Deleted definitions "Identification process", "Intelligence section of the Special Investigations Division", "Prehearing Security Threat Group Management Unit Status", "Security threat group", "Security threat group activity(ies)", "Security threat group core member", "Security Threat Group Management Unit", "Security Threat Group Management Unit Hearing Committee", "Security Threat Group Management Unit Phase Program" and "Security threat group member".

10A:5-1.4 Forms

(a) The following forms related to close custody units are available by accessing the Department of Corrections computer network (DOCNet). Interested individuals who do not have access to DOCNet may obtain copies of forms by contacting the Administrative Rules Unit, New Jersey Department of Corrections:

1. 141—I Authorization for Prehearing M.C.U.; and
2. 146—I Voluntary—Protective Custody Consent.

(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.

(c) The following forms shall be printed by the Bureau of State Use Industries—DEPTCOR and each correctional facility shall purchase a supply of needed forms by contacting DEPTCOR:

1. 146—II Notice of Protective Custody Hearing - Involuntary; and
2. 146—III Protective Custody Hearing Adjudication.

Administrative change.

See: 35 N.J.R. 1137(a).

Amended by R.2006 d.419, effective December 4, 2006.

See: 38 N.J.R. 3226(a), 38 N.J.R. 5161(a).

In the introductory paragraph of (a), deleted "shall be reproduced by each correctional facility from originals that" preceding "are available" and inserted "by accessing the Department of Corrections computer network (DOCNet). Interested individuals who do not have access to DOCNet may obtain copies of forms".

Petition and Action on Petition for Rulemaking.

See: 39 N.J.R. 5377(a).

Amended by R.2008 d.97, effective April 21, 2008.

See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

In (a)2, inserted "and" at the end; deleted former (a)3 and (a)4; recodified former (a)5 as (a)3; added new (c)1 and (c)2; and recodified former (c)1 through (c)6 as (c)3 through (c)8.

Amended by R.2011 d.277, effective November 7, 2011.

See: 43 N.J.R. 1562(a), 43 N.J.R. 3024(a).

In (a)1 and (c)1, inserted "and" at the end; in (a)2, substituted a period for ";" and" at the end; in (c)2, substituted a period for a semicolon at the end; and deleted (a)3 and (c)3 through (c)8.

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 M.C.U. may be submitted to the Management Control Unit Review Committee (M.C.U.R.C.) by:

1. The Director, Division of Operations;
2. The Institutional Classification Committee (I.C.C.);
3. The Disciplinary Hearing Officer/Adjustment Committee;
4. Special Administrative Segregation Review Committees;
5. The Administrator; and/or
6. The Director of Custody Operations.

Amended by R.2008 d.97, effective April 21, 2008.

See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

In (a)4, inserted "Special".

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

(a) The M.C.U.R.C. shall be composed of:

1. The Associate Administrator or Assistant Superintendent;
2. A representative from the Education or Social Services Department and a representative from Mental Health Services; and
3. The person designated as the Custody Supervisor of the M.C.U.

Amended by R.2008 d.97, effective April 21, 2008.

See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

In (a)2, inserted "and a representative from Mental Health Services"; and in (a)3, inserted "Custody".

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

(a) The 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:

population. Social workers and a psychologist shall be assigned to the M.C.U. and an area or office shall be provided for these services. The professionals shall provide services consistent with those provided to the general population and shall work closely with the M.C.U. supervisor and staff.

(b) Counseling sessions shall be arranged upon the request of an inmate confined in the M.C.U. Counseling shall be coordinated by the professional staff assigned to the M.C.U.

(c) Two interview rooms shall be available within the M.C.U. for use by the assigned professional staff, the M.C.U. supervisor, the parole counselor, and professional representatives of outside agencies such as, but not limited to, the Social Security Administration, the Veteran's Administration, and vocational rehabilitation agencies.

10A:5-2.26 Commissary

(a) Purchase of commissary items in the M.C.U. shall be permitted within the Unit in accordance with internal management procedures developed by the M.C.U. supervisor and approved by the Administrator or designee.

(b) Procedures for obtaining commissary items shall be the same as for the general population.

Amended by R.2008 d.97, effective April 21, 2008.

See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

In (a), inserted "in accordance with" and "or designee".

10A:5-2.27 Withdrawal of personal items or activities

(a) Whenever, in the judgment of the custody staff member in charge of the M.C.U., there is imminent danger that an inmate will destroy property, clothing or any items usually permitted in the cell, or injure self, or another person, the custody staff member may deprive the inmate of such items, if practicable. In such cases, however, effort shall be made to provide a substitute for the item or to permit the inmate to use the item under the supervision of the custody staff member.

(b) Whenever an inmate is deprived of any usually authorized item or activity, a written report shall immediately be forwarded to the Administrator or designee and the M.C.U. supervisor which shall identify the inmate and the item or activity.

(c) The M.C.U.R.C. shall review any such restriction within one week. Any continued restriction shall be permitted only with the written authorization of the M.C.U.R.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.

Amended by R.2008 d.97, effective April 21, 2008.

See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

In (a), inserted "property," deleted "the inmate" following "permitted" and "or to property with such items," following "another per-

son," and substituted "injure self, or" for "do injury to self, to" and "cases" for "case".

10A:5-2.28 Special custodial responsibilities

(a) Because of the increased need for close security within the M.C.U., the frequency and intensity of certain custodial functions shall be increased. Thorough cell searches may be conducted as often as once a week if found necessary for certain inmates or as often as twice a month for the entire population of the M.C.U. Spot-checks of cells may be conducted at any time.

(b) Despite the increased need for security, precautions shall be taken to ensure that the inmates in the M.C.U. are not subjected to unnecessary limitations of their personal privacy. The M.C.U. supervisor or another person acting on the direct or standing orders of the Administrator must authorize any non-routine cell searches.

10A:5-2.29 Disciplinary action within the Management Control Unit (M.C.U.)

(a) The rules set forth in N.J.A.C. 10A:4, Inmate Discipline, shall be in full force and effect in the M.C.U.

(b) Except in the case of a termination of contact visits sanction as established in N.J.A.C. 10A:4-5.1(c), no special restriction of privilege on disciplinary grounds, such as denial of outside recreation or of work opportunities, may be continued in M.C.U. for longer than 30 days. If, in the judgment of the Disciplinary Hearing Officer/Adjustment Committee, there are special custodial reasons for desiring to continue special restriction of the inmate's privileges for longer than 30 days, the Disciplinary Hearing Officer/Adjustment Committee shall recommend assignment to Administrative Segregation to the Institutional Classification Committee (I.C.C.).

Amended by R.2006 d.398, effective November 20, 2006.

See: 38 N.J.R. 3121(a), 38 N.J.R. 4867(a).

In (b), updated the N.J.A.C. reference.

Amended by R.2008 d.97, effective April 21, 2008.

See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

In (b), substituted "continue" for "maintain", inserted "the inmate's" and deleted "upon an inmate" following "privileges".

10A:5-2.30 Program monitoring, review and modification

The M.C.U.R.C. shall continuously monitor and review all aspects of the M.C.U. When the M.C.U.R.C. desires to make any significant deviation from the M.C.U. Program as delineated in this subchapter, a request shall be submitted in writing through the Administrator to the Assistant Commissioner, Division of Operations.

10A:5-2.31 Compliance with all other rules

In addition to the rules contained in this subchapter, all other Department rules applicable to inmates shall apply with equal force to inmates in the M.C.U.

SUBCHAPTER 3. ADMINISTRATIVE SEGREGATION

10A:5-3.1 Admission to administrative segregation

(a) Whenever the Disciplinary Hearing Officer/Adjustment Committee imposes a sanction which includes administrative segregation, the administrative segregation part of the sanction shall be referred by the Disciplinary Hearing Officer to the Institutional Classification Committee (I.C.C.) for review at the Committee's next regularly scheduled meeting.

(b) In considering the sanction, the I.C.C. shall consider any relevant factors including, but not limited to:

1. The circumstances and gravity of the disciplinary infraction;
2. The reason(s) given by the Disciplinary Hearing Officer/Adjustment Committee for the sanction imposed;
3. The inmate's previous disciplinary record; and
4. Whether other available dispositions are adequate to regulate the inmate's behavior within acceptable limits.

(c) Confirmation shall be made if the I.C.C. determines that the sanction is appropriate and within acceptable limits, and where the inmate's presence in the general population could pose a threat to the safe, secure and orderly operations of the correctional facility.

(d) The I.C.C. shall provide written notice to the inmate of its decision confirming, modifying or overruling the administrative segregation sanction together with the reasons therefor.

(e) A copy of the I.C.C. notice shall be filed in the inmate's classification folder.

(f) Not all correctional facilities within the Department of Corrections contain Administrative Segregation Units. If an inmate receives a sanction that includes administrative segregation but is housed in a correctional facility that does not have an Administrative Segregation Unit, the sanction first must be reviewed by the I.C.C. of the correctional facility in which the inmate is housed. If the sanction is confirmed, the referral for transfer to an Administrative Segregation Unit shall be forwarded to the CRAF Intake Unit where the transfer shall be initiated.

10A:5-3.2 Special Administrative Segregation Review Committee (S.A.S.R.C.)

(a) The S.A.S.R.C. is responsible for providing a bi-monthly review, or more frequent reviews if deemed necessary, of the status of inmates assigned to all Administrative Segregation Units.

(b) The Director of the Division of Operations shall designate voting members who shall be an Associate Administrator/Assistant Superintendent/Captain or, when unavail-

able, a designee, to serve on the S.A.S.R.C. on a six-month rotating basis. The S.A.S.R.C. shall be composed of:

1. One voting member who shall be a representative of the correctional facility;
2. One voting member who shall be a representative from another prison complex facility; and
3. One voting member who shall be a representative from a youth complex facility.

(c) The Director shall designate a chairperson from among the voting members to serve a six-month or extended term, as determined by the Director.

(d) An in-house psychiatrist or psychologist and a representative of the Classification Department shall attend each meeting of the S.A.S.R.C. but they will have no voting power.

(e) The Director may designate a supervisory custody staff member of the rank of Captain or above to attend each meeting of the S.A.S.R.C., who shall have voting power. In the event that a custody staff member of the rank of Captain or above is unavailable, a custody staff member of the rank of Lieutenant who shall have voting power may be designated to attend.

(f) The S.A.S.R.C. shall meet as frequently as is necessary to accomplish the business of the S.A.S.R.C., and the meetings shall be held at a facility designated by the members.

(g) An inmate who has been assigned to an Administrative Segregation Unit for a period of 365 days or less shall have his or her case reviewed by the S.A.S.R.C. every 60 days, or more frequently if deemed necessary by the S.A.S.R.C., to review the inmate's level assignment and to evaluate the inmate's behavior while in the Administrative Segregation Unit.

(h) An inmate who has been assigned to an Administrative Segregation Unit for a period of more than 365 days shall have his or her case reviewed by the S.A.S.R.C. every six months, or more frequently if deemed necessary by the S.A.S.R.C. The review shall include the inmate's level assignment and the Committee shall evaluate the inmate's behavior while in the Administrative Segregation Unit.

(i) The S.A.S.R.C. review shall not necessitate the inmate's presence, although the Committee may, where it deems necessary, require the inmate to appear, unless he or she refuses to appear without the use of force.

(j) Upon review of the inmate's level assignment and behavior, the S.A.S.R.C. may determine that the inmate should be released from the Administrative Segregation Unit. The S.A.S.R.C. shall determine that an inmate should be released from the Administrative Segregation Unit when it concludes that:

1. The initial need for placement in the Administrative Segregation Unit no longer exists;

2. The inmate has clearly demonstrated by his or her behavior that he or she can and will adequately conform to the rules and regulations of correctional facilities;

3. The inmate's presence in the general population will not pose a threat to the safe, secure and orderly operations of a correctional facility;

4. The inmate's presence in the general population prior to completion of the sanction as specified by the Disciplinary Hearing Officer/Adjustment Committee would not adversely affect the goals of a correctional facility; and/or

5. The inmate has a history or presence of mental illness and continued confinement in Administrative Segregation is likely to add to the inmate's mental decompensation.

(k) If the S.A.S.R.C. determines not to release the inmate from the Administrative Segregation Unit, the inmate shall be so advised in writing, together with the reasons therefor, unless security considerations preclude their disclosure, in which case a notation as to the Committee's reasons and an explanation of how security would be adversely affected shall be placed in the inmate's folder.

(l) If the S.A.S.R.C. determines to release the inmate, the Committee shall give the inmate written notice of the decision. The inmate shall be:

1. Released into the general population of the correctional facility in which he or she has been confined in the Administrative Segregation Unit;

2. Referred to the M.C.U.R.C. for placement in the M.C.U.;

3. Referred for a protective custody hearing; or

4. Referred to the CRAF Intake Unit for transfer to a correctional facility as determined by the S.A.S.R.C.

(m) If the inmate is transferred to general population and wishes a transfer to another correctional facility, the inmate shall submit a request for transfer to the I.C.C.

(n) Inmates shall be scored with the Reclassification Instrument prior to release from the Administrative Segregation Unit and the score shall be considered by the S.A.S.R.C. when making inmate assignments. The S.A.S.R.C. is authorized to assign inmates to an appropriate correctional facility in accordance with the guidelines established for the I.I.C.C.

(o) The appropriate Director shall be contacted for assistance when the transfer of an inmate from administrative segregation status to another correctional facility cannot be completed because of a lack of available bed space.

(p) Following the decision of the S.A.S.R.C. to transfer an inmate to another correctional facility, the S.A.S.R.C. shall refer the inmate to the appropriate staff member of the CRAF Intake Unit who shall be responsible for immediately arranging transportation of the inmate to the designated correctional facility.

Amended by R.2005 d.445, effective December 19, 2005.

See: 37 N.J.R. 3200(a), 37 N.J.R. 5013(a).

In (l), recodified former 3 and 4 as 4 and 5, and added new 3.

Amended by R.2008 d.97, effective April 21, 2008.

See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

Rewrote (h); in the introductory paragraph of (l), substituted "the Committee" for "it" and "the" for "its" preceding "decision"; in (l)2, inserted "placement in"; and in (p), inserted "the S.A.S.R.C. shall refer the inmate to the appropriate staff member of" and "who".

Amended by R.2011 d.277, effective November 7, 2011.

See: 43 N.J.R. 1562(a), 43 N.J.R. 3024(a).

Deleted former (l)3; and recodified former (l)4 and (l)5 as (l)3 and (l)4.

10A:5-3.3 Separate facilities

Whenever possible, areas utilized for Administrative Segregation Units shall be physically separate from other programs in the correctional facility.

10A:5-3.4 Ventilation, heating, lighting, sanitation and observation

(a) Ventilation and reasonable temperature shall be maintained on a 24-hour basis.

(b) Light of sufficient intensity shall be maintained to allow visual observation of inmates at all times.

(c) Partial curtains may be permitted over the cell door, at the discretion of the Administrator.

(d) When admitted, inmates shall not be placed in the cells that lack cleanliness or have malfunctioning sanitary fixtures or lights. Daily inspections shall be made to ensure that the cells are kept secure, clean and sanitary.

(e) Toilets that are flush controlled from outside the cells shall be flushed as often as is necessary to maintain good sanitary standards.

10A:5-3.5 Food

(a) Segregated inmates shall be served the regular correctional facility meals from the "Menu of the Day" unless a special diet is prescribed by a physician or a religious vegetarian diet has been approved by the correctional facility chaplain.

(b) Disposable utensils shall be used when necessary.

10A:5-3.6 Grooming, showering and shaving

(a) Barber and hair care services shall be provided as needed.

(b) Each inmate in an Administrative Segregation Unit shall be given the opportunity to shave and shower not less than three times a week, unless permitting these activities would present an undue security hazard.

10A:5-3.7 Medical and psychiatric services

(a) A member of the medical staff, which can be a registered nurse, nurse practitioner, doctor or other authorized health care personnel, shall be available in the Administrative Segregation Unit on a daily basis to assess medical needs. Any inmate wishing to see a doctor shall notify the medical staff member or housing custody staff member of his or her sick call request.

(b) Medical and psychiatric emergencies shall be attended to immediately. Requests for medical attention for inmates in non-emergency situations shall be responded to by the physician, or medical person designated by the physician.

(c) Whenever it appears that an inmate is suffering from an emotional or psychiatric disturbance, arrangements shall be made for a psychiatric or psychological evaluation.

Amended by R.2008 d.97, effective April 21, 2008.
See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

In (c), substituted "appears" for "shall appear".

10A:5-3.8 Personal items

(a) A Director, Division of Operations or designee shall, in accordance with the Administrative Segregation Level Program, develop a written list of authorized personal property items and the amounts of personal property items authorized for retention by inmates while confined in an Administrative Segregation Unit.

(b) All inmates admitted to an Administrative Segregation Unit shall be permitted to retain only those personal property items and amounts of personal property as are set forth on the list of authorized, permissible items for inmates in an Administrative Segregation Unit developed under (a) above.

(c) Unauthorized, non-permissible personal property shall be handled in accordance with N.J.A.C. 10A:1-11.

10A:5-3.9 Correctional facility clothing, bedding and linen

The issue and exchange of correctional facility clothing, bedding, linen, and the laundry service shall be handled in accordance with unit internal management procedures or on the same basis as is available to the general inmate population.

10A:5-3.10 Inmate legal service

Legal services shall be made available to inmates assigned to an Administrative Segregation Unit. Legal services shall be in accordance with the provisions set forth in N.J.A.C. 10A:6, Inmate Access to Courts.

10A:5-3.11 Reading material

Inmates in Administrative Segregation Units shall be permitted to retain in their possession a reasonable amount of reading material. Procedures shall be in effect permitting inmates access to books and periodicals from the correctional facility library and Inmate Law Library.

10A:5-3.12 Correspondence, visits and telephone calls

(a) Inmates in Administrative Segregation Units shall have the same correspondence opportunities as inmates in the general population.

(b) Each correctional facility that has an Administrative Segregation Unit shall provide each inmate in the Unit the opportunity to receive a minimum of one non-contact visit per 30 calendar days.

(c) Each correctional facility that has an Administrative Segregation Unit shall provide each inmate in the Unit the opportunity to make a minimum of one collect telephone call per week, excluding legal telephone calls (see N.J.A.C. 10A:6-2.8).

10A:5-3.13 Recreation

(a) Where physical facilities permit, each inmate in an Administrative Segregation Unit shall be allowed recreation and exercise outside the cell at least five hours per week, unless to do so would adversely affect the security or orderly operations of the correctional facility.

(b) Inmates in an Administrative Segregation Unit shall be given the opportunity for out-of-doors recreation for a minimum of one hour of the required five hours of recreation time per week, unless to do so would adversely affect the security or orderly operations of the correctional facility.

Amended by R.2008 d.97, effective April 21, 2008.
See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

In (b), deleted "who shall be retained" following "Inmates", inserted "an" preceding "Administrative" and inserted "Unit" and "hours of recreation time".

10A:5-3.14 Education

(a) Educational programs shall be comparable to those available to inmates in general population to the extent possible in accordance with security considerations, resources, budgetary constraints and Administrative Segregation Unit internal management procedures.

(b) A member of the educational staff shall be assigned to develop individualized educational programs for approved inmates who are assigned to administrative segregation.

(c) Educational programs and services shall be provided for all inmates up to age 20 and up to age 22 for inmates with educational disabilities. An inmate may choose not to participate in available educational programs after the inmate has reached the age of 16. A decision not to participate in an

educational program(s) shall be in writing and signed by the inmate. Until the inmate reaches the age of 18, a parent or guardian must also sign a decision not to participate in an educational program(s). A decision to participate in an educational program(s) may be made at any time thereafter, until the inmate reaches age 22.

10A:5-3.15 Visits by professional and correctional supervisory staff

(a) A member of the correctional facility social work staff shall make visits to the Administrative Segregation Unit five days per week and shall be available as soon as administratively possible to interview individual inmates as requested. When appropriate, referrals to other departments or staff members shall be made.

(b) The correctional facility chaplain shall also visit as soon as administratively possible the Administrative Segregation Unit as requested by individual inmates to provide religious counseling or other pastoral services.

(c) The supervisor in charge of the Administrative Segregation Unit shall make daily visits to the Unit and shall be available as soon as administratively possible to interview individual inmates as requested.

10A:5-3.16 Work opportunities

Work opportunities may be made available to inmates assigned to an Administrative Segregation Unit to the extent possible in accordance with security considerations, limited resources, and availability of physical facilities and budgetary constraints.

Amended by R.2008 d.97, effective April 21, 2008.
See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

Substituted "accordance with" for "light of".

10A:5-3.17 Psychological/psychiatric evaluations

(a) Every inmate in the Administrative Segregation Unit for six months shall receive a psychiatric or psychological evaluation and shall receive a psychiatric or psychological evaluation every two months thereafter. The evaluation shall consider, but not be limited to, the following factors:

1. The inmate's adjustment to his or her surroundings;
2. The likelihood of the inmate conforming his or her behavior to correctional facility rules and regulations; and
3. The likelihood of the inmate posing a threat to the safe, orderly and secure operations of the correctional facility.

(b) The results of the evaluation shall be available to the S.A.S.R.C. for its periodic review of the inmate. This evaluation shall not preclude the S.A.S.R.C. from directing that additional evaluations be made where they deem it necessary.

10A:5-3.18 Withdrawal of personal items or activities

(a) Whenever, in the judgment of the custody staff member in charge of an Administrative Segregation Unit, there is imminent danger that an inmate will destroy clothing or any items usually permitted the inmate in the cell, or do injury to self, to another person, or to property with such items, the custody staff member may deprive the inmate of such items, if practicable. 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 custody staff member.

(b) Whenever an inmate is deprived of any usually authorized item or activity, a written report shall immediately be forwarded to the Administrator or designee and the supervisor of the Administrative Segregation Unit which shall identify the inmate and the item or activity. In addition, the S.A.S.R.C. shall review any such restriction within one week. Any continued restriction shall be permitted only with the written authorization of the S.A.S.R.C.

(c) 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.

10A:5-3.19 Selection of staff

All custody, treatment and administrative staff for Administrative Segregation Units shall be selected in accordance with Department of Personnel regulations and the terms and conditions of all collective bargaining agreements and contracts entered into between the various working units and the Department of Corrections.

10A:5-3.20 Records

(a) The following information on inmates confined in an Administrative Segregation Unit shall be available in the Unit for the use of appropriate staff:

1. The inmate's name and number;
2. Previous housing locations;
3. Unit cell or room assignments;
4. The date admitted;
5. The disciplinary charge leading to administrative segregation;
6. Special medical or psychiatric problems on an as needed basis; and
7. The date beyond which the inmate may not be retained in the Administrative Segregation Unit on the instant offense.

(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.

Amended by R.2008 d.97, effective April 21, 2008.
See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

In the introductory paragraph of (a), substituted "appropriate" for "the custodial".

SUBCHAPTER 4. (RESERVED)

SUBCHAPTER 5. PROTECTIVE CUSTODY

Subchapter Historical Note

Petition for Rulemaking. See: 41 N.J.R. 3115(a).

10A:5-5.1 Assignment to Prehearing Protective Custody or Admission to a Protective Custody Unit

(a) An inmate may be placed in Protective Custody by any of the following means:

1. On the recommendation of the Special Investigations Division (S.I.D.);
2. On the recommendation of a sentencing court or prosecutor, subject to approval of the Administrator. The recommendation must be accompanied by a statement of justifiable reasons to support such placement;
3. On the recommendation of a correctional facility non-custody staff person or a custody staff member;
4. On the order of the Administrator; Assistant Commissioner, Division of Operations; Chief of Staff; Deputy Commissioner; or Commissioner;
5. Voluntarily, on the part of an inmate via the inmate's request; or
6. Involuntarily, on the part of the inmate in accordance with the provisions of this subchapter.

(b) If an inmate voluntarily requests placement in Protective Custody, he or she shall complete, sign and submit to the appropriate Custody Supervisor Form 146-I Voluntary—Protective Custody Consent. The reasons for requesting Protective Custody must be indicated on the form. If the inmate's reasons cannot be verified, are deemed to be frivolous by the Administrator or designee or if the conditions forming the basis for the voluntary placement have abated or no longer exist, placement in Protective Custody may be denied or the inmate may be released from Protective Custody.

(c) Prehearing Protective Custody shall be used when necessary in order to conduct an investigation. In all cases of inmate voluntary and involuntary placement in Prehearing Protective Custody, the Administrator or designee shall gather facts, information and available documentation to support or reject the placement and shall order such additional investigation as is deemed necessary for a clear

understanding of the case. Prehearing Protective Custody may consist of confinement to the inmate's cell or placement into a secure Close Custody Unit.

Amended by R.2008 d.97, effective April 21, 2008.
See: 40 N.J.R. 85(a), 40 N.J.R. 2111(b).

In (a)3, substituted "correctional facility" for "prison"; and in (a)4, inserted "Deputy Commissioner;"

Petition for Rulemaking.

See: 41 N.J.R. 3115(b).

Amended by R.2010 d.054, effective April 5, 2010.

See: 41 N.J.R. 4663(a), 42 N.J.R. 721(a).

Section was "Admission to Protective Custody". In (a)3, deleted "of the rank of Sergeant or above. Emergency placement shall be reviewed and approved within 24 hours by the Shift Supervisor" following "member"; in (a)4, deleted "or" from the end; in (a)5, inserted "the part of an inmate via" and substituted "; or" for a period at the end; added (a)6; and rewrote (b) and (c).

10A:5-5.2 Hearing procedure for involuntary placement in a Protective Custody Unit

(a) An inmate under consideration for placement in Protective Custody shall be given written notice on Form 146-II Notice of Protective Custody Hearing - Involuntary, as soon as practicable.

(b) An inmate placed in Prehearing Protective Custody or a Protective Custody Unit on an emergency basis shall be given written notice on Form 146-II no later than three business days after such emergency placement.

(c) A copy of Form 146-II shall be given to the inmate at least 24 hours prior to the in-person hearing. The notice shall be signed by the staff person delivering it and the date and time of delivery shall be noted.

(d) Form 146-II shall include the following:

1. A statement of reasons used by the administration to initiate the Protective Custody hearing procedure;
2. The date of the Protective Custody hearing; and
3. Notification that the inmate may present any relevant evidence supporting or contesting placement in Protective Custody.

(e) Evidence may consist of:

1. Witnesses' written statements;
2. Documents related to the nature of threat of harm involved; or
3. Other facts relevant to the need or lack of need for placement in Protective Custody.

(f) At the time of receipt of the notice, the inmate shall be given the opportunity to present the basis for any opposition to involuntary placement in Protective Custody. The inmate shall not, however, be required to make any statement at this time. The information contained in the notice, together with any statement or evidence provided by the inmate at the time of receipt of the notice, shall be reviewed by the Adminis-