

**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 As part of R.1996 d.369, Subchapter 6, Transitional Protective Custody, was repealed.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 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, Capital Sentence Unit, Protective Custody Unit, and Security Threat Group Management Unit; 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.

Amended by R.1998 d.465, effective September 8, 1998.  
 See: 30 N.J.R. 2148(a), 30 N.J.R. 3242(b).

In (a)4, inserted a reference to the Security Threat Group Management Unit.

##### 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.

"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 correctional facility to a long term close custody unit because of one or more disciplinary infractions or other administrative considerations.

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

“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.

“Identification process” means the investigative method of operation to include, but not be limited to, the gathering and accumulation of evidence and information used by the Intelligence Section of the Internal Affairs Unit to reasonably identify inmates as security threat group members and core group members.

“Intelligence Section of the Internal Affairs Unit” means a section within the Internal Affairs Unit of the Department of Corrections that is responsible for the identification process and the collection, control, maintenance and dissemination of information regarding alleged and identified security threat group members and security threat groups.

“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.

“Prehearing Security Threat Group Management Unit Status” means the nonpunitive removal of an inmate from the inmate general population or other housing unit pending the outcome of a Security Threat Group Management Unit Committee placement hearing.

“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.

“Security threat group” means a group of inmates possessing common characteristics, interests and goals which serve to distinguish the group or group members from other inmate groups or other inmates and which, as a discrete entity, poses a threat to the safety of staff, other inmates, the community, or causes damages to or destruction of property, or interrupts the safe, secure and orderly operation of the correctional facility(ies).

“Security threat group activity(ies)” means an activity(ies) or action(s) of an inmate that relate either directly or indirectly to the goals of a security threat group. These activities include, but are not limited to:

1. Possession of security threat group literature, such as, correspondence, newsletters, publications, lessons, membership lists and manuals;
2. Possession of security threat group paraphernalia, such as, beads, artwork, medallions and clothing articles;
3. Known security threat group hand-signs or signals as observed by staff;
4. Participation in security threat group related assaults, disturbances, meetings, gatherings, incidents, or events;

5. Sending security threat group related correspondence; and

6. Recruiting other inmates to join a security threat group.

“Security threat group core member” means an inmate who has been identified as being a member of a security threat group and whose documented security threat group activity(ies) or behavior as a recognized security threat group member or leader poses a threat to the safety of staff, other inmates, or the community, or a threat of damages to or destruction of property, or a threat of interruption of the safe, secure and orderly operation of the correctional facility(ies).

“Security Threat Group Management Unit” means a close custody unit to which inmates may be assigned if reasonably sufficient evidence and/or information exists that the inmate is a security threat group core member.

“Security Threat Group Management Unit Hearing Committee” means a committee appointed by the Superintendent of the correctional facility designated to contain a Security Threat Group Management Unit, composed of professional correctional staff, and responsible for hearing the cases of inmates referred for placement into the Unit; for the review, monitoring and evaluation of inmate progress in each phase of the Security Threat Group Management Unit program; and for the determination of inmate phase movement.

“Security Threat Group Management Unit Phase Program” means a three phase program established to reintegrate inmates assigned to the Security Threat Group Management Unit back into the inmate general population.

“Security threat group member” means an inmate who has been identified as a member of a security threat group based upon reasonably sufficient evidence and/or 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 Protective Custody Unit”, “Vroom-Administrative Segregation Review Committee”, “Vroom Readjustment Unit (V.R.U.)” and “Youth Complex”.  
Amended by R.1998 d.465, effective September 8, 1998.  
See: 30 N.J.R. 2148(a), 30 N.J.R. 3242(b).

Inserted “Identification process”, “Intelligence Section of the Internal Affairs Unit”, “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 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; and
5. 147-III Authorization for Prehearing Security Threat Group Management Unit Status.

(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. 147-I Notice of Security Threat Group Core Membership Hearing;
2. 147-II Security Threat Group Management Unit Hearing Committee Decision;
3. 147-IV Appeal of Security Threat Group Management Unit Hearing Committee Decision;
4. 147-V Disposition of Security Threat Group Management Unit Appeal;

5. 147-VI Notice of Security Threat Group Management Unit Phase Review; and

6. 147-VII Disposition of Security Threat Group Management Unit Phase Review.

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).

Amended by R.1998 d.465, effective September 8, 1998.

See: 30 N.J.R. 2148(a), 30 N.J.R. 3242(b).

In (a), added 5; and added (c).

## 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. SECURITY THREAT GROUP MANAGEMENT UNIT

### Authority

N.J.S.A. 30:1B-6 and 30:1B-10.

### Source and Effective Date

R.1998 d.465, effective September 8, 1998.

See: 30 N.J.R. 2148(a), 30 N.J.R. 3242(b).

#### 10A:5-6.1 Scope

This subchapter shall be applicable to the Department of Corrections and provides rules regarding the identification of inmates as members and core members of a security threat group(s) and the placement of inmates identified as core members of a security threat group.

#### 10A:5-6.2 Prohibited security threat group(s) and activity(ies)

(a) The Department of Corrections prohibits the organization and operation of a security threat group(s).

(b) The Department of Corrections prohibits security threat group activity(ies).

(c) The Department of Corrections prohibits the possession, receipt or exhibition of anything related to a security threat group such as, but not limited to, medallions, clothing, beads, artwork and literature.

(d) Evidence or information indicative of security threat group organization, operation or involvement in a security threat group activity(ies) shall result in disciplinary action and a finding of guilt shall subject the inmate to appropriate disciplinary sanctions.

#### 10A:5-6.3 The Security Threat Group Management Unit(s)

(a) The Commissioner shall designate a specific housing unit(s) to be utilized for inmates who have been identified as core members of a security threat group(s).

(b) There shall be no commingling of inmates in the Security Threat Group Management Unit with inmates in general population except when authorized by the Superintendent.

(c) Access to inmates in the Security Threat Group Management Unit shall be only as set forth in this subchapter and the Unit internal management procedures.

#### 10A:5-6.4 Responsibilities of the Intelligence Section of the Internal Affairs Unit

(a) The Intelligence Section of the Internal Affairs Unit shall be responsible for the gathering, accumulation, control, maintenance and dissemination of information regarding designated and alleged security threat group(s), identified and alleged group members and identified and alleged core group members.

(b) The Intelligence Section of the Internal Affairs Unit shall present findings to include evidence, information and supporting documentation regarding designated and alleged security threat groups to the Commissioner or Deputy Commissioner for review.

(c) The Intelligence Section of the Internal Affairs Unit shall:

1. Present findings, to include evidence, information and supporting documentation regarding identified and alleged security threat group members and core group members, to the Superintendent of the correctional facility in which the inmates are housed; and

2. If reasonably sufficient evidence or information of inmate security threat group core membership exists, shall make a written recommendation to the Superintendent of the correctional facility where the inmate is housed for the inmate to be placed into the Security Threat Group Management Unit.

#### 10A:5-6.5 Security threat group designation and member identification

(a) Only the Commissioner or Deputy Commissioner shall be authorized to designate a group of inmates as a security threat group. Such designation shall be based upon reasonably sufficient evidence and information.

(b) Only the Intelligence Section of the Internal Affairs Unit shall be authorized to identify inmates as security threat group members and security threat group core members. Such identification shall be based upon reasonably sufficient evidence and information.

**10A:5-6.6 Responsibilities of the Superintendent and Assistant Commissioner**

(a) Upon receipt of a recommendation from the Intelligence Section of the Internal Affairs Unit for placement of an inmate into the Security Threat Group Management Unit, the Superintendent shall advise the appropriate Assistant Commissioner or designee.

(b) The Assistant Commissioner or designee shall arrange for the transfer of the inmate to the Security Threat Group Management Unit where the inmate shall be placed in Prehearing Security Threat Group Management Unit Status.

(c) Upon receipt of the inmate, the Superintendent or designee of the correctional facility containing the Security Threat Group Management Unit shall initiate a Security Threat Group Core Membership Hearing as set forth in this subchapter.

**10A:5-6.7 Prehearing Security Threat Group Management Unit Status**

(a) An inmate may be placed on Prehearing Security Threat Group Management Unit Status by order of the Superintendent or designee when there is reason to believe that there is evidence and/or information that the inmate is a member of a security threat group. Whenever possible, Form 147-III shall be completed prior to placement; however, in the event of an emergency, Form 147-III shall be completed as soon as conditions permit.

(b) The Superintendent or designee shall complete Form 147-III Authorization for Prehearing Security Threat Group Management Unit Status.

(c) An inmate placed in Prehearing Security Threat Group Management Unit Status shall be given written notice, utilizing Form 147-I Notice of Security Threat Group Core Membership Hearing within 48 hours of placement in Prehearing Security Threat Group Management Unit Placement status.

**10A:5-6.8 Security Threat Group Management Unit Hearing Committee**

(a) A Security Threat Group Management Unit Hearing Committee shall be established by the Superintendent of the correctional facility designated to contain a Security Threat Group Management Unit.

(b) The Committee shall be composed of:

1. An Assistant Superintendent as chairperson;
2. A professional staff member designated by the Superintendent; and
3. A custody supervisor.

(c) The Security Threat Group Management Unit Hearing Committee shall meet when necessary to:

1. Conduct the Security Threat Group Core Membership Hearing to make a determination regarding inmates recommended for assignment to the Security Threat Group Management Unit; and
2. Conduct Security Threat Group Management Unit phase reviews for inmates already assigned to the Security Threat Group Management Unit and to authorize phase movements when appropriate.

(d) The Security Threat Group Management Unit Hearing Committee shall be responsible to ensure that when written notices are required to be provided to inmates, verbal notices shall also be provided to illiterate inmates and inmates not sufficiently conversant with the English language.

**10A:5-6.9 Procedure for conducting the Security Threat Group Core Membership Hearing**

(a) An inmate being considered for assignment to the Security Threat Group Management Unit shall be provided written notice, utilizing Form 147-I Notice of Security Threat Group Core Membership Hearing, at least 48 hours prior to appearing before the Security Threat Group Management Unit Hearing Committee. The staff member delivering the notice shall indicate the time and date of the delivery and sign Form 147-I.

(b) Form 147-I Notice of Security Threat Group Core Membership Hearing shall:

1. Indicate the basis upon which a recommendation for placement to the Security Threat Group Management Unit has been made;
2. Contain concise statements of a factual basis, not merely conclusions, on which the recommendation is based;
3. Not contain information deemed confidential as established in this section;
4. Provide written notice that the inmate may obtain the help of another inmate to act as a counsel substitute to assist in collecting the facts in the inmate's case and to be present at the hearing as a spokesperson; and

5. Provide written notice that an illiterate inmate or inmate otherwise demonstrating or requesting a need for assistance such as an interpreter shall receive the assistance of a consenting inmate, or a staff member approved or assigned to this function by the Security Threat Group Management Unit Hearing Committee.

(c) Unless there are exceptional circumstances, unavoidable delays, or reasonable postponements, the inmate shall be provided a hearing within 15 business days of the receipt of Form 147-I.

(d) The inmate shall be permitted to appear in person or through video teleconference and to speak on the inmate's own behalf at the hearing, unless the Security Threat Group Management Unit Hearing Committee determines that the presence of the inmate would pose a threat to the safe, secure or orderly operation of the correctional facility. When the Committee determines an inmate shall not be permitted to be present, written notice shall be provided to the inmate. In such cases, the inmate shall be permitted to present the case through a counsel substitute and/or through the submission of such written materials as the inmate believes appropriate. An inmate is not required to attend the hearing.

(e) When the inmate, counsel substitute, or consenting inmate appears before the Security Threat Group Management Unit Hearing Committee, the Chairperson shall explain to the inmate, counsel substitute, or consenting inmate the reasons for the recommendation for placement to the Security Threat Group Management Unit, the nature of the proceeding and information and evidence bearing on the case.

(f) Evidence and/or information designated "confidential" as established by the Security Threat Group Management Unit Hearing Committee pursuant to N.J.A.C. 10A:22, Records, shall be either:

1. Provided to the inmate in the form of a concise summary of the confidential evidence and/or information in language that is factual, not conclusive; or

2. If the proposed recommendation for the Security Threat Group Management Unit placement is based in part on information from a confidential informant, the inmate shall be provided with a concise statement of facts establishing that the informant is credible or the information is reliable and the informant's statement (either in writing or as reported) is in language that is factual, not conclusive and is based upon the informant's personal knowledge of the matters contained in the informant's statement.

(g) When evidence and/or information utilized by the Security Threat Group Management Unit Hearing Committee is deemed confidential and cannot be fully disclosed, the Committee shall direct the inmate, counsel substitute and the consenting inmate to leave the meeting while this information is being presented or discussed.

(h) The Chairperson of the Security Threat Group Management Unit Hearing Committee shall call those witnesses deemed to be reasonably available and whose testimony is necessary for a proper understanding of the circumstances of the particular case. Repetitive witnesses need not be called. The Chairperson shall have the discretion to refuse to call witnesses that may create a risk of reprisal. Unavailable witnesses may be asked to submit written statements. Witnesses requested by the inmate who are called may be questioned by members of the Committee or the counsel substitute. Inmates without a counsel substitute may request that certain questions be directed by Committee members to witnesses.

(i) The Security Threat Group Management Unit Hearing Committee Chairperson shall have the discretion to keep the hearing within reasonable limits and to refuse to permit the collection and presentation of evidence and information which is not necessary for an adequate understanding of the case. The Chairperson shall exercise control of all presentations to prevent lack of relevancy, harassment, abuse or repetitiveness.

(j) The Chairperson may direct a further investigation in any case where the Chairperson is of the opinion that the evidence or information regarding the particular case is not sufficient to set forth a determination.

(k) Hearings that have been postponed for further investigation shall be reviewed by the Security Threat Group Management Unit Hearing Committee within 48 hours of postponement to determine if further postponement is warranted. Further postponements shall be granted only in exceptional circumstances.

(l) An inmate shall be placed in the Security Threat Group Management Unit when, after considering the facts presented at the hearing, the Security Threat Group Management Unit Hearing Committee has determined that reasonably sufficient information or evidence exists that the inmate is a core member of a security threat group.

(m) Within 10 business days after the hearing has concluded, the Security Threat Group Management Unit Hearing Committee shall notify the inmate in writing utilizing Form 147-II Security Threat Group Management Unit Hearing Committee Decision advising the inmate of the decision regarding Security Threat Group Management Unit placement.

#### **10A:5-6.10 Use of Prehearing Security Threat Group Management Unit Status during an emergency**

(a) In the event an emergency is declared, inmates may be placed into Prehearing Security Threat Group Management Unit Status.

(b) The following procedures shall be implemented and remain in effect until normal operations resume: