

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 As part of R.1996 d.369, Subchapter 6, Transitional Protective Custody, was repealed.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.

“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 Special Investigations Division to reasonably identify inmates as security threat group members and core group members.

“Intelligence Section of the Special Investigations Division” means a section within the Special Investigations Division 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”.

Administrative change.

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

Amended by R.2001 d.155, effective May 21, 2001.

See: 33 N.J.R. 747(a), 33 N.J.R. 1589(b).

In “Administrative Segregation”, deleted “or other administrative corrections” following “disciplinary infractions”.

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.

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

Law Review and Journal Commentaries

Prisons—Due Process—Informants. Judith Nallin, 134 N.J.L.J. No. 13, 61 (1993).

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.

Prison officials' decision to place inmate in nonpunitive management control unit supported by record. *Taylor v. Beyer*, 265 N.J.Super. 345, 627 A.2d 166 (A.D.1993).

10A:5-2.6 Procedures for the Management Control Unit Review Committee (M.C.U.R.C.) hearings

(a) An inmate being considered for assignment to the Management Control Unit (M.C.U.) shall be given written notice, utilizing Form L.C. 36 CRITERIA RECORD SHEET, at least 24 hours prior to appearing before the Management Control Unit Review Committee (M.C.U.R.C.). The staff member delivering the notice shall indicate the time and date of delivery, and signature of staff member.

(b) Form L.C. 36 CRITERIA RECORD SHEET shall:

1. Delineate the criteria which will be utilized in determining the inmate's suitability for the M.C.U.;
2. Provide an outline of the major factors in the particular inmate's case history;
3. Contain concise statements of the factual basis, not merely conclusions, on which the recommendation of M.C.U. placement is based; and
4. Not contain information deemed confidential as defined in (i) below.

(c) The inmate shall also be notified that the inmate may obtain the help of another inmate to act as a counsel substitute to assist in marshalling the facts in the inmate's case and to be present at the hearing as a spokesperson.

(d) Illiterate inmates or inmates otherwise demonstrating a need for assistance shall receive the assistance of a consenting inmate, or a staff member assigned to this function by the M.C.U.R.C. An interpreter shall be utilized if needed.

(e) The M.C.U.R.C. Chairperson shall have the discretion to keep the hearing within reasonable limits and to refuse to permit the collection and presentation of evidence which is not necessary for an adequate understanding of the case. The Chairperson shall exercise control over all presentations to prevent lack of relevancy, harassment, abuse or repetitiveness and to insure that the hearing does not develop into an adversary proceeding.

(f) Unless there are exceptional circumstances, unavoidable delays or reasonable postponements, inmates shall be seen by the M.C.U.R.C. within 10 working days of being notified that they are being considered for the M.C.U.

(g) At the meeting with the M.C.U.R.C., the inmate shall be allowed to appear in person and to testify, unless the inmate's appearance would pose a serious threat to the safety or security of the correctional facility, the M.C.U.R.C., or unless the inmate refuses to appear. In those cases where an inmate is not allowed to appear in person, the inmate shall be permitted to present the case through a counsel substitute and through submission of such written materials as the inmate believes appropriate.

(h) At the hearing, the inmate shall be informed of all adverse information bearing on the case, with the exception of information designated "confidential" by the M.C.U.R.C.

(i) If full disclosure of the factual basis on which the recommendation of M.C.U. placement is based would reveal confidential information, the inmate shall be provided with a concise summary of the confidential information in language that is factual and not conclusory. Confidential information is defined as information:

1. Which is contained in the reports of health care professionals which are evaluative, diagnostic or prognostic in nature and which are furnished with a legitimate expectation of confidentiality and which, if revealed to the inmate or others could be detrimental to the inmate or could jeopardize the safety of individuals who signed the reports or were parties to the decisions, conclusions or statements contained therein; or
2. Which the Department of Corrections reasonably believes:
 - i. Would impede ongoing criminal or disciplinary investigations;
 - ii. Would create a risk of reprisal;
 - iii. Would reveal the identity of confidential informants;
 - iv. Would reveal the identity of the target of ongoing investigations (unless that target has been so advised);
 - v. Would reveal the technique of investigations or the manner in which the fruits of the investigations are

compiled so long as they interfere with the security of the correctional facility; or

vi. Would interfere with the security of a correctional facility.

(j) If the proposed M.C.U. placement is based in part on information from a confidential informant, the inmate shall be provided with a concise statement of facts based upon which the Department of Corrections proposes to establish that the informant is credible or his or her information is reliable and the informant's statement (either in writing or as reported) is in language that is factual rather than a conclusion and based upon the informant's personal knowledge of the matters contained in his or her statement.

(k) When information utilized by the M.C.U.R.C. is deemed confidential, and cannot be fully disclosed to the inmate, the M.C.U.R.C. shall direct the inmate and the inmate's representative to leave the meeting while this information is being presented or discussed. Whenever practical, the inmate shall be informed of the confidential information in accordance with (i) above.

(l) When the inmate appears before the M.C.U.R.C., the Chairperson shall explain to the inmate the reason for the inmate's appearance, the nature of the proceeding and the particular areas of the M.C.U.R.C.'s concern.

(m) The inmate shall be permitted to present documentary evidence related to the inmate's case. The inmate shall also be permitted to call witnesses on the inmate's own behalf when permitting the inmate to do so will not risk the maintenance of security or the orderly operation of the correctional facility. The M.C.U.R.C. shall have the discretion, however, to keep the hearing within reasonable limits.

(n) The Chairperson of the M.C.U.R.C. 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 should be questioned by members of the M.C.U.R.C. or the counsel substitute. Inmates without a counsel substitute may request that certain questions be directed by Committee members to any witnesses.

(o) The M.C.U.R.C. Chairperson shall exercise control over all presentations to exclude irrelevant information and to prevent harassment, abuse or repetition. If the Chairperson shall refuse to call one or more witnesses, the reasons for each such refusal shall be separately specified on the decision form.

(p) During the formal review with the inmate, the M.C.U.R.C. may give guidance to the inmate with respect to the reason for the rules and policies of the correctional facility.

(q) Prior to rendering a decision to place or maintain an inmate in the M.C.U., the M.C.U.R.C. shall consider alternatives to M.C.U. placement as a means of addressing the correctional facility concerns related to the inmate. These alternatives shall include, but not be limited to, transfer to another correctional facility, reduction in privileges, or transfer to another housing unit in general population.

(r) When the M.C.U.R.C. notes a particular treatment need which can be met by existing treatment services, and the inmate indicates a willingness to participate in such treatment, the M.C.U.R.C. shall make the appropriate referral.

(s) A record shall be maintained of the proceedings of the M.C.U.R.C. to include, but not be limited to:

1. The substance of the evidence presented;
2. A summary of the statements of participants in the hearing;
3. A log of the evidence considered;
4. A written indication of the alternatives considered in accordance with (q) above; and
5. The decision of the M.C.U.R.C.

(t) The recorder of the M.C.U. hearing proceedings shall certify that the record is a true and accurate representation of the proceedings.

(u) Within one calendar week, the M.C.U.R.C. shall provide a written notice of decision to the inmate advising the inmate of the reason for the decision and a summary of the evidence relied upon. The decision of the M.C.U.R.C. to place an inmate in the M.C.U. shall be based on the information contained in the record. In a case in which the record contains information received from a confidential informant, the M.C.U.R.C. shall provide a summary of facts the basis of which the Committee concluded that the informant was credible or his or her information reliable and the informant's statement (either in writing or as reported) in language that is factual rather than a conclusion, and based on the informant's personal knowledge of the matters contained in his or her statement.

(v) In the written notice of decision to the inmate being admitted or retained in M.C.U., the M.C.U.R.C. shall point out the elements of the inmate's behavior or attitude which are deemed to be unsatisfactory and shall advise the inmate that the next formal M.C.U.R.C. review on the inmate's case will be held in three months.

(w) An inmate assigned to the M.C.U. may request in writing an out-of-state transfer. The Department of Corrections shall respond to the request after making a good faith evaluation of the request. If the response is denial, the Department of Corrections shall provide an explanation for the denial, without revealing confidential information, if any, which resulted in the denial.

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

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

Rewrote the section.

Law Review and Journal Commentaries

Prisons—Due Process—Informants. Judith Nallin, 134 N.J.L.J. No. 13, 61 (1993).

Case Notes

General character of confidential information used by prison officials in placing inmate in nonpunitive management control unit was adequately disclosed. *Taylor v. Beyer*, 265 N.J.Super. 345, 627 A.2d 166 (A.D.1993).

Prison officials' decision to place inmate in nonpunitive management control unit supported by record. *Taylor v. Beyer*, 265 N.J.Super. 345, 627 A.2d 166 (A.D.1993).

10A:5-2.7 Appeal of Management Control Unit Review Committee (M.C.U.R.C.) decisions

(a) At the time the inmate is provided with the Management Control Unit Review Committee's (M.C.U.R.C.) decision, the inmate shall be advised of the opportunity to have the Superintendent or his or her designee review the M.C.U.R.C. decision. The inmate shall have one calendar week to submit a letter of appeal. The Superintendent or his or her designee may approve or modify any M.C.U.R.C. decision as he or she deems appropriate. The Superintendent or his or her designee may also order further hearings where appropriate.

(b) During the Superintendent's review, the following factors shall be considered:

1. Whether there was compliance with N.J.A.C. 10A:5-2.6;
2. Whether the decision of the M.C.U.R.C. was based on substantial evidence; and
3. Whether the decision was rendered appropriate to the inmate's case.

(c) The Superintendent's decision will be forwarded to the inmate in writing within seven working days following receipt of the appeal.

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

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

10A:5-2.8 Use of Prehearing Management Control Unit prior to the Management Control Unit Review Committee (M.C.U.R.C.) meeting

(a) The inmate may be placed in Prehearing M.C.U. by order of the Superintendent or Assistant Superintendent utilizing Form 141-I AUTHORIZATION FOR PRE-HEARING M.C.U. when there is reasonable evidence that, if the inmate remains in general population, there is an immediate threat:

1. To the safety of others;
2. Of damage to or destruction of property; or,
3. Of interrupting the safe, secure and orderly operation of the correctional facility.

(b) The inmate shall be entitled to a hearing within 10 working days following his placement into Prehearing M.C.U.

(c) An inmate placed in Prehearing M.C.U. shall be given written notice, utilizing Form L.C. 36 CRITERIA RECORD SHEET, as described in N.J.A.C. 10A:5-2.6 within 24 hours following placement in Prehearing M.C.U.

(d) A separate Form 141-I must be completed for each inmate and, whenever possible, Form 141-I should be completed prior to placing the inmate in Prehearing M.C.U.

(e) When an emergency exists which precludes completion of the Form 141-I prior to placement, the Form must be completed immediately following placement. After all appropriate parties have signed Form 141-I, it shall be placed in the inmate's classification folder and a copy shall be placed in the inmate's M.C.U. folder.

(f) Additional copies of completed Form 141-I may be kept on file, for record keeping purposes, in any areas designated by the Superintendent and the Director of Custody Operations.

Amended by R.1991 d.358, effective July 15, 1991.

See: 23 N.J.R. 1260(a), 23 N.J.R. 2143(a).

Changed the amount of time within which an inmate is entitled to a hearing following placement in M.C.U. from five working days to 10 working days in cases when an inmate is placed into M.C.U. prior to a hearing.

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.

10A:5-2.9 Use of Prehearing Management Control Unit during an emergency

(a) In the event an emergency is declared which poses an immediate and substantial threat to the security and orderly operation of the correctional facility, it may become necessary to implement a total lock-up of inmates. The correctional facility shall remain in this lock-up state until such time as the emergency no longer exists.

(b) During this period between total lock-up and a return to normal operations any number of inmates may be placed in Prehearing M.C.U. status should their behavior fall into the placement criteria as outlined in N.J.A.C. 10A:5-2.8, **USE OF PREHEARING MANAGEMENT CONTROL UNIT PRIOR TO THE MANAGEMENT CONTROL UNIT REVIEW COMMITTEE (M.C.U.R.C.) MEETING.** When an unusually large number of inmates is involved, the procedures set forth in this subchapter shall be modified in order to maintain an effective level of security and order, and at the same time, attempt to provide each inmate with the maximum M.C.U. hearing safeguards under these unusual circumstances.

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

1. Inmates who have been identified as being a threat to the secure and orderly operation of the correctional facility shall remain in Prehearing M.C.U. at housing assignments to be designated by the Superintendent or his or her designee.

2. Each inmate shall receive a written notice explaining that:

i. An emergency exists;

ii. The inmate has been identified as a threat to the security and/or orderly operation of the correctional facility; and

iii. The inmate will receive an in-person hearing as soon as possible.

3. The schedule for the hearings shall be affected by the number of inmates involved and the need to insure security. A schedule of such hearings shall be issued by the Superintendent.

4. The Superintendent shall designate hearing officers who are familiar with classification materials and the M.C.U. process to conduct hearings as promptly as possible. The inmate shall be permitted to appear in person unless doing so would be unduly hazardous to the safety of the hearing officer or security of the correctional facility.

5. At the hearing the inmate shall be informed verbally of all adverse information bearing on the inmate's case with the exception of information designated "confidential." When reviewing confidential information, procedures set forth in N.J.A.C. 10A:5-2.6 shall apply.

6. The inmate shall be permitted to speak on the inmate's own behalf or to submit a written statement. If the inmate is illiterate or otherwise demonstrates a need for assistance in presenting his statement, a staff member may be assigned to assist the inmate at the hearing.

7. The inmate shall receive a written notice of decision within 10 days.

8. Review procedures, after initial classification to M.C.U. during these emergency conditions, shall be those set forth in N.J.A.C. 10A:5-2.6 and N.J.A.C. 10A:5-2.10. These review procedures shall be commenced within three months following initial placement with subsequent reviews held every three months.

9. Conditions of confinement as set forth in this Subchapter shall be modified as is reasonably necessary during the pendency of the emergency to insure security and the continued orderly operation of the correctional facility.

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

10A:5-2.10 Review of inmates placed in the Management Control Unit (M.C.U.)

(a) When the Management Control Unit Review Committee (M.C.U.R.C.) determines that placement in the Management Control Unit (M.C.U.) is appropriate for a particular inmate, a preliminary determination shall also be made as to when the continued need for the M.C.U. program will be reviewed. In any case, a formal review of each inmate in the M.C.U. shall be made a minimum of every three months.

(b) A written record shall be maintained by the M.C.U.R.C. of all reviews of inmates in the M.C.U. This record shall be kept in a separate file in addition to being made a permanent part of the inmate's case folder. A confidential notation shall be made in the file if the M.C.U.R.C.'s conclusions regarding findings or disposition in a particular case are not unanimous. All M.C.U.R.C. reports shall be signed by all members.

(c) The inmate shall be permitted to appear at all reviews of the inmate's case unless doing so would be unduly hazardous to the safety and security of the correctional facility, or the inmate refuses to appear.

(d) Any member of the M.C.U.R.C. may request a review for an inmate in the M.C.U. earlier than was previously determined.

(e) At each review, the M.C.U.R.C. shall again review the information upon which the decision was based to assign the inmate to the M.C.U. Such information shall include:

1. Disciplinary reports;
2. Programs participation such as, but not limited to, education, counseling, recreation activities; and
3. Records of the inmate's behavior and attitude while in the Unit such as, wing officers and professional staff reports which must periodically be filed describing pertinent observations, both positive and negative, of the inmate's behavior and attitude while in the M.C.U.

(f) An inmate shall be released from the M.C.U. when, in the opinion of the M.C.U.R.C., the inmate no longer 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.

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

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:5-2.11 Annual review of inmate status in the Management Control Unit (M.C.U.)

(a) The Department of Corrections shall conduct a hearing at least annually to review the status of the inmate in order to determine whether an inmate's release from M.C.U. is appropriate.

(b) The inmate has the initial burden of demonstrating at this review, that the inmate has:

1. Participated in the required programs, jobs, educational and recreational programs afforded the inmate pursuant to N.J.A.C. 10A:5-2.21, 2.22, 2.24 and 2.25;
2. Complied with the criteria detailed by the M.C.U.R.C.;
3. Remained free from prohibited acts preceded by an asterisk for the program year; and
4. Agreed to reaffirm the obligation to adhere to the rules and regulations for inmate behavior, as described in the Handbook on Discipline and correctional facility inmate handbooks.

(c) If the inmate demonstrates the criteria established in (b) above, the inmate will be considered for release from the M.C.U. and the inmate will be released unless the Department of Corrections can demonstrate through substantial evidence including behavior and attitude adjustment

and disciplinary history that the inmate continues to pose an identifiable 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.

New Rule, 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:5-2.11, "Ventilation, heating, lighting and sanitation", recodified to 10A:5-2.12.

10A:5-2.12 Ventilation, heating, lighting and sanitation

(a) Proper ventilation, lighting, normal room temperatures, cleanliness and properly functioning sanitary fixtures shall be maintained in cells within the Management Control Unit (M.C.U.).

(b) Daily inspections shall be made to insure that the cells, corridors, toilets, showers and other areas within the M.C.U. are kept secure, clean and sanitary.

Recodified from 10A:5-2.11 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:5-2.12, "Food", recodified to 10A:5-2.13.

10A:5-2.13 Food

(a) Management Control Unit (M.C.U.) inmates shall be served the normal correctional facility meals on the "Menu of the Day" or such special diet as shall be prescribed.

(b) Disposable utensils shall be used when necessary.

Recodified from 10A:5-2.12 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:5-2.13, "Showers, shaving", recodified to 10A:5-2.14.

10A:5-2.14 Showers, shaving

Each inmate in the Management Control Unit (M.C.U.) shall be permitted to shave and shower at least two times a week, unless permitting these activities would present an undue security hazard. Every effort shall be made to permit each inmate in M.C.U. to shave and shower every other day.

Recodified from 10A:5-2.13 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:5-2.14, "Medical and psychiatric services", recodified to 10A:5-2.15.

10A:5-2.15 Medical and psychiatric services

(a) Medical and psychiatric emergencies of inmates in the Management Control Unit (M.C.U.) shall be attended to immediately.

(b) Requests for medical attention by staff or inmates in non-emergency situations shall be responded to by the physician who visits the M.C.U. every weekday.

(c) The level of all other medical and psychiatric services shall be the equivalent of that provided to inmates in the general population.

Recodified from 10A:5-2.14 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:5-2.15, "Personal items", recodified to 10A:5-2.16.

10A:5-2.16 Personal items

(a) All inmates shall be admitted to the Management Control Unit (M.C.U.) dressed in normal correctional facility clothing after a thorough search for contraband.

(b) Each inmate shall be provided with the following items to the same extent as such items are provided for inmates in the general population:

1. Clothing required for use in cell;
2. Bedding and mattress;
3. Personal hygiene supplies (including soap, deodorant, toothbrush, toothpaste or powder, towel and toilet paper);
4. Utensils and supplies for adequately cleaning cell;
5. Eyeglasses; and
6. Writing materials.

(c) The possession and use of radios, televisions, typewriters and other appliances in the M.C.U. shall be subject to the same guidelines as those developed by the Superintendent for the general population.

(d) Inmates in M.C.U. shall be permitted the same number of personal and library books as the general population. Written procedures shall be in effect for requesting, receiving and returning reading materials to the correctional facility's library and Inmate Law Library.

Recodified from 10A:5-2.15 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:5-2.16, "Disposition of inmate's personal possessions not authorized in the Management Control Unit (M.C.U.)", recodified to 10A:5-2.17.

10A:5-2.17 Disposition of inmate's personal possessions not authorized in the Management Control Unit (M.C.U.)

(a) The inmate's personal possessions not authorized in the Management Control Unit (M.C.U.) shall not be stored by the correctional facility.

(b) Disposition of these non-permissible personal possessions shall be handled in accordance with N.J.A.C. 10A:1, ADMINISTRATION, ORGANIZATION AND MANAGEMENT.

Recodified from 10A:5-2.16 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:5-2.17, "Correctional facility clothing, bedding and linen", recodified to 10A:5-2.18.

10A:5-2.18 Correctional facility clothing, bedding and linen

Written procedures shall be established which provide for each inmate in the Management Control Unit (M.C.U.) to send clothing, towels, sheets and other linens to the laundry on a weekly basis.

Recodified from 10A:5-2.17 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:5-2.18, "Inmate legal activities", recodified to 10A:5-2.19.

10A:5-2.19 Inmate legal activities

(a) Inmates shall be provided access to attorneys.

(b) Inmates shall also have access to the Inmate Law Library by means of inmate law library clerks who shall respond to the appropriate request of the Management Control Unit (M.C.U.) residents for legal reference materials, services and supplies as afforded inmates in the general population.

(c) The Superintendent shall be responsible for ensuring that M.C.U. inmates have reasonable access to notary services.

Recodified from 10A:5-2.18 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:5-2.19, "Correspondence, visits and telephone calls", recodified to 10A:5-2.20.

10A:5-2.20 Correspondence, visits and telephone calls

(a) Correspondence, visiting or telephone calling opportunities shall be available to inmates in the Management Control Unit (M.C.U.) but conducted in accordance with any special precautions deemed necessary or appropriate by the Superintendent.

(b) No staff member shall monitor the content of conversation between an inmate and the inmate's attorney or spiritual advisor during visits.

(c) Restrictions of visits or telephone calls for persons in the M.C.U. shall be made in accordance with N.J.A.C. 10A:5-2.27.

Recodified from 10A:5-2.19 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:5-2.20, "Exercise and recreation", recodified to 10A:5-2.21.

Amended by R.1998 d.264, effective May 18, 1998.

See: 30 N.J.R. 967(a), 30 N.J.R. 1812(a).

In (b), inserted "during visits" after "spiritual advisor"; and in (c), changed the N.J.A.C. reference.

10A:5-2.21 Exercise and recreation

(a) Efforts shall be made to provide opportunities for exercise and recreation consistent with custodial considerations. Each inmate in the Management Control Unit (M.C.U.) shall be permitted the minimum of two hours exercise each week and every effort shall be made to provide at least five hours per week, unless compelling security, safety or weather reasons dictate otherwise. When exercise is not permitted, the reasons shall be well documented.

(b) The Superintendent may take emergency action in suspending exercise or recreation privileges for any or all inmates until the emergency has passed. In any such emergency, the Superintendent shall notify the Commissioner.

Recodified from 10A:5-2.20 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:5-2.21, "Education", recodified to 10A:5-2.22.

10A:5-2.22 Education

(a) Educational programs shall be made available to inmates in the Management Control Unit (M.C.U.) who are desirous of participating in them.

(b) A teacher shall be assigned to the M.C.U. and an office shall be available in the Unit for the teacher's activities.

Recodified from 10A:5-2.21 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:5-2.22, "Visits by professional staff", recodified to 10A:5-2.23.

10A:5-2.23 Visits by professional staff

(a) Inmates in the Management Control Unit (M.C.U.) shall be visited daily during the work week by a member of the correctional facility's professional staff to determine any emergency or unusual needs of the inmates and make referrals to appropriate departments or staff members.

(b) Spiritual counseling shall be available on an individual basis as coordinated by the correctional facility's chaplain and consistent with the M.C.U. operating procedures.

Recodified from 10A:5-2.22 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:5-2.23, "Work opportunities", recodified to 10A:5-2.24.

10A:5-2.24 Work opportunities

(a) Work opportunities shall be provided to all inmates in the Management Control Unit (M.C.U.) in keeping with the special conditions of the Unit.

(b) Pay and work time credits shall be commensurate with the skill level and the amount of work responsibilities involved.

(c) Education and program credits shall be commensurate with credits available to the general population.

Recodified from 10A:5-2.23 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:5-2.24, "Social, psychological and counseling program", recodified to 10A:5-2.25.

10A:5-2.25 Social, psychological and counseling program

(a) Treatment programs shall be available in the Management Control Unit (M.C.U.) to at least the same extent as available to the general inmate population. Social workers and a psychologist shall be assigned to the M.C.U. and offices shall be provided for each of these professional persons. The professionals shall provide services consistent with those provided to the general population such as, but not limited to, crisis intervention, problem solving, short and long term counseling, parole and classification evaluations, 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 assigned to the M.C.U.

(c) Two interview rooms shall be set aside within the M.C.U. for use by the assigned professionals, the M.C.U. supervisor, the Parole Counselor, and professional representatives of outside agencies such as, but not limited to, Social Security Administration, Veteran's Administration, and Vocational Rehabilitation Agencies.

Recodified from 10A:5-2.24 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:5-2.25, "Commissary", recodified to 10A:5-2.26.

10A:5-2.26 Commissary

(a) Purchase of commissary items in the Management Control Unit (M.C.U.) shall be permitted within guidelines developed by the M.C.U. supervisor and approved by the Superintendent.

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

Recodified from 10A:5-2.25 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:5-2.26, "Withdrawal of personal items or activities", recodified to 10A:5-2.27.

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

(a) Whenever in the judgement of the officer in charge of the Management Control Unit (M.C.U.) there is imminent danger that an inmate will destroy clothing or any items usually permitted the inmate in the cell, or will do injury to self, to another person or to property with such items, the officer may deprive the inmate of such items, if practicable. In such case, 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 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 M.C.U. Supervisor, identifying the inmate and the item or activity.

(c) The Management Control Unit Review Committee (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.

Recodified from 10A:5-2.26 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:5-2.27, "Special custodial responsibilities", recodified to 10A:5-2.28.

10A:5-2.28 Special custodial responsibilities

(a) Because of the increased need for close security within the Management Control Unit (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. Spotchecks of cells may be conducted at any time.

(b) Despite the increased need for security, precautions shall be taken to insure 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 Superintendent must authorize any non-routine cell searches.

Recodified from 10A:5-2.27 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:5-2.28, "Disciplinary action within the Management Control Unit (M.C.U.)", recodified to 10A:5-2.29.

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 Management Control Unit (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) or 5.2(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 maintain special restriction of privileges upon an inmate 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.).

Recodified from 10A:5-2.28 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:5-2.29, "Program monitoring, review and modification", recodified to 10A:5-2.30.

Amended by R.1998 d.526, effective November 2, 1998.

See: 30 N.J.R. 2810(a), 30 N.J.R. 3965(a).

In (b), added an exception at the beginning.

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

The Management Control Unit Review Committee (M.C.U.R.C.) shall continuously monitor and review all aspects of the Management Control Unit (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 as submitted in writing through the Superintendent to the Assistant Commissioner, Division of Operations.

Recodified from 10A:5-2.29 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:5-2.30, "Compliance with all other rules", recodified to 10A:5-2.31.

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 in the New Jersey State Prison, shall apply with equal force to inmates in the Management Control Unit (M.C.U.).

Administrative correction, effective January 27, 1989.

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

Institutional name change.

Recodified from 10A:5-2.30 by R.1996 d.369, effective August 5, 1996.

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

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 Institutional Classification Committee (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 where the Institutional Classification Committee (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 Institutional Classification Committee (I.C.C.) shall provide written notice to the inmate of its decision confirming, modifying or overruling the administrative segregation sanction together with its 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 which includes administrative segregation, but is housed in a correctional facility which does not have an Administrative Segregation Unit, the sanction first must be reviewed by the Institutional Classification Committee (I.C.C.) of the correctional facility in which the inmate is housed. If the sanction is confirmed, the request to transfer the inmate shall be referred to the Inter-Institutional Classification Committee (I.I.C.C.), which shall approve or disapprove the transfer of the inmate to a correctional facility within the Division of Operations which has an Administrative Segregation Unit.

Amended by R.1990 d.120, effective February 20, 1990.
See: 21 N.J.R. 3409(a), 22 N.J.R. 661(b).

At (a) reference to Edna Mahan Correctional Facility for Women added and new (f)-(k) added.

Amended by R.1991 d.358, effective July 15, 1991.
See: 23 N.J.R. 1260(a), 23 N.J.R. 2143(a).

Replaced word "confirmation" with the word "review" indicating that the administrative segregation part of a sanction, at the Edna Mahan Correctional Facility for Women, would be referred by the Disciplinary Hearing Officer to Institutional Classification Committee for review at the committee meeting.

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

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

(a) The Special Administrative Segregation Review Committee (S.A.S.R.C.) is a subcommittee of the Inter Institutional Classification Committee (I.I.C.C.) which is responsible for providing a bimonthly 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 unavailable, 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 New Jersey State Prison;

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 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 every 60 days, or more frequently if deemed necessary, by the S.A.S.R.C. in order 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., to 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 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, it shall give the inmate written notice of its 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 Management Control Unit Review Committee (M.C.U.R.C.) for the Management Control Unit (M.C.U.);
3. Referred for a protective custody hearing; or
4. Referred to the Inter-Institutional Classification Committee (I.I.C.C.) for possible 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, he or she shall submit a request to the Institutional Classification Committee (I.C.C.) for consideration by the Inter-Institutional Classification Committee (I.I.C.C.)

(n) The S.A.S.R.C. is authorized to assign inmates to an appropriate correctional facility in accordance with the guidelines established for the Inter-Institutional Classification Committee (I.I.C.C.).

(o) The decision of the S.A.S.R.C. to assign an inmate to another correctional facility shall be confirmed by the Inter-Institutional Classification Committee (I.I.C.C.) at its next regularly scheduled meeting. The inmate shall receive written notice of this decision.

(p) 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.

(q) Upon final confirmation of the inmate's assignment by the Inter-Institutional Classification Committee (I.I.C.C.) and approval by the appropriate Director, the receiving correctional facility shall be responsible for immediately contacting the sending correctional facility and making the arrangements necessary for transferring the inmate.

Administrative correction, effective January 27, 1989.

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

Institutional name change.

Amended by R.1990 d.120, effective February 20, 1990.

See: 21 N.J.R. 3409(a), 22 N.J.R. 661(b).

New (g) added, recodified (g)-(o) to (h)-(p) and established different periods for review for inmates assigned to Administrative Segregation Units for periods longer than 365 days.

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

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

Amended by R.1999 d.187, effective June 7, 1999 (operative July 1, 1999).

See: 31 N.J.R. 831(a), 31 N.J.R. 1487(b).

Added (i)5.

Amended by R.2001 d.155, effective May 21, 2001.

See: 33 N.J.R. 747(a), 33 N.J.R. 1589(b).

In (a), inserted ", or more frequent reviews if deemed necessary," following "bimonthly review"; in (b), rewrote the introductory paragraph; added a new (e) and recodified former (e) as (f); recodified former (f) as (g) and inserted ", or more frequently if deemed necessary," following "60 days"; recodified former (g) through (n) as (h) through (o); recodified former (o) as (p) and substituted "administrative" for "administration" preceding "segregation status"; recodified former (p) as (q).

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.

Recodified from 10A:5-3.6 by R.1996 d.369, effective August 5, 1996.

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

Former section, "Admission to the Vroom Administrative Segregation Unit", repealed.

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 Superintendent.

(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 insure 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.

Recodified from 10A:5-3.7 by R.1996 d.369, effective August 5, 1996.

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

Former section, "Vroom-Administrative Segregation Review Committee", repealed.

10A:5-3.5 Food

(a) Segregated inmates shall be served the normal correctional facility meals on the "Menu of the Day" or such special diet as shall be prescribed.

(b) Disposable utensils shall be used when necessary.

Recodified from 10A:5-3.8 by R.1996 d.369, effective August 5, 1996. See: 28 N.J.R. 2782(a), 28 N.J.R. 3791(b).

Former section, "Role of the Inter-Institutional Classification Committee (I.I.C.C.) in review of inmates in the Vroom Administrative Segregation Unit", repealed.

10A:5-3.6 Grooming, showering and shaving

(a) As needed, barbering and hair care services shall be provided.

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

Recodified from 10A:5-3.9 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:5-3.6, "Separate facilities", recodified to 10A:5-3.3.

10A:5-3.7 Medical and psychiatric services

(a) A member of the medical staff which can be a nurse, paramedic, 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 tier officer 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, within 24 hours.

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

Recodified from 10A:5-3.10 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:5-3.7, "Ventilation, heating, lighting, sanitation and observation", recodified to 10A:5-3.4.

10A:5-3.8 Personal items

(a) A Director, Division of Operations or designee shall 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.

Recodified from 10A:5-3.11 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:5-3.8, "Food", recodified to 10A:5-3.5.

Amended by R.2001 d.155, effective May 21, 2001.

See: 33 N.J.R. 747(a), 33 N.J.R. 1589(b).

Rewrote the section.

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 on the same basis as is available to the general inmate population.

Recodified from 10A:5-3.12 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:5-3.9, "Grooming, showering and shaving", recodified to 10A:5-3.6.

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.

Recodified from 10A:5-3.13 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:5-3.10, "Medical and psychiatric services", recodified to 10A:5-3.7.

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.

Recodified from 10A:5-3.14 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:5-3.11, "Personal items", recodified to 10A:5-3.8.

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 which 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 which 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 telephone calls of a legal nature.

Recodified from 10A:5-3.15 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:5-3.12, "Correctional facility clothing, bedding and linen", recodified to 10A:5-3.9.

Amended by R.2001 d.155, effective May 21, 2001.

See: 33 N.J.R. 747(a), 33 N.J.R. 1589(b).

In (b), substituted "30 calendar days" for "week" following "non-contact visit per".

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 who shall be retained in Administrative Segregation shall be given the opportunity for out-of-doors recreation for a minimum of one hour of the required five per week unless to do so would adversely affect the security or orderly operations of the correctional facility.

Recodified from 10A:5-3.16 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:5-3.13, "Inmate legal service", recodified to 10A:5-3.10.

10A:5-3.14 Education

Educational programs shall be made available to inmates assigned to an Administrative Segregation Unit and who are desirous of participating in an educational program.

Recodified from 10A:5-3.17 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:5-3.14, "Reading material", recodified to 10A:5-3.11.

10A:5-3.15 Visits by professional and correctional supervising 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 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 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 to interview individual inmates as requested.

Recodified from 10A:5-3.18 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:5-3.15, "Correspondence, visits and telephone calls", recodified to 10A:5-3.12.

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 light of security considerations, limited resources, availability of physical facilities and budgetary constraints.

Recodified from 10A:5-3.19 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:5-3.16, "Recreation", recodified to 10A:5-3.13.
Amended by R.2001 d.155, effective May 21, 2001.

See: 33 N.J.R. 747(a), 33 N.J.R. 1589(b).

Substituted "may" for "shall" preceding "be made" and "an" for "the" preceding "Administrative Segregation Unit".

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 three 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 Special Administrative Segregation Review Committee (S.A.S.R.C.) for its periodic review of the inmate. This evaluation shall not preclude the Special Administrative Segregation Review Committee (S.A.S.R.C.) from directing that additional evaluations be made where they deem it necessary.

Recodified from 10A:5-3.20 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:5-3.17, "Education", recodified to 10A:5-3.14.

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 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, 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, identifying 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.

Recodified from 10A:5-3.21 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:5-3.18, "Visits by professional and correctional supervising staff", recodified to 10A:5-3.15.

Amended by R.2001 d.155, effective May 21, 2001.

See: 33 N.J.R. 747(a), 33 N.J.R. 1589(b).

In (a), substituted "custody staff member" for "officer" throughout and substituted "an" for "the" preceding "Administrative Segregation Unit"; in (b), substituted "administrator" for "Superintendent" following "forward to the" and deleted "his or her" preceding "designee" in the first sentence, deleted "Special Administrative Segregation Review Committee" preceding "S.A.S.R.C." in the second sentence, and substituted "S.A.S.R.C." for "Special Administrative Segregation Review Committee" in the third sentence.

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.

Recodified from 10A:5-3.22 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:5-3.19, "Work opportunities", recodified to 10A:5-3.16.

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 the custodial staff:

1. Inmate's name and number;
2. Previous housing locations;
3. Unit cell or room assignments;
4. Date admitted;
5. Disciplinary charge leading to administrative segregation;

6. Special medical or psychiatric problems on an as needed basis; and

7. 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.

Recodified from 10A:5-3.23 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:5-3.20, "Psychological/psychiatric evaluation", recodified to 10A:5-3.17.

10A:5-3.21 (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:5-3.21, "Withdrawal of personal items or activities", recodified to 10A:5-3.18.

10A:5-3.22 (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:5-3.22, "Selection of staff", recodified to 10A:5-3.19.

10A:5-3.23 (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:5-3.23, "Records", recodified to 10A:5-3.20.

SUBCHAPTER 4. CAPITAL SENTENCE UNIT (C.S.U.)

10A:5-4.1 Scope

Persons sentenced to death pursuant to N.J.S.A. 2C:11-3 shall be assigned to the Capital Sentence Unit (C.S.U.) until such time that the execution is carried out or in the alternative, that the sentence is commuted or otherwise changed to a lesser penalty.

Case Notes

Two of three "special circumstances" necessary for *Pullman* abstention were present. *Biegenwald v. Fauver*, C.A.3 (N.J.)1989, 882 F.2d 748.

Even if all "special circumstances" supporting *Pullman* abstention were present, abstention was not warranted. *Biegenwald v. Fauver*, C.A.3 (N.J.)1989, 882 F.2d 748.

10A:5-4.2 Establishment of the Capital Sentence Unit (C.S.U.)

(a) The Commissioner shall designate a specific housing unit at New Jersey State Prison to be utilized solely for inmates under court imposed death sentence. There shall

be no commingling of inmates in the Capital Sentence Unit (C.S.U.) with those in general population at New Jersey State Prison.

(b) Female inmates under death sentence shall be housed in a separate section of the C.S.U. designated by the Commissioner.

(c) Access to inmates in the C.S.U. shall be only as set forth in this subchapter and the post orders promulgated in connection herewith.

Administrative correction, effective January 27, 1989.

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

Institutional name change.

Case Notes

Two of three "special circumstances" necessary for *Pullman* abstention were present. *Biegenwald v. Fauver*, C.A.3 (N.J.)1989, 882 F.2d 748

Even if all "special circumstances" supporting *Pullman* abstention were present, abstention was not warranted. *Biegenwald v. Fauver*, C.A.3 (N.J.)1989, 882 F.2d 748

10A:5-4.3 Admissions to the Capital Sentence Unit (C.S.U.)

(a) All inmates assigned to the Capital Sentence Unit (C.S.U.) shall be admitted directly to the Capital Sentence Unit of New Jersey State Prison.

(b) All intake procedures for inmates assigned to the C.S.U. shall be conducted at the New Jersey State Prison Intake Unit.

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).

10A:5-4.4 Capital Sentence Unit Management Team

(a) The Superintendent shall appoint a team of custody and support service personnel to supervise, monitor and provide for custody, security and services in the Capital Sentence Unit. This team shall be comprised of a:

1. Correction officer of the rank of Lieutenant or above, as Chairperson and Supervisor of the C.S.U.;
2. Psychologist;
3. Social worker;
4. Medical staff person;
5. Chaplain; and
6. Such other staff as may be assigned by the Superintendent.

(b) In addition to delivery of services, the Supervisor of the C.S.U. shall be responsible for:

1. Maintaining a daily log;

2. Orientating new staff and inmates;
3. Supervising the proper use of restraints or force;
4. Conducting searches;
5. Preparing special reports concerning unusual incidents;
6. Supervising visits and telephone calls; and
7. Other responsibilities as assigned by the Superintendent.

(c) The C.S.U. Management Team shall meet once per month, or more often as may be deemed necessary, to discuss problems, monitor delivery of services and share relevant information. A written summary of its deliberations shall be submitted to the Superintendent.

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

10A:5-4.5 Clothing, bedding and hygiene items

(a) Upon admission to C.S.U., the inmate shall receive one set of State issue clothing, bedding and hygiene items as set forth in the Capital Sentence Unit's post orders.

(b) The inmate may also receive, according to New Jersey State Prison rules and procedures, one:

1. TV set;
2. Radio;
3. Electric shaver; and
4. Typewriter.

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).

10A:5-4.6 Reading materials

(a) Inmates in the Capital Sentence Unit (C.S.U.) may enjoy the same types and number of reading materials that are available to general population.

(b) The C.S.U. Management Team shall make the necessary arrangements to have sufficient reading materials available on the C.S.U.

10A:5-4.7 Showers

Each inmate shall be permitted a minimum of three showers per week.

10A:5-4.8 Recreation

(a) Inmates shall be provided with indoor recreation, and they shall be permitted outdoor recreation a minimum of three, and up to six times per week, weather and security considerations permitting.

(b) Depending on security considerations and individual behavioral problems, recreation may be alone or in small groups as designated by the Capital Sentence Unit (C.S.U.) Supervisor.

10A:5-4.9 Legal services

A staff person who has had paralegal training shall assist each inmate with legal materials and services, except that no assistance will be provided concerning any matter which is being handled by an attorney.

10A:5-4.10 Food packages; canteen

(a) Inmates in the Capital Sentence Unit (C.S.U.) will receive correctional facility meals. No additional food or food packages will be permitted from any source.

(b) If an inmate has sufficient funds in his or her inmate account, he or she may order snack items, cigarettes, stamps and hygiene items approved by the Superintendent or his or her designee, from the canteen.

Receipt of Petition for Rulemaking.
24 N.J.R. 4587(a).

10A:5-4.11 Religious counseling

(a) The New Jersey State Prison chaplain shall visit the Capital Sentence Unit (C.S.U.) at least once per week to minister to inmate's individual religious needs or to collect inmate's written requests for religious counseling.

(b) Upon written request, the chaplain shall arrange for individual religious counseling by a New Jersey State Prison staff minister of the inmate's faith on a weekly basis.

(c) In any case where there is no New Jersey State Prison staff person available, outside clergy of the inmate's faith may be permitted by means of a window visit only, provided the outside clergy has passed a security check in accordance with correctional facility procedures. Auditory privacy shall be permitted during these visits, but visual surveillance will be maintained.

(d) During the 72 hour period immediately preceding the inmate's execution, religious counseling shall be permitted as set forth in N.J.A.C. 10A:23, Lethal Injection.

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).

10A:5-4.12 Barber

A staff person assigned by the Superintendent or his or her designee shall provide barber services to inmates in the Capital Sentence Unit (C.S.U.) once per month.

10A:5-4.13 Medical services

(a) Upon admission, each inmate shall be given a physical and psychological examination.

(b) A correctional facility physician assigned by the Superintendent shall conduct a physical examination of each inmate in the Capital Sentence Unit (C.S.U.) every six months. The physician shall report to the Superintendent any unusual medical condition which may require specialized treatment or further evaluation.

(c) The medical staff person assigned to the C.S.U. Management Team, or alternate assigned by the Superintendent or his or her designee, shall visit the C.S.U. daily or as often as may be necessary, to dispense medication and to evaluate individual medical needs.

(d) All medications except topical ointments, salves and lotions, shall be dispensed in liquid form or by injection.

Case Notes

Finding that inmate was dangerous to himself or others was supported by evidence. Matter of Savage, 233 N.J.Super. 356, 558 A.2d 1357 (A.D.1989), certification denied 122 N.J. 348, 585 A.2d 360.

Mentally ill inmate did not have to be transferred from prison to mental hospital for psychiatric treatment in absence of undue prejudice to inmate. Matter of Savage, 233 N.J.Super. 356, 558 A.2d 1357 (A.D.1989), certification denied 122 N.J. 348, 585 A.2d 360.

Mentally ill inmate who was under a death sentence was not entitled to rights available to involuntary committee. Matter of Savage, 233 N.J.Super. 356, 558 A.2d 1357 (A.D.1989), certification denied 122 N.J. 348, 585 A.2d 360.

10A:5-4.14 Sanitation

(a) Capital Sentence Unit (C.S.U.) staff shall be responsible for general sanitary maintenance of the C.S.U.

(b) Each inmate shall be responsible to clean his or her individual cell according to New Jersey State Prison rules.

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

Institutional name change.

10A:5-4.15 Psychological and psychiatric services

(a) The C.S.U. Management Team psychologist shall monitor the condition of the inmates in the Capital Sentence Unit (C.S.U.) and shall make such recommendations, concerning the need for further evaluation or treatment, to the Superintendent and the C.S.U. Management Team as are appropriate.

(b) The psychologist shall file a written report concerning each inmate's psychological condition once every three months.

(c) In those cases where the psychologist believes the inmate is in need of additional evaluation or treatment, the psychologist shall refer the inmate to the correctional facility

psychiatrist. The psychiatrist shall examine the inmate and prescribe the needed treatment or medication.

(d) Inmates taking anti-psychotic drugs shall be examined by the psychiatrist at least once per month, and the psychiatrist shall file a written report of each examination.

(e) Prior to prescribing any anti-psychotic drug or sedative, the correctional facility psychiatrist shall consult with the Director of Medical Services, Office of Institutional Support Services, to insure that the prescribed medication will not have an undesirable effect on death sentence procedures which may be scheduled. All anti-psychotic drugs or sedatives shall be dispensed in liquid form or by injection.

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

Finding that inmate was dangerous to himself or others was supported by evidence. Matter of Savage, 233 N.J.Super. 356, 558 A.2d 1357 (A.D.1989), certification denied 122 N.J. 348, 585 A.2d 360.

Mentally ill inmate did not have to be transferred from prison to mental hospital for psychiatric treatment in absence of undue prejudice to inmate. Matter of Savage, 233 N.J.Super. 356, 558 A.2d 1357 (A.D.1989), certification denied 122 N.J. 348, 585 A.2d 360.

Mentally ill inmate who was under a death sentence was not entitled to rights available to involuntary committee. Matter of Savage, 233 N.J.Super. 356, 558 A.2d 1357 (A.D.1989), certification denied 122 N.J. 348, 585 A.2d 360.

10A:5-4.16 Visits and telephone use

(a) Each inmate in the Capital Sentence Unit (C.S.U.) shall have the opportunity for two non-contact visits per week with a member (up to two persons) of his or her family.

(b) Family members are defined as those set forth in N.J.S.A. 30:4-8.1 (father, mother, husband, wife, child, brother or sister) or a person with whom the inmate has shared a significant family-like relationship prior to his or her being sentenced under N.J.S.A. 2C:11-3. Whether such person meets this criteria shall be at the discretion of the Superintendent.

(c) Upon the written request of an inmate, a member of the press may be permitted to visit the inmate. Such visits shall be arranged at least 48 hours in advance through the Office of Public Information, New Jersey Department of Corrections, in accordance with N.J.A.C. 10A:19, and shall be non-contact visits only.

(d) Contact visits as are necessary shall only be permitted to the inmate's attorney-of-record only. Such visits shall be arranged at least 24 hours in advance by notice of the attorney to the Superintendent's office.

(e) All visits shall be arranged and conducted according to correctional facility rules and are subject to cancellation

as warranted by security and the orderly operation of the C.S.U.

(f) The Superintendent or his or her designee shall establish a schedule to permit each inmate to make a minimum of one collect telephone call per week to a person on the inmate's approved visit list or other member of his or her immediate family only.

(g) All personal telephone calls shall be monitored.

(h) The inmate may place such collect telephone calls as are needed to his or her attorney-of-record. Custody staff shall take whatever steps are deemed necessary by the Superintendent or his or her designee to insure that the person accepting the collect call is the inmate's attorney.

(i) Telephone calls of a legal nature shall not be monitored.

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

10A:5-4.17 Work assignments

Work opportunities shall be made available to inmates assigned to the Capital Sentence Unit (C.S.U.) to the extent possible in the light of security considerations, limited resources and budgetary constraints.

10A:5-4.18 Correspondence

(a) Inmates in the Capital Sentence Unit (C.S.U.) shall have the same correspondence opportunities that are available to those in the general population. All mail may be carefully screened for evidence of escape plans and searched for contraband. Mail shall be processed as set forth in N.J.A.C. 10A:18, Mail, Visits and Telephone.

(b) Custody staff shall examine purported legal mail to insure that it does in fact originate from or is directed to a source defined in N.J.A.C. 10A:18, MAIL, VISITS AND TELEPHONE and that it contains no contraband.

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

10A:5-4.19 Records in the Capital Sentence Unit (C.S.U.)

(a) The following information on inmates confined in the Capital Sentence Unit (C.S.U.) shall be available on the C.S.U. for the use of staff:

1. Inmate's name and number;
2. Cell assignment;
3. Date admitted;
4. Disciplinary, medical or psychological problems;
5. List of approved visitors and telephone calls; and
6. Name, address and telephone number of the inmate's attorney-of-record.

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

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

10A:5-4.20 Disciplinary hearings

(a) Disciplinary hearings shall be heard by an Adjustment Committee and shall be held on the Capital Sentence Unit (C.S.U.) in a place designated by the Superintendent or his or her designee.

(b) In the event the inmate requests paralegal assistance at the disciplinary hearing, the staff person assigned to assist the C.S.U. inmates with legal services shall provide this assistance. The disciplinary hearing shall not be unreasonably delayed by reason of an inmate's request for paralegal assistance.

(c) Sanctions which may be imposed are those which do not conflict with the custody, security or objectives of the C.S.U., such as no loss of commutation time may be imposed.

Amended by R.1996 d.369, effective August 5, 1996.
See: 28 N.J.R. 2782(a), 28 N.J.R. 3222(b), 28 N.J.R. 3791(b).

10A:5-4.21 News media contact

News media contact shall be in accordance with N.J.A.C. 10A:19, NEWS MEDIA CONTACTS WITH CORRECTIONAL FACILITIES AND INMATES.

10A:5-4.22 Post orders

(a) New Jersey State Prison shall develop post orders consistent with this Subchapter.

(b) Post orders shall be submitted, before September 15 of each year, to the Chief of Staff, Department of Corrections, for his or her approval.

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

10A:5-4.23 Training

(a) All staff and alternates selected for assignment to the Capital Sentence Unit (C.S.U.) shall be given training in management, custody support services and procedures before being assigned to the C.S.U.

(b) In the event of an emergency, at the discretion of the Superintendent, other staff may be temporarily assigned as are deemed necessary.

(c) Orientation of new inmates assigned to C.S.U. shall be accomplished pursuant to correctional facility rules as set forth in the post orders.

SUBCHAPTER 5. PROTECTIVE CUSTODY

10A:5-5.1 Admission to Protective Custody

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

1. On the recommendation of the Inter-Institutional Classification Committee (I.I.C.C.);
2. On the recommendation of a sentencing court or prosecutor, subject to approval of the Superintendent. The recommendation must be accompanied by a statement of justifiable reasons to support such placement;
3. On the recommendation of a prison non-custody staff person or a custody staff member of the rank of Sergeant or above. Emergency placement shall be reviewed and approved within 24 hours by the Shift Supervisor;
4. On the order of the Superintendent; Assistant Commissioner, Division of Operations; Chief of Staff; or Commissioner; or
5. Voluntarily, on the inmate's request.

(b) If an inmate voluntarily requests placement in Protective Custody, he or she must fill out and sign Form 146-I VOLUNTARY-PROTECTIVE CUSTODY CONSENT in which his or her reasons for requesting Protective Custody are stated. If the inmate's reasons cannot be verified or are deemed frivolous by the Superintendent or his or her designee, placement in Protective Custody may be denied or the inmate released.

(c) In all cases of involuntary placement in Protective Custody, the Superintendent or his or her designee shall gather facts, information and available documentation to support or reject the request and shall order such additional investigation as is deemed necessary for a clear understanding of the case.

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

Regulations governing confinement of inmates in involuntary protective custody gave rise to liberty interest. *Banks v. Fauver*, D.N.J.1992, 801 F.Supp. 1422.

Civil contemnor held in state institution was entitled to placement in protective custody. *Matter of State Grand Jury Investigation re Acceturo*, 242 N.J.Super. 281, 576 A.2d 900 (A.D.1990), certification denied 127 N.J. 324, 604 A.2d 599.

10A:5-5.2 Hearing procedure for involuntary placement to Protective Custody

(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 in emergency Protective Custody shall be given written notice on Form 146-II NOTICE OF PROTECTIVE CUSTODY HEARING-INVOLUNTARY no later than three working days after emergency placement.

(c) The written notice 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) The notice shall include the following:

1. Statement of reasons utilized by the administration to initiate the Protective Custody hearing procedure;
2. 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 bearing on 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 Superintendent or his or her designee immediately to determine whether, pending the completion of a thorough investigation, there is a reasonable basis to conclude that the inmate is in need of Protective Custody.

(g) Illiterate inmates or inmates otherwise unable to marshal the facts shall receive the assistance of a counsel substitute assigned by the Disciplinary Hearing Officer/Adjustment Committee or Superintendent. An interpreter shall be utilized, if needed, at the discretion of the Disciplinary Hearing Officer/Adjustment Committee.

(h) The Disciplinary Hearing Officer/Adjustment Committee shall have the discretion to keep the hearing within reasonable limits and to refuse to permit the collection and presentation of evidence which is not necessary for an adequate understanding of the case. The Disciplinary Hearing Officer/Adjustment Committee may order further investigation and reports where deemed necessary and shall exercise control over all presentations to prevent lack of relevancy, harassment, abuse or repetitiveness and to insure that the hearing does not develop into an adversary proceeding.

(i) Inmates placed in emergent Protective Custody or under consideration for placement in Protective Custody shall receive a hearing within 20 working days after receipt of the notice unless there are exceptional circumstances, unavoidable delays or reasonable postponements.

(j) At the hearing, the inmate shall be informed of all information bearing on his or her case, with the exception of information designated "confidential".

(k) Confidential information may consist of the following:

1. Informants' reports;
2. Professional reports such as reports from psychiatrists, psychologists, social workers, teachers; or
3. Other information which would have an adverse impact on the inmate's mental health, create a serious risk of reprisal against the reporting person or seriously impede progress on a pending investigation.

(l) When reviewing confidential informant information, the Disciplinary Hearing Officer/Adjustment Committee shall inquire into the reliability of the informant and the information, and shall utilize such information only after satisfied that it is reasonably reliable. Whenever informant information is used, the inmate shall be informed of the general character of the information, if practicable. The details of informant information shall be withheld on grounds of confidentiality.

1. In any case in which the Disciplinary Hearing Officer or Adjustment Committee's decision is based on evidence which includes confidential information, adjudication shall contain:

- i. A concise summary of the facts on which the Disciplinary Hearing Officer or Adjustment Committee concluded that the informant was credible or his or her information reliable; and
- ii. The informant's statement (either in writing or as reported) in language that is factual rather than a conclusion, and based on the informant's knowledge of the matters contained in such statement.

2. The Disciplinary Hearing Officer or Adjustment Committee is not permitted to disclose the identity of the informant.

(m) Within 10 working days of the hearing, the Disciplinary Hearing Officer/Adjustment Committee shall provide a written notice of decision and a summary of the evidence relied upon.

Correction: (k)1 and 2 added to text. Was omitted from Register October 6, 1986.

See: 18 N.J.R. 2218(a).

Amended by R.1987 d.319, effective August 3, 1987.

See: 19 N.J.R. 842(a), 19 N.J.R. 1454(c).

Added new (f). Redesignated (f)-(l) as (g)-(m). Hearing notice changed from 10 to 20 working days.

Amended by R.1989 d.46, effective January 17, 1989.

See: 20 N.J.R. 2746(b), 21 N.J.R. 163(b).

Deleted "of guilt" from (l)1.

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

Regulations governing confinement of inmates in involuntary protective custody gave rise to liberty interest. *Banks v. Fauver*, D.N.J.1992, 801 F.Supp. 1422.

Due process was satisfied by informal procedures adopted by prison. *Banks v. Fauver*, D.N.J.1992, 801 F.Supp. 1422.

Reliance on anonymous caller's tip to justify involuntary protective confinement of inmate did not deprive inmate of due process. *Banks v. Fauver*, D.N.J.1992, 801 F.Supp. 1422.

10A:5-5.3 Appeal procedures for Protective Custody placement

(a) The inmate shall be advised of the opportunity to appeal to the Superintendent or his or her designee at the time that the inmate is provided with the Protective Custody hearing decision (Form 146-III PROTECTIVE CUSTODY HEARING ADJUDICATION).

(b) The inmate shall have five working days from the date he or she receives the Protective Custody decision to submit a letter of appeal.

(c) All appeals shall be reviewed by the Superintendent and the following factors shall be considered:

1. Whether there was compliance with this subchapter;
2. Whether the decision was based on reliable information; and
3. Whether the decision to place the inmate in Protective Custody was justifiable considering the inmate's safety and the continued secure, orderly operation of the correctional facility.

(d) Within 10 working days of receipt of the appeal, the Superintendent may:

1. Approve the Disciplinary Hearing Officer/Adjustment Committee's decision;
2. Modify the Disciplinary Hearing Officer/Adjustment Committee's decision; or
3. Order further hearings.

(e) In all cases, the inmate shall be notified in writing of the Superintendent's decision.

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

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

10A:5-5.4 Review of inmates in Protective Custody Units

(a) Each inmate in Protective Custody, whether voluntary or involuntary, shall be reviewed every three months, or more often if feasible, by the Institutional Classification Committee (I.C.C.).

(b) An inmate who is placed in Protective Custody involuntarily shall, in every case, have an in-person hearing once per year in accordance with procedures specified in N.J.A.C. 10A:5-5.2 and N.J.A.C. 10A:5-5.3.

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

10A:5-5.5 Release of inmates in Protective Custody Units

(a) An inmate who has voluntarily signed himself or herself into Protective Custody may sign himself or herself out upon completion of a release form, provided the Institutional Classification Committee (I.C.C.) and the Superintendent or his or her designee are satisfied that there is no known danger to the inmate's well being.

(b) An inmate who has been placed in Protective Custody involuntarily may be released by the Superintendent or his or her designee, upon recommendation by the Institutional Classification Committee (I.C.C.) when they are satisfied that the conditions giving rise to the inmate's placement in Protective Custody have abated or do not exist.

(c) Inmates released from involuntary Protective Custody shall, when appropriate, be referred to the Inter-Institutional Classification Committee (I.I.C.C.) for assignment to a suitable correctional facility.

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

10A:5-5.6 Ventilation, heating, lighting, sanitation, observation

(a) Ventilation and reasonable temperature shall be maintained on a 24 hour basis. Light of sufficient intensity (100 watts if requested) and if compatible with existing electrical load capacity shall be maintained to allow visual observations of inmates at all times. Partial curtains may be permitted over the cell door, at the discretion of the Superintendent.

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

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

Recodified from 10A:5-5.10 by R.1996 d.369, effective August 5, 1996.
See: 28 N.J.R. 2782(a), 28 N.J.R. 3791(b).

Former section, "Transfer to the Vroom Protective Custody Unit", repealed.

10A:5-5.7 Food

(a) Protective Custody inmates shall be served the normal correctional facility meals on the "Menu of the Day" or such special diet as shall be prescribed.

(b) Disposable utensils shall be used when necessary.

Recodified from 10A:5-5.11 by R.1996 d.369, effective August 5, 1996.
See: 28 N.J.R. 2782(a), 28 N.J.R. 3791(b).

Former section, "Periodic review of inmates in the Vroom Protective Custody Unit", repealed.

10A:5-5.8 Grooming, showering and shaving

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

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

Recodified from 10A:5-5.12 by R.1996 d.369, effective August 5, 1996.
See: 28 N.J.R. 2782(a), 28 N.J.R. 3791(b).

Former section, "Formal review of inmates in the Vroom Protective Custody Unit", repealed.

10A:5-5.9 Medical services

(a) A member of the medical staff, which can be a nurse, paramedic, doctor or other authorized health care personnel, shall be available in the Unit on a daily basis to assess medical needs. Any inmate wishing to see a doctor shall notify the medical staff member or the housing officer 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 within 24 hours.

Recodified from 10A:5-5.13 by R.1996 d.369, effective August 5, 1996.
See: 28 N.J.R. 2782(a), 28 N.J.R. 3791(b).

Former section, "Release of inmates from the Vroom Protective Custody Unit", repealed.

10A:5-5.10 Personal items

(a) All inmates shall be admitted to Protective Custody dressed in normal correctional facility clothing after a thorough search for contraband.

(b) Each inmate shall be provided with the following items for use in the cell to the same extent as such items are provided for inmates in the general population:

1. Clothing required for use in cell;

2. Bedding and mattresses;

3. Personal hygiene supplies (including soap, deodorant, toothbrush, toothpaste or powder, towel, toilet paper and female hygiene supplies for women);

4. Utensils and supplies for cleaning cell;
5. Eyeglasses; and
6. Writing materials.

(c) The possession and use of radios, televisions, typewriters and other appliances in Protective Custody shall be subject to the same guidelines as those developed by the Superintendent for the general population.

(d) Written procedures shall be in effect permitting inmates access to books and periodicals from the correctional facility's library and Inmate Law Library.

Recodified from 10A:5-5.14 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:5-5.10, "Ventilation, heating, lighting, sanitation, observation", recodified to 10A:5-5.6.

10A:5-5.11 Correctional facility clothing, bedding and linen

The issue and exchange of correctional facility clothing, bedding, linen, and the laundry service shall be on the same basis as is available to the general inmate population.

Recodified from 10A:5-5.15 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:5-5.11, "Food", recodified to 10A:5-5.7.

10A:5-5.12 Inmate legal services

Inmates in Protective Custody shall be afforded legal access to courts pursuant to N.J.A.C. 10A:6, INMATE ACCESS TO COURTS.

Recodified from 10A:5-5.16 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:5-5.12, "Grooming, showering and shaving", recodified to 10A:5-5.8.

10A:5-5.13 Correspondence, visits and telephone calls

(a) Inmates in Protective Custody shall have the same correspondence opportunities that are available to inmates in the general population.

(b) Each correctional facility which has a Protective Custody Unit shall provide each inmate in the Unit with the opportunity to receive a minimum of one window visit per week, unless precluded by security conditions or other extraordinary circumstances.

(c) Each correctional facility which has a Protective Custody 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.

Recodified from 10A:5-5.17 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:5-5.13, "Medical services", recodified to 10A:5-5.9.

10A:5-5.14 Recreation

(a) Where physical facilities permit, each inmate in Protective Custody 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 who shall be retained in Protective Custody shall be given the opportunity for out-of-doors recreation for a minimum of one hour of the required five hours per week unless to do so would adversely affect the security or orderly operations of the correctional facility.

Recodified from 10A:5-5.18 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:5-5.14, "Personal items", recodified to 10A:5-5.10.

10A:5-5.15 Education

(a) A member of the educational staff shall be assigned to develop individualized educational programs for inmates who are assigned to Protective Custody if they so desire.

(b) The educational opportunities available to inmates in Protective Custody shall be comparable to those available to inmates in general population to the extent possible in light of available resources, space constraints and security precautions.

Recodified from 10A:5-5.19 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:5-5.15, "Correctional facility clothing, bedding and linen", recodified to 10A:5-5.11.

10A:5-5.16 Visits by professional and correctional supervisory staff

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

(b) The correctional facility chaplain shall visit the Protective Custody Unit as requested by individual inmates to provide religious counseling or other pastoral services.

(c) The Unit supervisor or his or her designee in charge of the Protective Custody Unit shall make daily visits to the Unit and shall be available to interview individual inmates as requested.

Recodified from 10A:5-5.20 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:5-5.16, "Inmate legal services", recodified to 10A:5-5.12.

10A:5-5.17 Work opportunities

Work opportunities shall be made available to inmates assigned to a Protective Custody Unit to the extent possible in light of security considerations, limited resources, availability of physical facilities and budgetary constraints.

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 Special Investigations Division

(a) The Intelligence Section of the Special Investigations Division 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 Special Investigations Division 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 Special Investigations Division 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.

Administrative change.

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

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 Special Investigations Division 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.

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

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

(a) Upon receipt of a recommendation from the Intelligence Section of the Special Investigations Division 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.

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

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:

1. Inmates identified as members of a security threat group shall be placed in Prehearing Security Threat Group Management Unit Status. Each inmate shall receive written notice as soon as possible that states:

- i. An emergency exists;
- ii. The inmate is a candidate for placement into the Security Threat Group Management Unit; and
- iii. The inmate shall receive a hearing as soon as possible.

(c) The Security Threat Group Management Unit Hearing Committee schedule of hearings may be affected by:

1. The number of inmates involved;
2. The time necessary for the identification process to be completed; and
3. The need to ensure the safe, secure and orderly operation of the correctional facility.

(d) A schedule of Security Threat Group Management Unit Hearing Committee hearings shall be issued by the Superintendent.

10A:5-6.11 Security Threat Group Management Unit placement appeal

(a) When the inmate has been advised of the determination for placement into the Security Threat Group Management Unit, the inmate may appeal the decision in writing within seven calendar days to the Superintendent of the correctional facility where the inmate is housed.

(b) The Superintendent shall consider the information and evidence presented and may:

1. Uphold the decision;
2. Rescind the decision; or
3. Order an additional hearing(s).

(c) The written decision of the Superintendent shall be forwarded to the inmate within 10 business days following the receipt of the appeal.

10A:5-6.12 Security Threat Group Management Unit Phase Program

(a) The Security Threat Group Management Unit Phase Program is a means by which inmates who are assigned to the Unit may be reintegrated into the general population after successful completion of the phase program. The progression through the phase program depends upon:

1. Successful completion of each phase; and
2. Satisfactory correctional facility behavior as regulated by internal management procedures and the rules set forth in N.J.A.C. 10A:4, Inmate Discipline.

(b) Inmates entering the Security Threat Group Management Unit shall participate in an orientation program and be provided a Unit Inmate Handbook that shall include, but not be limited to:

1. The provisions, philosophy and mission of the Security Threat Group Management Unit Phase Program; and
2. The provisions established in N.J.A.C. 10A:8, Inmate Orientation and Handbook.

10A:5-6.13 Security Threat Group Management Unit Hearing Committee phase review

(a) The Security Threat Group Management Unit Hearing Committee shall meet when necessary to review the cases of inmates assigned to the Security Threat Group Management Unit.

(b) The purpose of this review is to:

1. Monitor the progress of inmates; and
2. Make determinations regarding phase movements of inmates.

(c) The case of each inmate assigned to the Security Threat Group Management Unit shall be reviewed a minimum of every three months by the Security Threat Group Management Unit Hearing Committee.

(d) Staff assigned to the Security Threat Group Management Unit may, at any time, make referrals to the Security Threat Group Management Unit Hearing Committee Chairperson to review a phase level of an inmate. These referrals shall be submitted through correctional facility departmental supervisors. The Committee Chairperson shall determine whether and when to schedule review hearings based on the referrals.

10A:5-6.14 Procedure for conducting the review hearing to determine Security Threat Group Management Unit inmate phase movement

(a) The Security Threat Group Management Unit Hearing Committee shall review the progress of inmates and authorize phase movements when appropriate.

(b) Inmates shall be provided written notice, utilizing Form 147-VI Notice of Security Threat Group Management Unit Phase Review, at least 48 hours prior to the review hearing. Form 147-VI shall include a statement of the reason for conducting the review hearing.

(c) Illiterate inmates or inmates 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.

(d) An inmate shall be permitted to appear in person or through video teleconference at the Security Threat Group

Management Unit Hearing Committee review hearing and to speak on the inmate's own behalf at the review hearing, unless the inmate refuses to appear or the inmate's presence poses a threat to the safe, secure and orderly operation of the correctional facility.

(e) The Security Threat Group Management Unit Hearing Committee Chairperson shall have the discretion to keep the review hearing within reasonable limits and to refuse to permit the collection and presentation of evidence 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.

(f) The Security Threat Group Management Unit Hearing Committee shall determine to:

1. Continue the programming for the inmate in the current phase;
2. Advance the inmate to the next phase; or
3. Revert the inmate to a previous phase.

(g) The Security Threat Group Management Unit Hearing Committee shall notify the inmate in writing of the decision, utilizing Form 147-VII Disposition of Security Threat Group Management Unit Phase Review, within 15 business days.

10A:5-6.15 Inmate appeal of Security Threat Group Management Unit Hearing Committee phase review decision

(a) Within seven days of the inmate's receipt of Form 147-VII Disposition of Security Threat Group Management Unit Phase Review, an inmate may appeal the decision of the Security Threat Group Management Unit Hearing Committee to the Superintendent of the correctional facility that contains the Security Threat Group Management Unit. Form 147-IV Appeal of Security Threat Group Management Unit Hearing Decision shall be used by the inmate for the purpose of filing an appeal.

(b) The Superintendent shall:

1. Review the Security Threat Group Management Unit Hearing Committee decision;
2. Review the testimony, evidence, information and supporting documentation; and
3. Order additional hearings if deemed necessary.

(c) The Superintendent may modify the decision of the Security Threat Group Management Unit Hearing Committee.

(d) The written decision of the Superintendent shall be forwarded to the inmate within 10 business days, following the receipt of the appeal using Form 147-V Disposition of Security Threat Group Management Unit Appeal.

10A:5-6.16 Compliance with all rules and placements

(a) In addition to the rules contained in this subchapter, N.J.A.C. 10A rules of general application shall apply to inmates assigned to the Security Threat Group Management Unit with equal force.

(b) Placement of an inmate into the Security Threat Group Management Unit shall not preclude placement into any other close custody unit. All Security Threat Group Management Unit phase program restrictions and applicable internal management procedures shall apply to Security Threat Group Management Unit inmates who have been assigned to any other close custody unit. Inmates assigned to any other close custody unit shall not be permitted to participate in Security Threat Group Management Unit programs designed to advance them through the phase program.

10A:5-6.17 Personal items

(a) All inmates admitted to the Security Threat Group Management Unit shall be dressed in clothing issued by the correctional facility after a thorough search for contraband.

(b) The following items, as approved by the Superintendent or designee, shall be permitted or made available to inmates upon admission to the Security Threat Group Management Unit as soon as reasonably practicable and in accordance with Security Threat Group Management Unit internal management procedures.

1. Personal hygiene supplies;
2. Eating utensils;
3. A wristwatch;
4. Corrective eyeglasses;
5. One plain wedding band;
6. Religious indicia;
7. Legal materials;
8. Postage stamps; and
9. Reading and writing materials.

(c) The possession and use of radios, televisions and other appliances in the Security Threat Group Management Unit shall be permitted in compliance with Unit internal management procedures unless precluded by phase program provisions or a threat to the safe, secure or orderly operation of the correctional facility exists.

(d) Personal clothing and items, as approved by the Superintendent or designee, shall be:

1. Permitted in accordance with Security Threat Group Management Unit internal management procedures; and
2. Purchased from an authorized source of sale as determined by the Department of Corrections.

10A:5-6.18 Disposition of inmate personal possessions not authorized in the Security Threat Group Management Unit

(a) Inmate personal possessions not authorized for retention in the Security Threat Group Management Unit shall not be stored by the correctional facility.

(b) Disposition of non-permissible personal possessions shall be handled in accordance with N.J.A.C. 10A:1-11, Personal property of inmates.

10A:5-6.19 Ventilation, heating, lighting and sanitation

(a) Proper ventilation, lighting, room temperatures, cleanliness and properly functioning sanitary fixtures shall be maintained in cells within the Security Threat Group Management Unit.

(b) The Superintendent or designee shall ensure that daily inspections are conducted so that cells, corridors, toilets, showers and other areas within the Security Threat Group Management Unit are kept secure, clean and sanitary.

10A:5-6.20 Food

Security Threat Group Management Unit 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.

10A:5-6.21 Food packages; canteen

(a) Inmates in the Security Threat Group Management Unit shall not be permitted to receive food packages from any source outside of the correctional facility.

(b) Pursuant to Security Threat Group Management Unit internal management procedures, inmates with sufficient funds may order canteen items that have been approved for inmates in the Unit.

10A:5-6.22 Grooming, showering and shaving

(a) Hair care services shall be provided as needed.

(b) Each inmate in the Security Threat Group Management Unit shall be permitted to shower and shave at least three times a week, unless permitting these activities would present an undue security hazard.

10A:5-6.23 Recreation

Inmates shall be permitted outdoor recreation a minimum of five hours per week, weather and security considerations permitting.

10A:5-6.24 Legal services

Legal services shall be available to inmates assigned to the Security Threat Group Management Unit in accordance with N.J.A.C. 10A:6, Inmate Access to Courts.

10A:5-6.25 Correctional facility library and Inmate Law Library

Inmates in the Security Threat Group Management Unit may be permitted to borrow library materials in accordance with the correctional facility library internal management procedures and the Unit internal management procedures.

10A:5-6.26 Education

Educational programs, unless precluded by phase program provisions, may be made available to inmates assigned to the Security Threat Group Management Unit to the extent possible in accordance with security considerations, resources, budgetary constraints and the Unit internal management procedures.

10A:5-6.27 Work opportunities

Work opportunities, unless precluded by phase program provisions, may be made available to inmates assigned to the Security Threat Group Management Unit to the extent possible in accordance with security considerations, resources, budgetary constraints, and the Unit internal management procedures.

10A:5-6.28 Medical and psychiatric services

(a) Emergency medical and psychiatric services for inmates assigned to the Security Threat Group Management Unit shall be provided.

(b) Routine medical and psychiatric services for inmates assigned to the Security Threat Group Management Unit shall be provided equivalent to that of those services provided to inmates in the general population.

10A:5-6.29 Mail, visits and telephone

(a) Inmates in the Security Threat Group Management Unit shall have the same correspondence and legal correspondence opportunities that are available to inmates in the general population except inmates assigned to the Security Threat Group Management Unit shall not be permitted to send mail to, or receive mail from, any other incarcerated inmate.

(b) All mail shall be carefully screened for the following reasons:

1. To determine the identity of the sender;

2. For evidence of contraband; and
3. For evidence or information that poses an identifiable threat to:

- i. The safety of others or the inmate;
- ii. The security of the correctional facility;
- iii. Damage to or destruction of property; and
- iv. The orderly operation of a correctional facility.

(c) Custody staff shall examine purported legal mail to the extent necessary to ensure that it does in fact originate from, or is directed to, a source as defined in N.J.A.C. 10A:18, Mail, Visits and Telephone, and that it contains no contraband.

(d) Each correctional facility that has a Security Threat Group Management Unit shall provide each inmate in the Unit the opportunity to receive a minimum of one noncontact visit per month, unless precluded by the phase program, security conditions or other extraordinary circumstances.

(e) All visits shall be arranged and conducted according to correctional facility internal management procedures and are subject to cancellation as determined by the Superintendent or designee to maintain the safe, secure and orderly operation of the correctional facility.

(f) Telephones shall be available to Security Threat Group Management Unit inmates in accordance with the Unit internal management procedures.

10A:5-6.30 Packages

(a) The Superintendent or designee shall establish and provide written notice to Security Threat Group Management Unit inmates:

1. A written list of items that may be received in a package; and
2. A limit on the number and weight of packages that may be received by an inmate.

(b) Security Threat Group Management Unit inmates shall be permitted to receive packages from an authorized source of sale only as determined by the Department of Corrections. All packages must be prepaid.

(c) The inspection of incoming packages shall be handled in accordance with N.J.A.C. 10A:18-5.3.

(d) Every incoming package shall be clearly marked with the name and address of the source of sale and the inmate's name and number. Packages without both the inmate's name and number shall be returned to the source of sale. If the name and address of the source of sale does not appear on the outside of the incoming mailed package, it shall be examined to identify the source of sale when it is opened (see N.J.A.C. 10A:18-5.3). If the source of sale of an incoming mailed package cannot be identified, the contents of the package shall be destroyed.

(e) Outgoing packages shall be handled in accordance with N.J.A.C. 10A:18-5.5.

10A:5-6.31 Reassignment to Security Threat Group Management Unit

(a) Inmates who were released from custody while assigned to the Security Threat Group Management Unit and who are returned to the custody of the New Jersey Department of Corrections shall be placed into Prehearing Security Threat Group Management Unit Status and shall receive a hearing pursuant to N.J.A.C. 10A:5-6.8.

(b) Inmates who were assigned to the Security Threat Group Management Unit prior to placement in another close custody unit shall be reassigned to the Security Threat Group Management Unit upon completion of the other close custody placement.

10A:5-6.32 Staff training

(a) All staff and alternates selected for regular assignment to the Security Threat Group Management Unit shall be given training in management, custody support services and Unit internal management procedures before being assigned to the Unit.

(b) In the event of an emergency, at the discretion of the Superintendent or designee, other staff may be temporarily assigned as deemed necessary.

10A:5-6.33 Custody level

Security Threat Group Management Unit inmates shall be classified as "close custody status" and shall be assigned to selected activities within the confines of the Unit under continuous supervision.

10A:5-6.34 Inmate records

(a) The assignment of an inmate to the Security Threat Group Management Unit shall be noted in the inmate's classification file via the Correctional Management Information System.

(b) The following Security Threat Group Management Unit inmate information shall be available as soon as reasonably practical after admission to the Unit for use by appropriate staff members:

1. The name and number;
2. The previous housing location;
3. The unit cell or room assignment;
4. The date admitted;
5. A special diet as prescribed by a physician or approved by the correctional facility chaplain; and
6. Special medical or psychiatric problems.

(c) All unusual behavior shall be noted in the Unit log book together with the time, date of the incident and the name of the staff member making the entry. Unusual incidents shall also be reported pursuant to N.J.A.C. 10A:21, Reports.

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).