

Special Housing Units and the Isolated Confinement Restriction Act at the Essex County Correctional Facility

ECCF CIVILIAN TASK FORCE REPORT

SPECIAL HOUSING UNITS SUBCOMMITTEE

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MARCH 2023



TABLE OF CONTENTS

Introduction 3

Executive Summary..... 3

I. Background to the SHU Subcommittee Investigation 10

 A. What is the Special Housing Unit (“SHU”)?. 10

 B. Inquiry and Goals of the SHU Subcommittee..... 10

II. ICRA and Adopted Regulations..... 11

 A. Understanding the Law and Its Goals..... 11

 B. Involuntary Protective Custody (“IPC”)..... 13

 C. Voluntary Protective Custody (“VPC”) 13

 D. Pre-Hearing Detention (“PHD”)..... 14

 E. Disciplinary Detention..... 14

 F. Mental Health..... 14

 G. New Inmate Quarantine..... 15

III. Task Force Investigation of ECCF Special Housing Unit Policies and Practices..... 16

 A. Methodology 16

 B. List of Inquiries and Sources..... 16

 1. Categories of Documents Obtained..... 16

 2. Written Questions Posed to the ECCF and Responses (Exhibit T) 17

 3. Informal Questioning of ECCF Administration and Personnel 17

 4. Public Meetings..... 17

 5. Interviews of SHU-Status Inmates: not attached due to privacy..... 17

IV. Gathering Information and Reviewing ECCF Policies and Practices for the Special Housing Unit 18

 A. January 29, 2022 Public Meeting..... 18

 1. ECCF Administration Perspectives on the SHU..... 18

 2. The ECCF Addressing Concerns Raised Regarding the SHU 19

 3. ECCF Discussion of Mental Health Issues in the SHU 19

ECCF Civilian Task Force SHU Subcommittee – March 2023 Report

4. Discussions of ECCF Inmates’ Rights While in SHU Status	19
5. Requests for Release from SHU Status	20
6. Public Comments	20
B. Task Force Follow-Up for Additional Information.....	21
C. Task Force Follow-Up Request for Documents/Policies	24
D. SHU Inmate Data Statistics: ECCF Data on Inmates in the SHU (January 3, 2022 through August 25, 2022).....	25
D. Subcommittee Review of ECCF Updated Policies.....	28
1. Protective Custody Policy Revised August 2021 and August 2022 (Codification PS.CUS.022).....	28
2. Special Housing Unit (SHU) – Post Order (Codification PS.CUS.006.33)	29
3. Classification – County Inmate (Codification PS.CLS.005.01)	29
4. Special Housing Unit (SHU) Policy (Codification PS.CUS.038).....	29
E. The Designation and Review Process at the ECCF SHU in Practice	30
1. Protective Custody (IPC and VPC).....	30
2. Pre-Hearing Detention and Detention.....	33
3. Mental Health	35
F. Conditions Within the SHU	37
G. Interviews With SHU Inmates	38
V. Findings of the SHU Subcommittee.....	41
A. Involuntary Protective Custody.....	41
B. Voluntary Protective Custody	42
C. Pre-Hearing Detention/Detention.....	42
D. Mental Health	43
VI. Recommendations for Improvement.....	45

INTRODUCTION

In connection with the Essex County Correctional Facility Civilian Task Force (the “Task Force”), a Subcommittee has reviewed the Essex County Correctional Facility’s (the “ECCF”) policies and practices regarding the isolated confinement of inmates in its Special Housing Unit (the “SHU”). The Task Force members assigned to the SHU Subcommittee (the “Subcommittee”) are Rubin M. Sinins, Esq. (Chair), Alessandra DeBlasio, Esq., and Imran Rabbani. This Report (i) memorializes the work of the SHU Subcommittee, setting forth the efforts undertaken and methodology utilized, and summarizing and analyzing the data and information the Subcommittee obtained, and (ii) issues findings and recommendations. This SHU Subcommittee Report shall be published as a Report of the Task Force.

EXECUTIVE SUMMARY

In 2019, the New Jersey Legislature enacted the Isolated Confinement Restriction Act (“ICRA”), significantly limiting isolated confinement in jails and prisons throughout the state. The impetus for the legislation was twofold: a responsive effort to address citizen complaints about the *misuse* of isolated confinement, as well as a proactive effort by legislators to mitigate the *adverse impacts* of isolated confinement. As part of its mandate to oversee the policies and practices of the ECCF and in response to concerns raised and explored at public meetings, the SHU Subcommittee has conducted an extensive review of the use of isolated confinement at the facility.

The Subcommittee addressed four related issues: (1) whether the ECCF is complying with ICRA; (2) if not, what conditions prevent full compliance; (3) what recommendations the Task Force might make to alter the conditions preventing compliance; and (4) what steps ECCF administrators could undertake to improve operations and inmate conditions in the SHU. The answers remain incomplete.

Although the ECCF has made substantial efforts to comply with ICRA, we cannot conclude that the facility complies entirely with ICRA’s prohibitions against excessive time in “isolated confinement”¹ and the “isolated confinement” of vulnerable populations². One of

¹ Our reading of ICRA is that inmates permitted out of their cells two hours or less a day are being held in “isolated confinement.” Those in the SHU allowed out more than two hours are not so confined and do not benefit from the protections of ICRA.

² Vulnerable populations are defined to include inmates 21 or younger and over 65, along with those perceived to be lesbian, gay, bisexual, transgender, or intersex, and those with “a disability based on a mental illness ... a history of psychiatric hospitalization, or [who have] recently exhibited conduct ...

the obstacles preventing us from concluding definitively is the lack of readily available records documenting inmates' out-of-cell time, which would indicate who among those housed in the SHU are technically held in "isolated confinement" and thus within the purview of ICRA. Further, we are concerned that the ECCF may not be in compliance with ICRA when it comes to long-term forensic cases by virtue of remaining in isolated confinement beyond ICRA maximum periods. We also believe members of vulnerable populations may be improperly placed in disciplinary detention and isolated confinement.

These areas of potential ICRA non-compliance must be understood in the context of the ECCF's efforts at compliance. The ECCF has made substantial efforts at compliance with ICRA, including updated policies and practices. Placement in SHU status at the ECCF is for legally permissible reasons. Policies are in place that are consistent with ICRA. Voluntary and involuntary protective custody placements are documented and subject to due process procedures. Placements are reviewed by a classification committee that meets weekly. Inmates placed on SHU status for medical/mental health isolation reasons follow individualized determinations by medical professionals, which are frequently reviewed. Pre-hearing detention/disciplinary detention SHU status is likewise based on individualized determinations in accordance with internal policies, which have been revised under ICRA.

For disciplinary detentions, ICRA imposes significant time limits upon isolated confinement. The ECCF adjusted its practices accordingly. It appears there is likely compliance with this specific area of the law. With that said, the unavailability of certain records has hampered the Task Force's review of compliance with time limits. Reviewing disciplinary detention requires a review of records on an inmate-by-inmate basis. The offender management system ("OMS") documents each inmate's days spent in disciplinary detention. However, the review must be done on a case-by-case basis and not through a population review of all individuals in detention.

The Task Force has no reason to believe that the ECCF violates ICRA through these disciplinary timeframes. The sample OMS records provided confirm compliance in this regard. Moreover, the ECCF permits even disciplinary SHU inmates to be out of their cells for two hours daily. Interestingly, though, OMS does not record out-of-cell time. This is recorded in handwritten logbooks. A complete audit should be undertaken to ensure disciplinary detentions do not exceed the maximum periods under ICRA.

indicating the need for further observation or evaluation to determine the presence of mental illness." N.J.S.A. 30:4-82.7.

However, the Task Force is concerned that members of vulnerable populations (*e.g.*, individuals with disabilities, the elderly, and people with severe mental disorders) may have been placed in disciplinary detention and isolated confinement in violation of ICRA. More information is needed in this regard. The ECCF has indicated that vulnerable inmates who commit major infractions may be placed in disciplinary detention. This is done for safety and security reasons but may not be permissible under ICRA; each instance should be documented and explained.

Inmates placed in the SHU due to a mental health designation are likely in isolated confinement for too long, violating ICRA. Notably, the ECCF has been unable to transfer many long-term forensic³ inmates to psychiatric treatment centers due to a lack of available beds outside the facility. Information on the length of confinement is also not readily available, except for the OMS entries for each inmate reviewed. There is no comprehensive compliance database covering all forensic patients. The logbooks record any out-of-cell time. Mental health inmates assigned to the SHU are thus difficult to assess regarding ICRA compliance. Questions such as who is in “isolated confinement,” when, and why long-term forensic cases are even in the ECCF are challenging to comprehend and answer. We are certain that long-term forensic cases have exceeded ICRA maximum isolated confinement periods. As stated on page 61 of the Task Force Medical Subcommittee’s Determinants of Health Report (April 2022), forensic inmates are in lockdown for 23 hours per day and released from their cells for an hour daily to exercise in a room in another walled area. In each such case of exceeding ICRA maximum isolated confinement periods, the ECCF should document the reasons why and the efforts made to transfer the inmate from the facility.

Recordkeeping deficits have also limited our review of protective custody inmates in SHU detention. As aforementioned, the ECCF maintains handwritten logbooks documenting out-of-cell time for inmates and no digital database exists. Reviewing such records for any particular inmate is a massive undertaking. The ECCF is presently, however, implementing

³ The mental health clinical team at the ECCF utilizes a four-level classification system for those who have forensic status. Level one forensics clinically require their own cells and are not yet appropriate for any forms of group/peer programming. Level two forensics still require their own cells but may be considered for group programming/recreation time on their unit. Level three forensics no longer require their own cells and can be bunked with other forensics also on level three. Level four forensics have been successfully participating in group programming on their unit, have a cellmate, and should be considered for transition to a less secure unit. Progression up and down the four-level system is determined by the consensus of clinical reviews made by the mental health clinical team. More information can be found in the Task Force Medical Subcommittee’s Determinants of Health Report (April 2022), published on the Essex County website.

the electronic PipeGuard system⁴ to replace the outdated logbook system. Such a system will provide global records of, among other things, out-of-cell time. While the ECCF indicates that protective custody inmates in the SHU exit their cells and congregate — where possible — more than two hours per day, verifying this would be a huge endeavor beyond the scope of the Task Force, given the current logging system. A complete audit would be necessary to ensure that protective custody inmates are not in “isolated confinement” beyond legally permissible periods.

Conditions of isolated confinement also may or may not be compliant with ICRA because inmates are denied opportunities and programs available to other inmates. While we recognize the ECCF has made some efforts to provide these opportunities, we believe much more can be done. Beyond merely providing tablets and minimal clergy availability, more educational, work, and recreational activities may be provided. However, space and individual restrictions for many SHU-status inmates significantly complicate any enhancements.

In addition to reviewing the ECCF’s technical compliance with ICRA in most areas, the SHU Subcommittee has identified outstanding questions and concerns regarding the SHU at the facility. This Report sets forth those findings and suggestions to improve inmate health and continued review of SHU status for inmates. The Task Force recommendations are as follows:

First, in all areas of SHU placement, whether or not technically “isolated confinement” under ICRA, the ECCF should implement policies and practices to evaluate the effects of SHU placement upon each inmate. The purpose of ICRA was to limit isolated confinement because of the deleterious psychological effects. Those effects are not always eliminated by compliance with the law. Even when inmates are not technically in “isolated confinement,” SHU status and isolation for anywhere close to 22 hours per day can damage long-term mental health.⁵ For example, many inmates in protective custody frequently spend most, if

⁴ We have not been provided the technical specifications or timeframe for implementation of this system, so we cannot comment on whether it will solve reporting issues.

⁵ Brinkley-Rubinstein L, Sivaraman J, Rosen DL, et al. Association of Restrictive Housing During Incarceration With Mortality After Release. *JAMA Netw Open*. 2019;2(10):e1912516. doi:10.1001/jamanetworkopen.2019.12516

Cloud DH, Drucker E, Browne A, Parsons J. Public health and solitary confinement in the United States. *Am J Public Health*. 2015;105(1):18-26. doi:10.2105/AJPH.2014.302205

not all, of their entire stays at the ECCF within the SHU. That is an extraordinarily burdensome circumstance — even if their stays are not precisely defined as “isolated confinement” — that very well may trigger mental health consequences and hinder the ability of former inmates to contribute positively to their communities upon release.⁶ Yet the ECCF does not have policies and practices to account for those harms arising from such extended periods of separation.

Second, the ECCF must comply with ICRA for mental health status inmates. Forensic inmates deemed level two or three do, where individual circumstances permit, congregate and thus are not technically in “isolated confinement,” as ICRA defines. Yet others, along with level one designated inmates in SHU for mental health, are indefinitely placed in isolated confinement based on their medical condition. This violates ICRA. Such inmates needing indefinite lockdown for 22 hours or more should be transferred to health care facilities in the area based on their clinical needs. Where this is not possible, the ECCF must devise effective ways to ensure removal from “isolated confinement” for all inmates beyond ICRA time limits, such as by creating a step-down unit. The ECCF must further recognize that ICRA time limits apply to all categories of SHU-status inmates and not merely to disciplinary detentions.

The extraordinary number of inmates designated for SHU status due to mental health/medical reasons — anywhere from 64 to 89 during the period reviewed — cries out for further resources. Echoing the recommendations outlined in the Task Force Medical Subcommittee’s Determinants of Health Report, we emphasize the continued need for a dedicated mental health unit at the ECCF and the hiring of additional medical staff, as it is insufficient to have only nine mental health professionals responsible for the health status of more than 2,200 inmates (up to 2,400) at the ECCF, including forensic cases. The large number of inmates in SHU status supports the conclusion that more personnel is necessary to ensure the careful review of the mental health of SHU-designated inmates alone.

An associated recommendation is that the ECCF develops specific policy documents governing the mental health review of SHU-status inmates. Currently, none are specifically

Valera P, Kates-Benman CL. Exploring the Use of Special Housing Units by Men Released From New York Correctional Facilities: A Small Mixed-Methods Study. *Am J Mens Health*. 2016 Nov;10(6):466-473. doi: 10.1177/1557988315569880.

⁶ Way BB, Sawyer DA, Barboza S, Nash R. Inmate suicide and time spent in special disciplinary housing in New York State prison. *Psychiatr Serv*. 2007;58(4):558–560

Metzner JL, Fellner J. Solitary confinement and mental illness in US prisons: a challenge for medical ethics. *J Am Acad Psychiatry Law*. 2010;38(1):104–108.

dedicated to medical review protocols. While these medical professionals made individual determinations pursuant to their medical protocols, this is not reflected in any policy documents. Creating specific written procedures and policies governing the mental health review of SHU-status inmates would assist the medical professionals in making determinations consistent with those protocols.

Third, the Task Force recommends the ECCF considers a type of step-down unit — not in isolated confinement — for inmates released after serving a maximum period of discipline according to disciplinary detention. ICRA imposes maximum time limits for isolated confinement in disciplinary detention, including 20 straight days and 30 days within any 60-day period. The Task Force is concerned about the potential for further violence upon other inmates or ECCF staff following such releases to general population. The Task Force recognizes that the ECCF may not have the necessary space or staffing resources, but strongly advises that such a unit could effectively mitigate many issues caused by isolated confinement.

The events of 2022 within the ECCF have mandated extensive facility-wide lockdowns, including the entire period from March 2 to April 1, 2022, which substantiates this concern. Such a step-down unit might serve as a way of easing the disciplined inmate back into general population and benefiting the population at large as a mitigation of risk. The administrative regulations promulgated under ICRA reference a “restorative housing unit” that may serve as a model for ECCF consideration outside of isolated confinement. We understand both county jails and state prisons have utilized such units, an example being the step-down unit in the Hudson County Correctional Facility.⁷

Fourth, the Task Force recommends increased opportunities for educational programs, recreation, religious worship, and other activities for SHU-status inmates. There are significant restrictions on these opportunities that may constitute an ICRA violation. Expanding such activities would enhance the inmates’ living conditions. These activities

⁷ A guide to what a step-down program should ideally entail is outlined in a June 2019 policy brief by the VERA Institute entitled “Step-down Programs and Transitional Units: A Strategy to End Long-term Restrictive Housing.” This brief highlights the importance of individualized decisions about who is placed in the program, thus allowing critical analysis of forensic inmate needs and what type of care/hospital/facility may be appropriate. However, this comes at the cost of having additional behavioral health/corrections staff to facilitate such individualized decision making.

Vanko, E. (2019, June). Step down programs and transitional units strategy to end long-term restrictive housing. Retrieved March 2, 2023, from <https://www.vera.org/downloads/publications/step-down-programs-and-transitional-units-strategy-to-end-long-term-restrictive-housing-policy-brief.pdf>

would serve as stimuli for inmates housed in the SHU, reducing the adverse effects of isolated confinement.

Fifth, the ECCF should substantially upgrade the Wi-Fi for SHU-status inmates. Current limitations restrict the use of tablets and force inmates to find Wi-Fi areas of their cells in awkward locations. This is a seemingly easy solution to improve inmate access to reading and legal materials. The tablets contain only basic educational programming and perhaps may be supplemented.

Sixth, ECCF recordkeeping on inmates' timeframes in "isolated confinement" must be established and/or improved considerably. ICRA applies to situations when an inmate is in "isolated confinement." Calculating and documenting the timeframes used for each inmate is the critical question. The Task Force has not easily obtained these records. Records of out-of-cell time for all SHU-status inmates should be readily available to access to ensure ICRA compliance.

By way of example, the ECCF should be able to provide a complete record establishing that disciplinary detentions have not exceeded ICRA maximum detentions. The ECCF has supplied selected examples confirming compliance from the internal OMS database. We recommend a global database covering all disciplinary detentions so records are not merely spread across the individual inmates' records. The PipeGuard digital database implementation is a potential solution. The ECCF should be able to establish that those in protective custody are either not indeed in "isolated confinement" or, if they are, that inmates are outside their cells for more than two hours per day. The ECCF should likewise document this status for mental health status inmates. To the extent such patients/inmates are in "isolated confinement," this cannot exceed ICRA limits. When appropriate, there should be transfers to hospitals or mental/behavioral health institutions and/or a step-down unit. Currently the Task Force has struggled to obtain this information, which appears not readily accessible.

I. BACKGROUND TO THE SHU SUBCOMMITTEE INVESTIGATION

A. WHAT IS THE SPECIAL HOUSING UNIT (“SHU”)?

The term “special housing unit” is somewhat of a misnomer. SHU is a status rather than a place. In other words, inmates designated for the SHU are identified and handled in accordance with policies governing SHU status for their particular circumstances. This means SHU-designated inmates are housed separately from general population inmates.

Restrictive housing is often referred to as isolated confinement and/or close custody units, administrative segregation, or disciplinary detention. For purposes of our investigation, we refer to “isolated confinement” in the legal sense, which is currently defined under New Jersey law as “confinement of an inmate in a correctional facility, pursuant to disciplinary, administrative, protective, investigative, medical, or other classification ... for ... 22 hours or more per day in a county correctional facility, with severely restricted activity, movement, and social interaction.” Isolated confinement does not include facility-wide lockdowns required to ensure inmate or staff safety. N.J.S.A. 30:4-82.7. The SHU Subcommittee has not reviewed facility-wide lockdowns or their frequency and use. The Task Force determined this topic is appropriate for separate inquiry.

SHU status within the ECCF comprises four distinct categories: (1) mental health, (2) involuntary protective custody, (3) voluntary protective custody, and (4) pre-hearing detention and disciplinary detention.

B. INQUIRY AND GOALS OF THE SHU SUBCOMMITTEE

The Task Force instructed the SHU Subcommittee to review the ECCF’s SHU practices and policies. The Task Force did not inform or restrict this review. Rather, the Task Force left to the SHU Subcommittee its best judgment on areas of inquiry.

The SHU Subcommittee determined that information gathering and analysis should compare the actual SHU policies and practices with the legal requirements according to ICRA and associated regulations. Beyond policy documents, the SHU Subcommittee reviewed sample cases to focus on actual practices. Thus, the SHU Subcommittee has undertaken an overview of ECCF general policy and practice documents, ECCF forms related to the SHU and the actual placement of inmates, classification committee review of SHU-status inmates, and treatment of inmates in the various SHU statuses. The SHU Subcommittee has also interviewed SHU-status inmates as part of its inquiry. Finally, the SHU Subcommittee determined that it would be helpful to report any outstanding questions or concerns to the Task Force that might lead to recommendations for the SHU at the ECCF, even if it is determined that the facility is technically compliant with ICRA.

II. ICRA AND ADOPTED REGULATIONS

The SHU Subcommittee analyzed ECCF policies and practices under the Isolated Confinement Restriction Act (ICRA), N.J.S.A. 30:4-82.5, *et seq.*, together with regulations that have been adopted thereunder. See N.J.A.C. 10A:5-1.1, *et seq.*, and N.J.A.C. 10A:31-1.1, *et seq.* Pursuant to ICRA, the ECCF (like all other correctional facilities) is limited in the use of isolated confinement, which, subject to exception, should not be utilized for members of vulnerable populations. N.J.S.A. 30:4-82.6(b).

A. UNDERSTANDING THE LAW AND ITS GOALS

ICRA was passed by the New Jersey Legislature in June 2019 and signed into law by Governor Phil Murphy in July 2019. ICRA took effect on August 1, 2020. A copy of ICRA is set forth as **Exhibit A**. The Department of Corrections Commissioner subsequently promulgated regulations to implement ICRA requirements in greater detail. See N.J.A.C. 10A:5-1.1, *et seq.*, and N.J.A.C. 10A:31-1.1, *et seq.* A copy of those regulations is set forth as **Exhibit B**.

Legislative findings and declarations contained within ICRA inform our review. The Legislature declared the use of isolated confinement should be restricted to ensure safe and humane operations. Isolated confinement should only be used when necessary and not under conditions that foster psychological trauma, disorder, or long-term damage to an isolated person’s brain. The Legislature responded to federal reforms adopted in January 2016 due to the “devastating and lasting psychological consequences of solitary confinement.” N.J.S.A. 30:4-82.6(d); Doe v. N.J. Dep’t of Corrections, 2020 N.J. Super. Unpub. LEXIS 1052, 2020 WL 2892395 (App. Div. June 3, 2020). The Legislature further declared isolated confinement should not, subject to exception, be utilized for vulnerable populations. Vulnerable populations are defined to include, among others, inmates 21 or younger and over 65, along with those perceived to be lesbian, gay, bisexual, transgender, or intersex, together with those with “a disability based on a mental illness ... a history of psychiatric hospitalization, or [who have] recently exhibited conduct ... indicating the need for further observation or evaluation to determine the presence of mental illness.” N.J.S.A. 30:4-82.7. Isolated confinement is only permitted for vulnerable populations under certain circumstances. N.J.S.A. 30:4-82.6(b); N.J.S.A. 30:4-82.8(4)b; Doe, 2020 N.J. Super. Unpub. LEXIS at *22.

The overall intent of ICRA is to limit the time individuals lack human interaction. The precise definition of “isolated confinement” is important because inmates who receive even two hours and one minute away from their cell each day, during which they may interact with others, are not categorized as housed in “isolated confinement.” SHU status, therefore,

may or may not constitute “isolated confinement,” depending on these opportunities for human interaction.

ICRA limits “isolated confinement” for all categories of inmates. The only exception to the statutory time limits (*i.e.*, 20 consecutive days or 30 of 60 non-consecutive days in isolated confinement) relates to facility-wide lockdowns. Thus, SHU-status inmates of each category must be viewed regarding those limitations.

The use of isolated confinement in correctional facilities is permitted under ICRA. First, isolated confinement is permitted for facility-wide lockdowns to ensure safety. N.J.S.A. 30:4-82.8(d)(1). Second, isolated confinement is permitted upon a determination that an inmate should be placed in emergency confinement. N.J.S.A. 30:4-82(d)(2). Third, isolated confinement may be used where a clinician, upon personal examination, determines an inmate should be placed or maintained in medical isolation. N.J.S.A. 30:4-82.8(d)(3). In that situation, a clinical review must be conducted at least every 72 hours and as clinically indicated. *Id.* Fourth, isolated confinement is permitted upon a determination that an inmate should be placed in protective custody. N.J.S.A. 30:4-82.8(d)(4). This includes both voluntary and involuntary protective custody status. Apart from the permitted uses of isolated confinement, inmates cannot be placed in isolated confinement for non-disciplinary reasons. N.J.S.A. 30:4-82.8(a)(2). A fifth status, concerning pre-hearing detention and disciplinary detention, is the final permissible basis for isolated confinement under ICRA.

ICRA further imposes requirements when SHU status is utilized. Numerous procedures must accompany a designation of an inmate to each such status. ICRA clarifies the requirements that isolated confinement may only be utilized when less restrictive alternatives are unworkable. Unless the inmate poses a security risk that could not be obviated through a transfer⁸, the inmate should be placed in a less restrictive intervention rather than isolated confinement for protection. N.J.S.A. 30:4-82.8(d)(4)(f). Inmates may not be placed in isolated confinement unless there is reasonable cause to believe they would create a substantial risk of serious harm to themselves, or another less restrictive intervention would be insufficient to reduce the risk. N.J.S.A. 30:4-82.8(a)(1).

ICRA provides a host of other due process requirements permitting the inmate to contest confinement pursuant to certain bases of isolated confinement. The particular status

⁸ The nature of such a transfer is not defined. The Task Force notes that the absence of available resources outside the ECCF, such as mental health facilities for potential placement, is a significant concern that has resulted in the greater use of the SHU for mental health reasons than would be preferable. The ECCF may not lawfully house a mental health inmate for an extended period in isolated confinement in violation of ICRA.

dictates the situation. For example, an inmate designated for mental health status is reviewed differently than one designated for voluntary protective custody. Each basis for isolated confinement (involuntary protective custody, voluntary protective custody, pre-hearing detention, disciplinary detention, or mental health) contains strict requirements for compliance with ICRA. Each status is discussed in turn.

B. INVOLUNTARY PROTECTIVE CUSTODY (“IPC”)

An inmate may be placed in involuntary protective custody when there is clear and convincing evidence that confinement is necessary to prevent reasonably foreseeable harm and a less restrictive intervention is insufficient to prevent the harm. N.J.S.A. 30:4-82.8(d)(4)(b). Inmates placed in protective custody (including IPC) must receive similar opportunities for activities, movements, and social interaction consistent with safety. N.J.S.A. 30:4-82.8(d)(4)(c).

Under the accompanying regulations, the ECCF classification committee must conduct a hearing for all involuntary protective placements within 72 hours of placement. The inmate must be allowed to appear personally before the classification committee and receive written notice of the decision with summary of the evidence relied upon. See N.J.A.C. 10A:31-18.2. Each inmate in protective custody must be reviewed every 30 days by the classification committee. N.J.A.C. 10A:31-18.3, N.J.A.C. 10A:5-5.4. Inmates involuntarily placed into protective custody must have a hearing each year. N.J.A.C. 10A:5-5.4. They also may be released when the classification committee is satisfied the conditions giving rise to the placement no longer exist. N.J.A.C. 10A:31-18.4(b).

C. VOLUNTARY PROTECTIVE CUSTODY (“VPC”)

Inmates may be placed in voluntary protective custody if they have provided informed, voluntary consent and when there is reasonable cause to believe confinement is necessary to prevent reasonably foreseeable harm. Inmates in VPC may opt out of that status through informed, voluntary, written refusal of the status. Where an inmate makes an informed, voluntary request for protective custody, the ECCF bears the burden of establishing a basis for refusal. The ECCF must place the inmate in a less restrictive intervention, including transfer to the general population of another institution, before placing the inmate in isolated confinement for protection, unless the inmate poses security risks so great that transferring the inmate would be insufficient to ensure safety. N.J.A.C. 10A:31-18.1(a).

D. PRE-HEARING DETENTION (“PHD”)

Inmates may sometimes be placed in isolated confinement in connection with disciplinary hearings. Disciplinary detention is not permitted for members of vulnerable populations. N.J.S.A. 30:4-82.6(b); N.J.S.A. 30:4-82.8(4)b; Doe, 2020 N.J. Super. Unpub. LEXIS at *22. This is because disciplinary detention (as opposed to mental health and protective custody determinations) is not a listed circumstance within ICRA where vulnerable populations may be placed in isolated confinement. Pursuant to ICRA, an inmate may not be placed in isolated confinement pending an investigation of a disciplinary offense unless the inmate’s presence in the general population poses a danger. This determination is based on the seriousness of the alleged offense, including whether the offense involved violence or escape or posed a threat to institutional safety, prohibiting others from engaging in misconduct. Such placement is also permitted in an emergency situation. An inmate’s placement in isolated confinement pending investigation of a disciplinary offense must, in any event, be reviewed within 24 hours by a supervisory employee not involved in the initial placement decision. See N.J.S.A. 30:4-82.9.

E. DISCIPLINARY DETENTION

An inmate — except a member of a vulnerable population — may be placed in isolated confinement for disciplinary reasons. A decision to place an inmate in disciplinary detention may only be made by the Disciplinary Board/Hearing Officer subject to approval by the ECCF Administrator. N.J.A.C. 10A:31-17.1. Inmates may be placed in disciplinary detention for a period not to exceed 15 days as a result of a single disciplinary charge. N.J.A.C. 10A:31-17.2. Inmates found guilty of multiple charges may receive up to 15 days for each charge so long as the total time served does not exceed 20 consecutive day or 30 days in a 60-day period. N.J.A.C. 10A:31-17.2(b), N.J.A.C. 10A:31-17.2(c). The time an inmate spends in disciplinary detention must be proportionate to the offense committed, taking into consideration the severity of the offense, the inmate’s prior conduct, the inmate’s specific program needs, and other relevant factors. N.J.A.C. 10A:31-17.2(d).

F. MENTAL HEALTH

Isolated confinement is permitted where a clinician, based on personal examination, determines an inmate should be placed or retained in medical isolation. An inmate in medical isolation may be placed in a mental health unit. N.J.S.A. 30:4-82.8(d)(3). Clinical reviews must be conducted within 72 hours and then as clinically indicated. In the case of medical isolation, clinical reviews shall be conducted at least every eight hours and as clinically indicated. *Id.* At the ECCF, as with other county facilities, a decision to place an inmate in medical isolation

must be made by a medical staff member and be based on a personal examination, with clinical reviews to be conducted within 72 hours and after that as clinically indicated.

G. NEW INMATE QUARANTINE

The SHU Subcommittee notes that new inmates subject to quarantine are, for ease of reference within ECCF documentation, deemed to be in SHU status. This is a recordkeeping matter and is short-term. This temporary status is thus not regarded truly as SHU status, though there is isolated confinement. The Subcommittee has not reviewed new inmate quarantines.

III. TASK FORCE INVESTIGATION OF ECCF SPECIAL HOUSING UNIT POLICIES AND PRACTICES

A. METHODOLOGY

The Subcommittee engaged in a multi-pronged inquiry. Its methodology included the following: reviewing ICRA and regulations, gathering ECCF policy documents, forms, and inmate records, submitting and receiving answers to questions directed to the ECCF administration, informal questioning of the ECCF administration and personnel, announced and unannounced visits to the SHU, public meetings whereby additional testimony may be obtained, and interviews of SHU-status inmates at the ECCF. This report is the result of these inquiries.

B. LIST OF INQUIRIES AND SOURCES

1. CATEGORIES OF DOCUMENTS OBTAINED

A. POLICY DOCUMENTS

<u>Policy Title</u>	<u>Effective Date</u>	<u>Revised</u>	<u>Codification</u>	<u>Exhibit</u>
Protective Custody	February 1, 2007	August 2021	PS.CUS.022	C
Special Housing Unit (SHU)	April 24, 2012	March 2022	PS.CUS.038	D
Special Housing Unit (SHU) – Post Order	June 11, 2012	March 2022	PS.CUS.006.33	E
Classification – County Inmate	March 28, 2019	July 2022	PS.CLS.005.01	F
Inmate Handbook & Disciplinary Rulebook	November 2017	March 2022		G
Suicide Prevention			PS.MED.005	H

B. ECCF SHU-RELATED FORMS

<u>Form</u>	<u>Exhibit</u>
Incident Report Critical Data Sheet	I
Close Custody/SHU Placement Order	J
Strip/Body Cavity Search Report	K
Close Custody Special Housing Unit Orientation	L
Medical/Mental Health Transfer Form	M
Property Inventory Storage List	N

Close Custody Superior Report – Constant/Close Observation Sheet	O
Charging Document “Blue Sheet” Disciplinary Report (A-E)	P
Pre-Hearing Detention Appeal Form	Q
Pre- Hearing Detention/Disciplinary Checklist	R
Protective Custody Admittance and Release	S

C. SPREADSHEETS ON SHU-STATUS INMATES: NOT ATTACHED
DUE TO PRIVACY

D. SAMPLE INMATE FILES: NOT ATTACHED DUE TO PRIVACY

E. CLASSIFICATION COMMITTEE DOCUMENTS: NOT ATTACHED
DUE TO PRIVACY

**2. WRITTEN QUESTIONS POSED TO THE ECCF AND REPOSSES
(EXHIBIT T)**

**3. INFORMAL QUESTIONING OF ECCF ADMINISTRATION AND
PERSONNEL**

4. PUBLIC MEETINGS

A. JANUARY 29, 2022 SUMMARY (EXHIBIT U) AND ACLU-NJ
TESTIMONY (EXHIBIT V)

B. OCTOBER 22, 2022 SUMMARY (EXHIBIT W)

**5. INTERVIEWS OF SHU-STATUS INMATES: NOT ATTACHED DUE
TO PRIVACY**

IV. GATHERING INFORMATION AND REVIEWING ECCF POLICIES AND PRACTICES FOR THE SPECIAL HOUSING UNIT

To determine whether the ECCF is in compliance with ICRA, the SHU Subcommittee engaged in a multi-step process to gather information from the ECCF.

A. JANUARY 29, 2022 PUBLIC MEETING

The Task Force conducted an initial public meeting on January 29, 2022, respecting the use of the SHU at the ECCF. That meeting and testimony and information obtained before the meeting provided a solid basis for the SHU Subcommittee to continue its work. The American Civil Liberties Union of New Jersey provided testimony and documentation in advance of this public meeting. **Exhibit V**. The ECCF administration provided an overview of the SHU. Information was also provided concerning the population categories of inmates housed in the SHU. ECCF medical personnel discussed the use of SHU for mental health status. An informal summary of the January 29, 2022 public meeting is set forth at **Exhibit U**.

1. ECCF ADMINISTRATION PERSPECTIVES ON THE SHU

Warden Guy Cirillo indicated that many of those incarcerated in the SHU require specialized mental health treatment. He acknowledged it has been challenging for the ECCF to facilitate and to enforce the rules to comply with ICRA. The ECCF utilizes questionnaires and assessments to determine placement before the inmate enters the facility. This includes information about predisposition to sexual assault, mental health/patterns of behavior that may require psychological attention, and other matters.

The ECCF is developing measures to be more proactive in classification decisions and adjusting resources. These measures will identify how many individuals are confined in the SHU and in each particular status. The ECCF may use this data to forecast what works to manage inmates best. The ECCF seeks to be more systematic in data collection. The SHU Subcommittee later found that statistical information regularly captured in 2022 was not done in 2021. We are assured such information will be captured for all periods going forward.

The Task Force asked for more concrete statistical information concerning SHU-status inmates. Associate Warden Antonio Pires worked through the statistical numbers of those in the SHU and their mental health status. Dr. Chris Pernell of the Task Force asked whether the ECCF could provide the length of time that those in different categories were kept in SHU. Although Associate Warden Pires could not immediately provide these statistics, he and Warden Cirillo indicated that they could later share with the Task Force the length of time someone stays within the SHU. Because of technical issues, that information has been difficult to obtain. Yet Excel spreadsheets supplied to the Subcommittee purport to contain

some of this information. Therefore, ensuring that the data gathered are thoroughly and readily available is one of the Subcommittee's recommendations.

2. THE ECCF ADDRESSING CONCERNS RAISED REGARDING THE SHU

The ECCF responded to reports of individuals being in cells for weeks without being permitted to leave. There was also discussion of members of vulnerable populations in the SHU and reports of inmates engaging in self-harm behavior. Warden Cirillo acknowledged these concerns but noted many instances of inmates lying and creating false narratives of their conditions. The ECCF acknowledged that either circumstance would constitute an ICRA violation. Based upon inmate interviews, the SHU Subcommittee cannot corroborate these concerns or confirm they occurred. We confirmed extensive, facility-wide lockdowns, including one from March 2 to April 1, 2022.

3. ECCF DISCUSSION OF MENTAL HEALTH ISSUES IN THE SHU

The Subcommittee also had discussions about mental health services at the ECCF. Dr. Jason Fleming, the attending psychologist at the facility, indicated that at any given time, 60 to 75 individuals would have a difficult time in general population and are thus put on mental health status. They are assigned a mental health clinician and given mental health counseling. Depending on an inmate's classification (close observation, constant observation, or forensic status), inmates in the SHU are evaluated at different times but broadly about once a day for any mental health contact. This mental health assessment begins upon intake within 72 hours.

4. DISCUSSIONS OF ECCF INMATES' RIGHTS WHILE IN SHU STATUS

The public meeting also touched on the inmates' rights while in SHU status, including disciplinary detention. Individuals are charged and classified based on ECCF policies in accordance with ICRA. There was assurance that inmates in voluntary protective custody status do not lose rights such as the right to phone calls and commissary. There was discussion about the general conditions of SHU and acknowledgment of reports that individuals housed there have fewer phone calls and commissary. Yet under ECCF policies, SHU-status inmates have over two hours of recreation time to schedule legal calls, correspond with attorneys, and have regular visits in addition to those two hours. Some cells in the SHU are smaller than those in the general population, and some inmates in the SHU do not have cellmates. The ECCF acknowledged a legal obligation to provide essential services to all inmates.

5. REQUESTS FOR RELEASE FROM SHU STATUS

There was discussion about individuals opting out of the SHU. The ECCF administration indicated that a classification committee reviews protective custody. The administration noted its strong preference against the use of SHU status for an extended period of time. Alessandra DeBlasio commented that attorneys should be incorporated more into this process, especially in areas like voluntary protective custody. Philip Alagia, Chief of Staff of Essex County, acknowledged that many inmates in the ECCF should be in psychiatric hospitals instead of correctional facilities. The Subcommittee concurs with Chief Alagia and identifies this as a troubling consequence of the broader systemic issue of a lack of mental health resources in the community and the closing of psychiatric hospitals.⁹

The absence of resources and decisions within the criminal justice process are issues beyond the scope of the SHU Subcommittee’s review. Yet these societal issues were raised over and over in our investigation. Recommendations for the SHU — particularly mental health status — cannot be separated from the fundamental questions surrounding inmates with severe mental disorders being incarcerated rather than hospitalized. This public policy and criminal justice reform issue is challenging to address. Task Force Counsel Judge Jose Linares insightfully inquired whether we can engage the state politically on this issue.

6. PUBLIC COMMENTS

The public comments at the January 29, 2022 meeting focused on various aspects of the SHU. Public members opined that 72 hours is too long for a mental health evaluation and that services should be available around the clock. The wife of an incarcerated inmate indicated that she had been requesting psychotherapy for her husband since he entered the ECCF. Another complaint was that individuals with less severe mental health issues do not get as much attention from staff, and she regards this as a staffing issue. The ACLU-NJ recommended greater outreach by the Task Force, including speaking directly with the inmates at the ECCF. The SHU Subcommittee has since done that, speaking with the ECCF administration, staff, and numerous inmates designated for SHU status.

The Task Force was requested to obtain a copy of the Inmate Handbook and to make ECCF policies and the Inmate Handbook available to the public. The ACLU-NJ urged that the Task Force focuses on applying the law to general lockdowns, vulnerable populations, and

⁹ Lamb RH, Weinberger LE. The shift of psychiatric inpatient care from hospitals to jails and prisons. *J Am Acad Psychiatry Law*. 2005;33(4):529-534.

Talbott JA. Deinstitutionalization: avoiding the disasters of the past. *Psychiatr Serv*. 2004;55(10):1112-1115.

on the conditions in the SHU at the ECCF. The SHU Subcommittee has obtained the Inmate Handbook and all applicable policies, and they are set forth as Exhibits within this Report. As noted above, general lockdowns will be subject to a separate inquiry.

B. TASK FORCE FOLLOW-UP FOR ADDITIONAL INFORMATION

Following the January 29, 2022 public meeting, the Task Force served a substantial request for SHU-related information upon the ECCF. This included a request for written responses and the production of documents. **Exhibit T.** These follow-up questions and responses provided ample information developed for the SHU Subcommittee’s review. In particular, the ECCF responded that, for calendar year 2021, the ECCF did not capture data concerning a breakdown in classification in the SHU. For 2022, however, the SHU Subcommittee has requested and the ECCF has produced that key information. For privacy and security reasons, the Task Force publishes only de-identified aggregate data without reference to individual inmates. This information is further described in Section D below.

The ECCF’s written responses to Task Force interrogatories added substantial knowledge to the Task Force’s review. The ECCF confirmed that a SHU classification committee meets weekly and consists of all department heads, including Classification, Internal Affairs, Social Services, the Inmate Advocate, and the SHU Classification Supervisor.

In response to questions about the average length of time for SHU custody for all classifications, the ECCF responded that only the disciplinary classification has a specific time limit of no more than 20 days. According to the ECCF, ICRA imposes no other time limitations on SHU status.¹⁰ All other inmates in SHU remain based on classification, medical and/or mental evaluation, or protective custody needs. Inmates with such status could spend their entire stay at the ECCF in SHU status.

¹⁰ The Task Force disagrees with this interpretation, which is contrary to the language of ICRA. The Task Force has grappled with the seemingly contradictory language within ICRA and the associated regulations. For example, ICRA indicates that “isolated confinement” may not be used beyond certain time limitations. This limitation is *not* restricted to disciplinary detention. Yet the associated regulations make plain that protective custody designations, voluntary and involuntary, are not subject to the time constraints that exist for disciplinary detentions. Thus, all protective custody inmates are entitled to review every 30 days. Involuntary protective custody inmates are entitled to a formal hearing every year. Such time designations are beyond the restrictive use of isolated confinement set forth in ICRA. The Task Force concludes that while protective custody inmates may remain in SHU status beyond these timeframes, they cannot be subjected to “isolated confinement” beyond the ICRA timeframes. Thus, even protective custody inmates must receive more than two hours of out-of-cell time per day. The Task Force concludes the same for mental health inmates assigned to SHU status.

The Task Force requested schematic maps to conceptualize the SHU better. Because of security issues, the ECCF declined to provide a map and schematic of the SHU area. The SHU Subcommittee has, however, visited various units of the SHU.

The Task Force inquired about the number of individual mental health services solicited in response to inmates in SHU custody over the calendar year 2021, including repeated or follow-up visits. Dr. Jason Fleming responded that, apart from the individual charts, the ECCF does not yet capture that data on a statistical basis. This is an area where more information is necessary to harvest material data.

In response to general questioning about SHU policies, the ECCF responded that inmates are placed in the SHU based upon disciplinary protective custody or mental health determinations and requirements. The ECCF denies that there are any other close custody units such as administrative segregation, disciplinary detention, or other classification status. As of January 15, 2022 (a date utilized by way of example), individuals housed in the SHU were as follows: (1) 150 voluntary protective custody; (2) 35 involuntary protective custody; (3) 19 detention; and (4) 69 mental health, for a total of 273 inmates.

The ECCF provided substantial information on SHU-status inmates from January through August 2022. The SHU Subcommittee has received both statistical and identifying information for eight months (except periods of lockdown) during the calendar year 2022. The Subcommittee provides statistical results below in Section D.

This written response by the ECCF provides substantial information on disciplinary detention practices. In disciplinary matters, before someone is placed in the SHU, a detention decision is based upon a received institutional disciplinary charge for a conduct violation. Then a disciplinary hearing is conducted, and if the individual charge is sustained, the inmate serves his imposed sanction. In terms of disciplinary status, the ECCF does not “stack” charges against inmates. (Generally, multiple charges related to a single incident will result in concurrent detention.) The charge is determined as “major” or “minor” based on definitions provided in the Inmate Handbook and a custody determination.

Prior to any placement in SHU status, the ECCF staff determines whether a mental health screening is needed. Warden Cirillo provided an example in which such a screening would not be deemed necessary: If an inmate was in an altercation with another inmate, complied with officers, and no red flags or indicators suggested the inmate was in need of mental health clearance, a screening would not be done. Protective custody status is based upon custody information and determinations that the subject inmate is in jeopardy. All inmates being transferred to the SHU are medically evaluated for placement regardless of classification. This includes a chart review and physical examination by the medical provider, which consists of a medical assessment.

There is a procedure for inmates to request the release from protective custody at any time. When an individual requests release from protective custody, that request is reviewed by the classification committee to determine if it is appropriate (safe) for that inmate to be housed in general population.

The ECCF responded to questions concerning conditions for inmates while confined within the SHU. There are at least two hours of out-of-cell time and up to four hours when appropriate.¹¹ Inmates can use the phone, shower, take recreation, or use a “law library”¹² every day. Inmates have access to areas adjacent to the SHU housing areas including recreation with outdoor exposure (fresh air) or common spaces in some SHU areas. Depending on their status, some may congregate and some are not permitted to. SHU recreation has a pull-up bar and access to the outside air. Inmates may do calisthenics. Refusals are documented, but the reasons are not. No one is discouraged from participating, and out-of-cell time is strictly voluntary.

¹¹ The SHU Subcommittee’s understanding from the information provided by the ECCF administration is that when the inmate’s status, personal circumstances, and safety permit, then SHU inmates may be given up to four hours of out-of-cell time. For instance, if two or three inmates housed in the SHU do not pose a threat to each other or staff and have maintained good behavior, they may be allowed outside concurrently to utilize their out of cell time. Thus, they may enjoy three hours outside of their cell together instead of a single hour out at a time. It is difficult to quantify how often this may happen given that it is at the discretion of the officer/custody staff.

With that said, however, all inmates we spoke with complained that there were no more than two hours out per day, and they often do not even get two hours and instead just one because of a part-day lockdown or some other short-term emergency situation, either in their particular unit or facility-wide. The only inmates who get more than two hours out per day are those whom ECCF guards/officials select, because of good behavior, to act as “orderlies” to clean the unit and the other inmates’ cells. Their extra time out is not to use recreation space, “law library,” etc., but rather to move around the unit to work. According to them, this is work time, not “free” time.

¹² In each wing of the SHU, a tiny room is dedicated as a “law library.” It contains no books, but only a small table, a chair, and a computer keyboard and screen. When the SHU Subcommittee visited the SHU, we were not shown the functions of the desktop and thus do not know if the computer has any software/programs that would allow inmates to research case law or work on their cases. Further, it is unclear how discovery material would be provided to inmates to conduct legal research within one hour of recreation time. A corrections officer in the SHU responded affirmatively, however, when asked if inmates are allowed to conduct legal research concerning their cases/discovery on the desktops provided in the small room. The “law library” can certainly benefit from more supplies, and more out-of-cell time would allow inmates to utilize these resources.

In response to written questions about medical evaluation within the SHU, including from mental health providers, Dr. Jason Fleming responded that there are mental health contacts with inmates in the SHU and that these contacts depend on their status. If inmates are on mental health observation status, they are assessed daily. If an individual is on disciplinary status, they are seen upon the inmate's request. Similarly, inmates on protective custody status are assessed upon their request. Inmates on mental health forensic status in the SHU are assessed at least every other week or more if it is clinically indicated and whenever they request to be seen. They are also assessed by psychiatry once a month or more if clinically indicated.

In response to questions about housing within the SHU, the ECCF stated that most cells are single-bunked. However, some protective custodies are double-bunked when appropriate. Built-in furniture in the cells include a toilet, sink, desk, and bed. Inmates have access to tablets and a "law library." Generally, tablet access and usage are free (the first tablet is free, but the inmate must pay if it is broken/damaged through negligence). Services such as audio/video calls, emails and text messaging, movie streaming, song streaming/download, games, and educational programs are provided at an additional cost to the inmate. Certain basic services are free, such as messages to ECCF medical and custody staff, as well as reporting grievances.

C. TASK FORCE FOLLOW-UP REQUEST FOR DOCUMENTS/POLICIES

The ECCF's written responses were followed up with a request for all policy documents relating to the SHU. The SHU Subcommittee has requested and obtained additional documentation from the ECCF administration. The ECCF Protective Custody Policy was revised in August 2021. **Exhibit C.** This is consistent with the newly adopted regulations under N.J.A.C. 10A:31. This policy statement establishes the guidelines and procedures regarding inmates placed in protective custody at the ECCF. These procedures include admission to protective custody, a hearing procedure for involuntary placement to protective custody, the review of inmates in protective custody, responses to visits and telephone calls, and protocol regarding allegations of incidents related to the Prison Rape Elimination Act.

In addition to policy documents (further discussed below), the SHU Subcommittee requested forms associated with SHU designation and review. The SHU Subcommittee has reviewed the Protective Custody and Admittance and Release Form, which covers voluntary and involuntary reasons. **Exhibit J.** Numerous other forms apply to each status. The Subcommittee also requested statistical information for calendar year 2022 concerning all inmates housed within the SHU. The ECCF has provided this information for an eight-month period from January through August 2022. For each period (generally weekly), a cover

summary sheet indicates the total number of SHU inmates, which is also broken down by category: involuntary protective custody, voluntary protective custody, pre-hearing detention, detention, mental health, and quarantine.

The information provided by the ECCF also contains details of each inmate: cell number, inmate number, classification, entry date (county, federal, or Union), and the time-in days in the SHU. Moreover, notes associated with each individual document the basis of placement in the SHU. This statistical and individualized data has provided information for those housed in 2D1 bottom left cells 101-116, 2D1 bottom right cells 117-132, 2D1 top left cells 201-216, 2D1 top right cells 217-232, 2D3 bottom left cells 301-316, 2D3 bottom right cells 317-332, 2D3 top left cells 401-416, 2D3 top right cells 417-432, 2C1 bottom cells 101-115, 2C1 bottom cells 117-132, 2C1 top cells 201-216, and 2C1 top cells 217-232, which constitute the sections of the SHU housing units.

Following receipt of this documentation, the SHU Subcommittee has conducted interviews with the ECCF administration and staff to follow up on information that interests the Task Force. In addition, the SHU Subcommittee conducted both scheduled and unscheduled visits to the SHU.

D. SHU INMATE DATA STATISTICS: ECCF DATA ON INMATES IN THE SHU (JANUARY 3, 2022 THROUGH AUGUST 25, 2022)

As part of our review, the SHU Subcommittee requested and obtained voluminous Excel spreadsheets from the ECCF documenting the inmates assigned to the SHU from January 3 through August 25, 2022. While not all data were captured, many days were captured, with 79 separate dates/data points. For this period, each Excel file contains a wide variety of information. Each day contains a summary page listing the SHU, the total number of inmates in the SHU, and a breakdown of inmates located in the SHU by specific designation: involuntary protective custody, voluntary protective custody, pre-hearing detention, detention, mental health, and new inmate quarantines. That summary sheet also contains a category breakdown by way of inmate housing at the ECCF. In particular, the inmates in the SHU are designated within locations 2D3, 2E/2E2, 2D1, 2C1, and 4C3. Following that summary page are pages identifying the inmates by location designating the type of assignment (*e.g.*, involuntary protective custody), the date the inmate entered the SHU, the status (*i.e.*, whether an Essex County, Union County, or federal inmate), the time in the ECCF, and notes concerning the inmate's assignment.

ECCF Civilian Task Force SHU Subcommittee – March 2023 Report

We have created a chart reflecting the statistical make-up of the SHU over the subject period¹³, including the total inmates per category identified. A statistical analysis of this information reveals that, over the period of January 3 through August 25, 2022, there was an average of 42 inmates in involuntary protective custody during that period. There were 188 inmates in voluntary protective custody on average. In pre-hearing detention, there were 15 inmates on average. There were six inmates in detention on average during this period. As for mental health assignments in the SHU, there were 74 inmates on average. Over this entire period, the total number of inmates in the SHU averaged 325.

Date	IPC	VPC	PHD	DET	MH	TOTALS
1/3/2022	39	144	18	0	69	270
1/27/2022	35	151	19	0	69	274
2/7/2022	35	150	16	0	72	273
2/8/2022	34	151	14	0	72	271
2/9/2022	33	152	16	0	73	274
2/10/2022	32	152	17	0	72	273
2/11/2022	32	148	14	0	74	268
2/14/2022	35	149	12	0	69	265
2/15/2022	36	149	10	0	70	265
2/16/2022	35	151	9	0	72	267
2/17/2022	35	153	13	0	71	272
4/12/2022	39	159	19	0	68	285
4/13/2022	39	160	18	0	69	286
4/14/2022	39	159	17	0	69	284
4/18/2022	39	156	20	0	68	283
4/19/2022	39	155	20	0	67	281
4/20/2022	39	154	19	0	65	277
4/21/2022	39	155	18	0	66	278
4/22/2022	40	155	16	0	66	277
4/25/2022	42	154	5	4	66	271
4/26/2022	43	156	5	4	64	272
4/27/2022	42	153	13	5	65	278

¹³ Certain periods were not captured, including the ECCF facility-wide lockdown period of March 2 to April 1, 2022.

ECCF Civilian Task Force SHU Subcommittee – March 2023 Report

4/28/2022	41	153	12	5	65	276
4/29/2022	42	152	4	10	64	272
5/2/2022	43	152	8	7	63	273
5/5/2022	37	151	12	5	64	269
5/6/2022	47	197	18	4	75	341
5/9/2022	49	202	16	3	74	344
5/10/2022	50	202	11	4	73	340
5/11/2022	50	203	11	5	72	341
5/12/2022	48	203	10	5	71	337
5/13/2022	44	202	12	4	74	336
5/16/2022	46	205	11	8	73	343
5/17/2022	46	206	8	11	73	344
5/18/2022	46	205	11	13	74	349
5/19/2022	46	205	11	12	73	347
5/23/2022	45	196	13	6	73	333
5/24/2022	44	191	9	6	72	322
5/25/2022	42	188	5	8	76	319
5/30/2022	45	188	18	8	76	335
5/31/2022	45	190	19	7	76	337
6/1/2022	46	192	16	10	75	339
6/2/2022	44	195	10	13	74	336
6/3/2022	44	193	5	18	73	333
6/6/2022	43	198	15	14	76	346
6/7/2022	42	198	14	14	79	347
6/8/2022	42	198	11	19	78	348
6/9/2022	43	200	10	19	77	349
6/10/2022	43	199	8	12	80	342
6/13/2022	42	198	8	8	83	339
6/15/2022	42	195	7	10	81	335
6/22/2022	41	202	14	16	83	356
6/27/2022	40	202	15	12	87	356
6/28/2022	39	201	16	12	85	353
6/29/2022	38	201	15	14	84	352
7/4/2022	41	204	13	7	79	344

ECCF Civilian Task Force SHU Subcommittee – March 2023 Report

7/5/2022	40	207	19	7	79	352
7/6/2022	41	207	19	4	80	351
7/11/2022	42	214	17	1	82	356
7/25/2022	44	211	19	2	77	353
7/26/2022	44	211	21	2	76	354
7/27/2022	45	211	23	2	74	355
7/28/2022	45	210	18	2	76	351
7/29/2022	45	201	19	2	75	342
8/1/2022	43	209	28	1	75	356
8/2/2022	41	211	25	1	73	351
8/3/2022	41	210	26	1	73	351
8/4/2022	41	211	14	8	75	349
8/5/2022	42	209	19	8	73	351
8/8/2022	43	210	20	15	79	367
8/9/2022	43	214	18	15	78	368
8/10/2022	42	212	24	14	77	369
8/16/2022	43	212	31	4	84	374
8/17/2022	42	210	30	4	78	364
8/19/2022	42	223	23	2	81	371
8/22/2022	43	225	21	1	80	370
8/23/2022	42	227	24	1	79	373
8/24/2022	42	226	20	1	80	369
8/25/2022	43	225	15	1	80	364

D. SUBCOMMITTEE REVIEW OF ECCF UPDATED POLICIES

The Subcommittee obtained updated documents from the ECCF concerning updated SHU policies formulated in response to ICRA and its associated regulations.

1. PROTECTIVE CUSTODY POLICY REVISED AUGUST 2021 AND AUGUST 2022 (CODIFICATION PS.CUS.022)

Consistent with ICRA and the associated regulations, there are procedures at the ECCF prior to the placement of inmates in protective custody. Written requests for voluntary protective custody must be maintained. Further, inmates placed in isolated confinement for protection must receive similar opportunities for movement and other activity. This policy further provides for a hearing procedure for involuntary placement in protective custody

and the review of inmates in protective custody. In short, this updated policy is consistent with ICRA for due process protections in connection with placement in protective custody.

Exhibit C.

2. SPECIAL HOUSING UNIT (SHU) – POST ORDER (CODIFICATION PS.CUS.006.33)

This policy was revised as of March 2022. It provides policies for posts, that is, officers assigned to the SHU. This policy is exceptionally detailed, with 19 pages of single-spaced bullet points governing requirements covering officers supervising the SHU. A careful review of this policy reveals that it was drafted to be in compliance with ICRA and the associated regulations. The various restrictions on the use of isolated confinement, including but not limited to disciplinary detention, and the review of medical isolation and other grounds for placement in the SHU, are detailed. The requirements for review of isolation and limitations on restrictions are set forth in detail. **Exhibit E.**

3. CLASSIFICATION – COUNTY INMATE (CODIFICATION PS.CLS.005.01)

This policy was revised as of July 2022 concerning using an objective classification system for the inmates. This policy regarding the custody classification assignment and designation is relevant to the SHU. The inmate should enter general population, special needs, or segregation (disciplinary detention/protective custody). Special needs are based upon an individual inmate, including mental health observation, medical status, suicide risk, and the potential need for segregation. This policy also designates the requirements for security classifications assignment and the scale used for such assignments. This policy is meant to provide objective classification at the ECCF. **Exhibit F.**

4. SPECIAL HOUSING UNIT (SHU) POLICY (CODIFICATION PS.CUS.038)

This policy was revised as of March 2022. The policy sets forth the procedure applying to the operation of the SHU. The policy provides an overview of the different categories of detention. The policy further identifies categories of individuals who shall not be subject to placement in the SHU, consistent with ICRA. The policy provides for the maintenance of permanent SHU logs to reflect data on inmates upon admission and release. The policy also provides for Close Custody Special Housing Unit Orders to be completed by the Office of the Warden or Custody Captain before an inmate is placed in the SHU, except upon exigent circumstances. The aforementioned permanent SHU log and visitors' log must be maintained along with SHU Observation Reports. In sum, this policy provides for documents relating to each inmate placed during their time there. **Exhibit D.**

E. THE DESIGNATION AND REVIEW PROCESS AT THE ECCF SHU IN PRACTICE

The designation and review process of inmates at the ECCF depends largely upon their particular status. That is, inmates placed upon mental health SHU status are designated and reviewed quite differently than those, for example, who are voluntarily or involuntarily placed into protective custody. These categories are likewise treated differently than pre-hearing detention and detention-status inmates.

This section of the report will detail the actual practices for classification and placement of inmates within the different categories of SHU status. This information is gleaned from documents supplied by the ECCF, interviews with the ECCF administration, staff, and inmates, together with the testimony of ECCF representatives during the public meetings of January 29 and October 22, 2022.

1. PROTECTIVE CUSTODY (IPC AND VPC)

The Protective Custody Policy, which is codified in PS.CUS.022, revised August 2022, details procedures for admission and review of protective custody status. These procedures differ somewhat depending on the nature of the protective custody. That said, where applicable for either designation, there are various documentation requirements and a review process. Various documentation associated with protective custody placements include a Critical Data Sheet (if any), an Incident Report (if any), a Protective Custody Admittance and Release Form, a Close Custody SHU Placement Order, a statement from the inmate (for voluntary protective custody requests only), a Strip/Body Cavity Search Report, and a Close Custody Special Housing Unit Orientation Form provided to each inmate designated for protective custody.

A. VOLUNTARY PROTECTIVE CUSTODY

Inmates are placed into VPC based upon their request. Inmates are placed in protective custody only with the approval of the Warden or his designee. A written record is kept of any request by an inmate to be placed in voluntary protective custody. Such placement may only be by informed, voluntary consent and when there is reasonable cause to believe that confinement is necessary to prevent reasonably foreseeable harm.

In the case of VPC classification, incident reports are collected from the unit officer and/or the building sergeant, as appropriate. These reports explain the interaction that took place between the inmate and custody staff, including any statements made by the inmate or other pertinent facts. The Protective Custody Admittance and Release Form documents whether the inmate has been placed on VPC or IPC status. VPC status may be requested based on fear of bodily harm from other inmates or a co-defendant being in the building. If

approved, a Close Custody SHU Placement Order is documented, detailing the reasons for placement, which medical professional cleared the inmate for placement into the SHU, which supervisor approved the placement, and documenting that copies were served on the inmate. The inmate will provide a statement in support of the VPC placement. Additional documents, including the Body Cavity Search Form and the SHU Orientation Form, are provided to the inmate.

For any VPC placement, hearings are to be held within 72 hours of placement. Such inmates are given the opportunity to appear before the classification committee. The classification committee then gives written notice of their decision.

Inmates in protective custody are reviewed every seven days for the first two months and every 30 days thereafter. Procedures are in place for requested removal from protective custody. Documentation is kept for all such decisions.

The process for release/status change is a systematic process through which inmates can request release. The 30-day review period (for VPC inmates) permits review of an inmate's request and basis for the release. The classification committee evaluates the request and brings the inmate before the committee. Early requests are considered via the communication platform. Perhaps this 30-day review period could be reduced to 15 days to permit for more early releases and thus promote the well-being of inmates impacted by the solitude of VPC status.

In short, the placement and classification process at the ECCF is robust and systematic. The communication software utilized by classification officers and others ensures that inmate status change requests are heard and addressed promptly. Still, there are questions about documenting the out-of-cell time to ensure VPC inmates are not subjected to long-term "isolated confinement." Confirming the precise times would require a review of the handwritten logbooks for months, for each inmate so designated. The ECCF notes that checks and balances ensure this situation does not occur. These include review by various staff, inmate access to tablets and a grievance process, and the ECCF's goal of ensuring such socialization. Finally, the ECCF is implementing the new PipeGuard electronic system to replace the logbooks and to document out-of-cell time, among other things.

B. INVOLUNTARY PROTECTIVE CUSTODY

Inmates may be placed into involuntary protective custody for various reasons, including external and internal information supplied to the Warden. Warden Cirillo explained during the October 22, 2022 public meeting that an inmate may be placed in involuntary protective custody status by virtue of the ECCF having developed intelligence from the Internal Investigative Unit, from outside police investigation, from the FBI, or from a court where there is reasonable belief that an inmate is in immediate harm's way. IPC status

is instituted by virtue of court order, request of another law enforcement agency, if the inmate is an ex-law enforcement officer, or by order of a correctional official (including the Director, Warden, Custody Commander, or Internal Affairs Bureau). In cases of IPC, only the building Sergeant would generally submit an incident report, noting who approved the IPC status and the reason if it is known by the Sergeant. An example of this would be “IPC per order of the Courts.” The ECCF also asks inmates whether they believe they are in fact in harm’s way. Even if they indicate no, this does not prevent the ECCF from involuntary protective custody placement if it has reasonable belief that that is not the case. If the ECCF receives a call because intelligence determined the inmate may be in harm’s way, this may lead to placement in involuntary protective custody status.

Warden Cirillo gave a hypothetical example of the FBI developing intelligence that a particular inmate is a target as a cooperating witness. There is no opportunity for the inmate to challenge a designation of involuntary protective custody before he is so designated. He is not so notified and does not go before the classification committee before such placement. This is because the intelligence comes from an outside source that is confident of the potential danger.

Once the inmate is placed on IPC status, he would have an opportunity to challenge the classification. The first opportunity would be with the Classification SHU Sergeant, who is present every day. Such challenge is documented. The classification committee is a second opportunity to challenge the determination. There is an internal advocate to assist the inmate with this request. It is not, however, a frequent occasion that an inmate placed on IPC status challenges the status. It is more likely that an individual on VPC status seeks to be taken off of it. An inmate cannot, however, challenge a Court Order requiring his IPC status.

There is no time limit for individuals placed on protective custody status. That is, an individual who is placed on IPC or VPC status remains on that status pending release or transfer to another facility. The passage of ICRA did not change the ECCF’s practice relating to either VPC or IPC. As compared to IPC, inmates who have VPC status have that status reviewed every 30 days. Such review may in fact happen more frequently. There is a formal process of appealing decisions where requests to be removed from VPC status are denied. Whenever inmates visit the classification committee, a resulting document is issued with the decision and rationale.

Both VPC and IPC status are not punitive. Pursuant to ICRA, inmates are to receive certain rights that are not to be restrictive. One related question concerning the placement in SHU status — including protective custody — is whether the ECCF has processes or policies in place to mitigate the risk of mental health deterioration for a person in protective custody. The Task Force has requested whether such procedures have been developed. It

appears that no such procedures are in place. There is support from ECCF administration for the Task Force to recommend further resources, including more mental health staff, and increased efforts to maintain the mental health of individuals in SHU status.

As with the VPC status inmates, there are questions about ensuring ICRA compliance for those in IPC. There is a need to document the out-of-cell time to ensure that IPC inmates are not subjected to long-term “isolated confinement.” As with VPC inmates, confirming the precise times for IPC inmates would require a review of the handwritten logbooks for months, for each inmate so designated. The ECCF notes that there are checks and balances to ensure this situation does not occur. These include review by various staff, inmate access to tablets and a grievance process, and the ECCF implementation of the new PipeGuard electronic system to replace the logbooks and to document out-of-cell time, among other things.

2. PRE-HEARING DETENTION AND DETENTION

ICRA imposed significant time limitations upon the use of the SHU for disciplinary reasons, which resulted in a change in policy at the ECCF with respect to pre-hearing detention and detention. The ECCF has provided us with documentation reflecting the mechanism for placing an inmate into pre-hearing detention/detention status. The frontline supervisor prepares a Critical Data Sheet, Incident Report, and Charging Document “Blue Sheet,” which consists of a disciplinary report and investigation of the alleged infraction and provides notice to the inmate of his rights. In addition, there is a Close Custody SHU Placement Order, Pre-Hearing Detention Approval Form, Strip/Body Cavity Search Report, Close Custody Special Housing Unit Orientation Form, and Property Inventory Storage List. The Inmate Handbook, last revised May 2022, is applicable and operates to control the disciplinary process. **Exhibit G.**

The main ECCF form relating to pre-hearing detention/detention placement is the Charging Document “Blue Sheet.” **Exhibit P.** This is a three-page, front-and-back document consisting of blue, white, and pink forms containing five sections: Disciplinary Report, Investigation of Alleged Infraction, Disciplinary Report – Inmate’s Copy, Notice of Inmate Rights, and Disciplinary Report – Tier Copy. The process to complete the form includes documenting the violation, any witnesses, and evidence together with findings based on the totality of the evidence and interviews of all involved parties. The Disciplinary Report is stored in the SHU, along with a copy of the entire disciplinary packet. The Pre-Hearing Detention Approval Form documents that an inmate’s placement into PHD status was approved within 24 hours as required by N.J.A.C. 10A:31-16.10(b). Inmates are only placed into pre-hearing detention status if they are found to be a threat to other inmates, threat to staff members, threat to himself/herself, or a threat to the orderly running of the facility.

Under ICRA, no inmate may be placed in disciplinary detention longer than 20 consecutive days within a 30-day period or longer than 30 days within a 60-day period. Warden Cirillo provided an example of what it is like to go through a typical situation for major discipline: Two individuals are involved in an altercation. Both are placed in pre-hearing detention because it is not immediately known who is the aggressor, as there are no eye-witnesses or video surveillance. The initial placement must be reviewed within 72 hours of placement by an independent hearing officer, or in the absence of such a hearing officer, by a committee within the facility. A hearing is conducted and decision rendered. The timeframes are limited by ICRA, and the facility cannot stack charges.

Whereas SHU status classifications generally are not punitive, disciplinary detention is the exception. Inmates in disciplinary detention face restrictions unlike other inmates in SHU status. They would not have access to a phone during pre-hearing detention. However, during detention they would have access to a phone. Inmates retain access to essential services including medical, mental health, food services, and their attorneys. The process may be slower. Inmates in pre-hearing and detention status lose their tablet privileges.

The ECCF administration acknowledges limitations upon inmates beyond those in general population. This applies not just to disciplinary detentions status, but to all inmates with SHU status. There are limitations on resources that restrict the use of, for example, the law library and recreation. The Task Force is working with the ECCF to make recommendations to improve access to attorneys and particularly to discovery, including digital discovery.

We attempted to assess whether the ECCF was complying with the ICRA maximum timeframes for disciplinary detentions. The assessment consisted of reviewing sample information for select inmates from OMS, which must be searched inmate by inmate. Such sampling is, we understand, a typical manner of auditing compliance in various contexts. The OMS database has records for each inmate. While the sample records provided by the ECCF confirm compliance with ICRA timeframes, the ECCF does not currently maintain a global database that could provide recordkeeping across all inmates assigned to disciplinary detention. The only way to audit complete compliance with ICRA timeframes would be to conduct OMS searches for every disciplinary detention inmate and to review the dates of confinement in SHU disciplinary detention. The Task Force has not done so, as it is beyond the resources of the Task Force to undertake such an extensive and time-consuming search. The ECCF should create such a global database so that ICRA compliance may readily be ascertained.

When asked about recommendations for improvements at the ECCF concerning pre-hearing detention and detention, the ECCF administration stated that more space would be useful. Warden Cirillo notes that, were the ECCF to have an environment in which individuals were kept separate from members of general population when allowed to exercise and to do other things, this would likely improve morale among both inmates and staff. This includes placement of individuals even after detention status; the ECCF often feels that time limitations imposed by ICRA have led to potentially dangerous situations. Irrespective of the seriousness of the charge, there are time limits when individuals must be released from SHU status after the time period.

3. MENTAL HEALTH

As with other classifications, there are mechanisms for placing an inmate into medical status. There are three different categories: (a) constant observations, (b) close observation, and (c) forensic status, all of which are described in this section.

For mental health status inmates, there are no specific policies yet at the ECCF detailing the practices and procedures related to mental health classification. General SHU policies apply. However, the mental health professionals who make the determinations at the ECCF concerning mental health status do not have a policy document that would ensure that their decision-making is consistent with particular policies. In the words of the ECCF administration, there are procedures in place for mental health determination, but not policies.

The Medical/Mental Health Transfer Form is produced by the Medical/Mental Health Department based upon their clinical assessment of the patient/inmate. This document is the catalyst for custody staff to determine an inmate's housing location (*i.e.*, the need for placement into the SHU for a medical/mental health reason). An additional documentary mechanism for an inmate with medical status is the Constant Observation/Close Observation/Forensic Status Form. This form is used only for those inmates placed on constant or close observation status. Constant observation status requires one-on-one monitoring, which means officers will continually monitor the inmate's activities and document them every 15 minutes on the form. Close observations status requires the inmate to be monitored at intervals of no more than 15 minutes, the results of which are documented on the form.

Connected to any such placement within SHU status, for mental health reasons, there is documentation akin to the same documents utilized for other classifications: Critical Data Sheet, Incident Report, Medical/Mental Health Transfer Form, Close Custody SHU Placement Order, Strip/Body Cavity Search Report and Close Custody Special Housing Unit Orientation, Property Inventory Storage List, and Close Custody Supervision Constant/Close Observation

Sheet (where applicable). Although no specific policies detail the formulation of standards for placement into SHU status for mental health, additional policies are relevant. These include PS.MED.005 Suicide Prevention, PS.CUS.006.33 Close Custody Special Housing Unit – Post Order, and PS.CUS.038 Special Housing Unit General Policy.

A large segment of the October 22, 2022 public meeting discussed the classification and placement in SHU status for mental health reasons. Dr. Jason Fleming testified that before an individual ends up in SHU status for mental health reasons, a professional assessment is done to determine if someone is being psychiatrically unstable and/or a risk to themselves or others. This applies to their observation status: constant watch or close observation. Constant watch is a designation for individuals assessed to be in imminent danger to themselves or to others or unable to control their behavior or to allow ECCF personnel to complete their assessment, or where they would err on the side of caution to be placed on constant observation. Constant observation is one-on-one with an officer typically sitting outside an individual's cell around the clock. Classification and amount of review are all based upon risk. Any inmate placed on constant observation or close observation status is assessed every day to that status.

Mental health clinicians make the determination as to danger and imminence. Dr. Fleming testified there are nine mental health staff for the treatment of over 2,200 inmates. Warden Cirillo noted that an added layer to that process are the corrections officers on the front line, who assess through body language, demeanor, and other exhibitions whether there is a mental health/medical need.

The third category of mental health designations are for forensic reasons. During the October 22, 2022 public meeting, Dr. Fleming testified that 93 inmates were currently placed on forensic status. There is no specific forensic unit. This is, in fact, one of the key requests from the ECCF to improve mental health and treatment within the SHU. A forensic unit would be more structured, secure, and more conducive to close or constant watch.

The ECCF indicates that ICRA did not cause any major change in the way the ECCF has handled mental health issues. That said, in recent years, more of the ECCF population are medically ill or require mental health services, which strains the existing resources. This is in part why Dr. Fleming advocates for the creation of an actual forensic unit, which he has testified to in public Task Force hearings. Dr. Fleming further indicates it would be helpful for the ECCF to develop policies with specific standards in place to assist the medical staff in terms of mental health evaluations. Such policies may inform as to what criteria must be met within clinical assessments. While no two constant or close watches are equal, supplemental policies would provide a baseline standard for what constitutes a placement into the two observation statuses.

Reviewing ICRA compliance for mental health inmates has been challenging. Each situation is different, and underlying medical records may change quickly. That said, our review and discussions with ECCF administration appear to confirm that certain mental health inmates in the SHU are kept in “isolated confinement” longer than the ICRA maximum. Stated differently, certain mental health patients require 24-hour lockdown for their own and others’ safety, and the ECCF has kept inmates in that status for periods beyond that permitted for “isolated confinement.” The ECCF has explained that efforts to transfer many such inmates have been unsuccessful. There are simply no beds available outside the ECCF for the patients, and the ECCF has also been advised that certain inmates somehow do not qualify for hospital placement.

The result has been a mental health unit of the SHU within the ECCF operating by way of isolated confinement for extended periods. This is technically an ICRA violation. The obstacles hindering compliance are significant, with no clear solution in sight. The ECCF should consider, in such an event, alerting the relevant courts of the situation, which could potentially prompt a transfer.

F. CONDITIONS WITHIN THE SHU

We found that the conditions within the SHU are satisfactory with respect to cleanliness. All required facilities were present, including running hot water, air conditioning (cold/heat), blankets, and sanitizing equipment. Inmate cells were maintained either by inmates themselves or a unit worker tasked to clean cells for inmates unable or unwilling to do so. Generally, cells were hygienic, with the notable exception of some forensic inmates’ cells. One cell was observed with writing over all four surrounding walls. When asked for an explanation, officers stated the inmate had written on the walls. We recommend that defaced cells be cleaned and that more consistent preventive measures for cleanliness be maintained.

In terms of educational programs available to inmates within the SHU, it is clear that they are now limited to basic applications available on an inmate tablet. No other educational programming opportunities were observed. We recommend that general educational opportunities offered to the general population be offered to SHU inmates by way of either a limited in-person or a remote capacity.

Likewise, it appears that religious services — or the lack thereof — are not meeting the demands of SHU inmates. We recommend that religious services be offered at an individual or communal level. They may be streamed or facilitated remotely through inmate tablets.

G. INTERVIEWS WITH SHU INMATES

Members of the SHU Subcommittee met with individual inmates, outside the presence of ECCF staff, on several occasions in November 2022. We met with representatives of all the SHU classifications (VPC, IPC, and PHD), except for those classified as mental health. We visited SHU units with just 16 cells along a single corridor, as well as units with a large communal area surrounded by two tiers of 32 cells each.

The Subcommittee members randomly selected which SHU units to visit and which inmates within those units to call to meet. Only a couple of the inmates selected declined to speak with the Subcommittee members, while the rest spoke voluntarily and appeared to appreciate the opportunity to share their positive and negative experiences in the SHU. Those with whom Subcommittee members spoke were male and female, ages 22 to 39, and detained in the SHU ranging from one month to more than two years. Some were religious; others were not.

All the inmates with whom the Subcommittee members spoke stated that their time in the SHU units, compared with those in general population, was calmer and safer, and that they were grateful for the privacy and personal space. Only one individual stated that he was seeking to leave the SHU for general population. The interviewees' preference to spend their time in the SHU, however, did not mean they did not have complaints and suggestions for how to better their circumstances.

All complained that they were allowed out of their cells a total of only two hours a day (in two one-hour shifts, once in the morning and once in the afternoon). Furthermore, they explained that when there is a facility-wide lockdown or other situation such as Restricted Activity Schedule (known as RAS) — which to them seems to happen quite often — they miss one or both of their hours out of the cell. The two hours were not sufficient to get fresh air, exercise, shower, make a phone call, and/or use the library, as they had to compete with others for access.

In the more populated, larger units with up to 64 inmates, as many as 16 individuals are allowed out at a time, in four one-hour shifts in the morning and again in the afternoon. (Inmates eat in their cells, receiving food trays through door slots.) During the single hour, in the larger units, they have access to and must share a “law library” (which consists of no books, one small table, one chair, and one computer monitor); a small recreation area with vented panels allowing in sunlight and fresh air, equipped with a basketball hoop and pull-up bar; one public telephone; one microwave; and a few shower stalls. With too many people seeking to use the scarce resources, they spend much of their single hour waiting on lines, frustrated when they must return to their cells without accomplishing what they had hoped.

In the smaller units, with as few as eight cells, the inmates similarly have access to a telephone, microwave, shower, and “law library,” but the recreation area is smaller (approximately eight-by-eight-foot cages with air and light) and lacks a basketball hoop, pull-up bars, and any diversionary equipment. Moreover, the inmates in these smaller units — many of which house the female inmates — must share the meager amenities with inmates in other nearby small units or pods.

The female inmates complained that everything they want to do — such as go to the cage for fresh air — is delayed and shortened, because they must spend part of their hour waiting for correctional officer escorts to bring them to and from the cages, microwave area, “law library,” and telephone. The escort procedure is to avoid their coming into contact with nearby male inmates. Thus, it appeared to the women that the men get more leeway. They also complained that the men are served meals first, so the women often receive their meals late and cold. Staff, they claim, do not give their complaints of fewer privileges and less attention much credence.

The number one complaint across all the interviews was too little time outside of their cells. While many of the inmates seemed to understand that the time was limited by the number of individuals in the SHU units and restrictions on who and how many could associate together at a time, they nevertheless wondered why more could not be done to accommodate a greater number of hours outside their cells. Some suggested that those with demonstrated records of no infractions over a significant period of time while in SHU custody might be permitted more time out of the cell. The Subcommittee finds merit in considering the establishment of an “Honors Unit” (or classification system) for VPC and IPC status inmates — similar to the three-level classification for the mental health status inmates — whereby those at the highest level are permitted extra hours out.

Another major complaint was that the tablets — which inmate and officer alike all consider a great correctional innovation — do not get sufficient reception. In one of the large units (2C1), inmates speaking with a Subcommittee member in the common area pointed to all the surrounding cells, on both tiers, indicating that at the window of each cell was a man standing and holding up his tablet. The only place in the cell where they could get reception was through the single small window. It was tiring to stand for hours at the window with arms raised, and when they used putty to stick the tablet to the window to relieve their arms, the tablets sometimes fell and cracked, and the inmates were responsible for the cost. Another downside to the poor receptivity was that in cells housing two inmates, there was constant friction about who had access to the window and when. All said they would prefer to sit on their bunks to use their tablets.

Improving the receptivity would seem to be a relatively easy fix, by upgrading or increasing the number of Wi-Fi boxes in the units. The upside would seem to be at least twofold: tensions in two-inmate cells would decrease, and the inmates sitting comfortably on their bunks would spend more time occupied with their tablets, and so potentially more time taking available enrichment classes (see below) and less time frustrated and disgruntled. As one inmate who had been to the ECCF before the advent of the tablet told us, “The tablet helps take people’s minds off their problems and calms them down.” The correctional officers as well saw only an upside to the tablets. Their jobs were made easier because the inmates were occupied and calmer and because they were able to do their own jobs more effectively. One officer mentioned that before the software and tablets were available, he was only able to attend to a handful of issues in the SHU per day; now he can handle five or six issues in a single hour. In addition, he stated that he has linked his personal email to the software so he can respond to inmates in cases of emergency during his off hours.

A third major complaint was the lack of access to classes that are available in general population. Most of the individuals with whom Subcommittee members spoke suggested that either they or their fellow inmates could benefit from the following classes: parenting, anger management, life skills, dealing with trauma, drug rehabilitation, and general education. With the advent of the tablets, it seems to the Subcommittee that it should be possible to offer classes to those in the SHU, either interactive classes or taped presentations. The tablets could also provide isolated inmates access to religious services and classes, which was something a few of the religious inmates indicated they missed while housed in the SHU. One inmate in particular mentioned that while there were several other Muslims in his 64-cell unit, they were allowed out of their cells in different groupings, with too few in any particular one-hour slot to apparently justify having an Imam lead them in services.

V. FINDINGS OF THE SHU SUBCOMMITTEE

Based upon the review of ICRA, the documentary materials supplied by the ECCF, the responses to questions posed by the Task Force and follow-up questions posed by the SHU Subcommittee, review of the updated policies and procedures relevant to the SHU, the Inmate Handbook, the public meeting of January 29, 2022, the testimony of the ACLU-NJ, the statements and testimony of ECCF representatives, and interviews conducted by the SHU Subcommittee with inmates within the SHU at the ECCF during both scheduled and unscheduled visits, we provide the following findings for consideration. Each of the categories of SHU classification is discussed separately.

A. INVOLUNTARY PROTECTIVE CUSTODY

Inmates at the ECCF are given IPC status by virtue of their request, request of another law enforcement agency, the inmate's status as an ex-law enforcement officer, or order of a correctional official. A review of ECCF practices confirm these as the bases for admissions to the SHU for IPC status. The documentation reviewed, particularly the Excel spreadsheet and underlying data respecting SHU inmates, provides little information by way of particular circumstances of each such inmate. This is unsurprising because the nature of IPC placement concerns highly confidential information. Many IPC status inmates are cooperating witnesses otherwise deemed to be targets.

The only way to conclude definitively whether the ECCF is complying with ICRA in its IPC placements is to conduct a thorough audit of all documentation of every inmate assigned to the SHU for IPC status. It must be determined whether IPC inmates are even truly in "isolated confinement," and if so, for what periods. This has not been undertaken. Yet based upon our review, we have no reason to suspect that the ECCF utilizes purported IPC status in a punitive way or violates ICRA by over-utilizing isolated confinement.

To the contrary, our review indicates that IPC status is not being used as a punitive measure, IPC status inmates are provided appropriate resources and opportunities, and they are otherwise being treated appropriately. We have seen no complaints, except requests for better Wi-Fi and more programming. Our interviews of IPC-status inmates consistently reveal good faith efforts on the part of the ECCF.

Notwithstanding our review of the ECCF's compliance with ICRA in this regard, the general recommendations for SHU improvement apply to IPC status inmates as well. Better documentation is needed, particularly as to isolated confinement timeframes. Increased programming would enhance the inmates' stays.

B. VOLUNTARY PROTECTIVE CUSTODY

Inmates may request VPC status due to fear of bodily harm from other inmates or due to a co-defendant being in the building. The ECCF has implemented robust documentation substantiating the admittance and/or removal of inmates from VPC status as it is done for IPC status. There is a Critical Data Sheet and Incident Report, which are included in the inmate's file. A Protective Custody Admittance and Release Form is executed for each inmate admitted, documenting the specific reason for admittance. A Close Custody SHU Placement Order is entered. A statement from the inmate is taken. Consistent with ICRA, the classification committee reviews all VPC inmates and considers all requests (which are infrequent) for VPC status inmates to be released to the general population. We have reviewed the classification committee documents, sample inmate files, and determinations. Interviews with inmates in VPC status confirm our view that the ECCF is making good faith efforts to be in ICRA compliance. We have seen no complaints of arbitrary placement and/or removal from VPC status.

What is striking to the SHU Subcommittee are the large numbers of inmates in VPC status. Reviewing their records and interviewing them, it appears that the ECCF at this time is an extraordinarily dangerous place. This is not to say ECCF efforts at security of inmates are other than proper. It simply reflects the fact that there is a large-scale fear of violence. We cannot say these fears are unfounded. Indeed, the many reports of significant assaults, and even deaths, corroborate such concern. The ECCF even locked down the entire facility from March 2 to April 1, 2022 in order to conduct a complete, thorough search for weapons and to make other adjustments to improve inmate safety.

Recommendations for improvements to SHU status for VPC inmates apply to all categories of SHU inmates, but we do not find any specific ICRA violations with respect to VPC inmates. Notwithstanding our review of the ECCF's compliance with ICRA in this regard, the general recommendations for SHU improvement apply to VPC status inmates as well. Better documentation is needed, particularly as to isolated confinement timeframes. More programming is suggested.

C. PRE-HEARING DETENTION/DETENTION

With respect to pre-hearing detention/detention status for the SHU, the requirements under ICRA have resulted in substantial changes to ECCF practices. In particular, there are significant limitations on disciplinary detention by way of time limits.

Our review of ECCF practices for pre-hearing detention/detention status reveals that the ECCF has adjusted its policy in accordance with ICRA. Our limited review of the time inmates have spent in pre-hearing detention/detention (all such records were not readily

accessible in one place) confirms that the ECCF is in compliance with those time limits. Our review of the various forms reveals a rational manner for documenting and mechanisms for placing an inmate into pre-hearing detention/detention status. The Charging Document “Blue Sheet” contains the required, necessary information including the Disciplinary Report and an investigation of the infraction, notice of rights, and decisions. Pre-hearing detention approval is required, and a separate form documents which ICRA-approved basis is applicable for placement of inmates into pre-hearing detention status: threat to other inmates, threat to staff members, threat to himself/herself, or threat to the orderly running of the facility. We further find that the ECCF has complied with the regulation concerning pre-hearing detention/detention status found at N.J.A.C. 10A:31-16 and 17. The ECCF maintains an updated Inmate Handbook, which documents the procedure and penalties with respect to violations.

The Task Force makes recommendations for improved use of the SHU and disciplinary detention, including the use of a step-down unit not in isolated confinement. We cannot determine at this time whether the ECCF is in full compliance with ICRA, but a selected record sample was satisfactory. We have not reviewed complete records of “isolated confinement” timeframes. We have not conducted a complete audit of all disciplinary SHU activities. However, our review based on the record sample reveals good faith compliance by the ECCF.

D. MENTAL HEALTH

Our review of the use of SHU status for mental health status has raised many questions as to whether the ECCF is truly in compliance with ICRA. We believe there are open questions as to potential ICRA violations by virtue of exceeding time limits for isolated confinement for certain categories of mental health inmates. That is because certain category two and three inmates, as well as category one inmates, are placed indefinitely in isolated confinement due to mental health status. This appears to violate ICRA’s timing requirements.

This is not to say that the ECCF is not making extraordinary efforts with respect to mental health inmates. We find that there are professional, individualized determinations made for each inmate placed into SHU status for mental health reasons, with documentation substantiating that placement and reviews. The ECCF has professional determinations as to whether such inmates are in need of constant or close observation and documents these findings accordingly.

Our review reveals a large number of inmates who are designated for mental health status. This may reflect a larger societal issue that cannot be addressed by the ECCF concerning whether such individuals should even be housed at the ECCF. A corollary question is whether such inmates may be transferred to true mental health facilities. It is our

understanding that such transfers are generally not possible due to lack of such facilities. However, the present absence of a dedicated mental health unit within the ECCF speaks to the limitations of mental health treatment — even among caring professionals — in correctional facilities. While the ECCF may not violate ICRA by placing such inmates indefinitely in isolated confinement, creative solutions must be found, including medical transfers.

We believe that the overuse of SHU status for mental health inmates may be an ICRA violation, depending on the interpretation of the statute for mental health status inmates. It is difficult to formulate workable solutions within a correctional facility context. We note also that the ECCF does not have a set of specific policies relating to mental health determinations, apart from general SHU status policies. Drafting such policies is recommended.

VI. RECOMMENDATIONS FOR IMPROVEMENT

One of the initial questions this inquiry raised was whether the ECCF's use of the SHU has had unanticipated consequences on current conditions at the ECCF. We answer that question in the affirmative, and all of the Task Force's recommendations for improvement take into account these conditions.

Although the precise causes remain unclear, the ECCF is currently using the SHU at very high capacity in each SHU status category. The ECCF administration believes that recent bail reform, which has resulted in the release of less dangerous inmates and has left the ECCF with a higher concentration of more challenging inmates, has been one cause for its increased use of the SHU. Another cause the administration cites is an increasingly large number of mental health-challenged inmates currently at the ECCF. Whatever the causes, the Task Force has little doubt that the large number of SHU-status inmates at the ECCF poses challenges to current conditions at the facility and places the institution at risk of violating ICRA.

In terms of recommended improvements, the Task Force has several. First, ICRA itself is premised upon the adverse psychological consequences for inmates placed in isolated confinement. Yet the ECCF does not currently have in place specific policies and practices to review the psychological impacts of SHU placement upon individual inmates. Some categories of inmates spend most if not all of their entire stays at the ECCF in the SHU. That is extraordinarily burdensome and undoubtedly triggers mental health consequences, even outside of isolated confinement. The ECCF should assign greater resources for the constant review of the mental health consequences of SHU placement.

The ECCF should make all efforts to transfer long-term forensic inmates/patients out of the SHU. Currently, many mental health status inmates spend all of their time in the SHU. This appears to be an ICRA violation. Pursuant to ICRA, correctional institutions should only utilize the SHU when transfers are not feasible. The Task Force believes that all efforts should be made to transfer forensic patients out of the ECCF. Relatedly, the Task Force recommends that the facility implements specific mental health policy documents to ensure it consistently follows mental health protocols.

The Task Force further recommends that Essex County officials grant additional resources to the ECCF without delay to enable the ECCF both to immediately hire more professional medical personnel to assist with the extraordinary number of mental health status inmates, and to eventually open a dedicated mental health unit. Recognizing that fiscal or other constraints may preclude immediate implementation of its recommendations, the Task Force suggests that in the interim the ECCF partners with a mental or behavioral health facility to manage the mental health/forensic inmate population. Such a partnership would

go a long way toward ensuring ICRA compliance, as well as needed treatment for this vulnerable population.

In terms of the disciplinary use of the SHU, the Task Force recommends that, following disciplinary detention, the ECCF establishes a step-down unit outside of isolated confinement. This should help to ease disciplined inmates back to general population and mitigate risk to inmates and staff. Such a step-down unit could be similar to the restorative housing units identified in the administrative regulations.

The Task Force also recommends that the ECCF provides SHU-status inmates additional time to engage in a greater variety of educational programs and recreational activities. The ECCF's current efforts to provide two hours outside of the cells daily, without guaranteeing sufficient time for all to access showers, cooking devices (microwaves), phones, and outdoor recreation areas, are in borderline compliance with ICRA and may constitute ICRA violations. In any event, increasing both the scope and span of programming and activities would enhance living conditions. The Task Force also urges the ECCF to upgrade the Wi-Fi for SHU-status inmates without delay. This would permit the inmates easier and lengthier access to read legal case materials, to libraries generally, to online coursework, and to video calls with family, thereby almost assuredly reducing stress levels among SHU-status inmates.

Finally, the Task Force strongly recommends that the ECCF implements a more robust system to document the placement of SHU-status inmates into isolated confinement and determine the time period of such confinement. Better documentation and more accessible and searchable databases would go a long way to help answer the most fundamental and important question of ICRA compliance.

EXHIBIT A

CHAPTER 160
(CORRECTED COPY)

AN ACT concerning restrictions on isolated confinement in correctional facilities and supplementing Title 30 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.30:4-82.5 Short title.

1. This act shall be known and may be cited as the “Isolated Confinement Restriction Act.”

C.30:4-82.6 Findings, declarations relative to the use of isolated confinement.

2. The Legislature finds and declares that:

a. The use of isolated confinement in this State’s correctional facilities should be restricted to ensure the safe and humane operation of these facilities, consistent with the New Jersey Constitution, the laws and public policies of this State, the mission of the correctional system, evolving medical knowledge, and human rights standards of decency.

b. Isolated confinement should only be used when necessary, and should not be used against vulnerable populations or under conditions or for time periods that foster psychological trauma, psychiatric disorders, or serious, long-term damage to an isolated person’s brain.

c. The standards established in this act should apply to all persons detained in correctional facilities under the jurisdiction of this State or any subdivision, regardless of the civil or criminal nature of the charges against them.

d. Citing the devastating and lasting psychological consequences of solitary confinement on persons detained in correctional facilities, President Obama adopted reforms in January 2016 to reduce its use in federal correctional facilities, including banning restrictive housing for low-level offenders and juveniles; decreasing the maximum length of time an inmate may be held in restricted housing from 365 days to 60 days; and increasing time spent outside the cell for inmates held in restrictive housing.

C.30:4-82.7 Definitions relative to the use of isolated confinement.

3. For the purposes of this act:

“Clinician” means a State licensed physician, except if the clinician makes mental health evaluations, the term shall mean a State licensed psychiatrist or psychologist, or an advanced practice nurse or clinical nurse specialist with a specialty in psychiatric nursing.

“Commissioner” means the Commissioner of Corrections.

“Correctional facility” means any State correctional facility or county correctional facility, and any State, county, or private facility detaining persons pursuant to any intergovernmental service agreement or other contract with any State, county, or federal agency, including, but not limited to, United States Immigration and Customs Enforcement.

“County correctional facility” means a county jail, penitentiary, prison, or workhouse.

“Emergency confinement” means the segregation of an inmate in a correctional facility when there is reasonable cause to believe that this segregation is necessary for reducing a substantial risk of imminent serious harm to the inmate or others, as evidenced by recent conduct.

“Facility administrator” or “administrator” means the chief operating officer or senior administrative designee of a correctional facility.

“Inmate” means a person confined in a correctional facility.

“Isolated confinement” means confinement of an inmate in a correctional facility, pursuant to disciplinary, administrative, protective, investigative, medical, or other classification, in a cell or similarly confined holding or living space, alone or with other inmates, for approximately 20 hours or more per day in a State correctional facility or 22 hours or more per day in a county correctional facility, with severely restricted activity, movement, and social interaction. Isolated confinement shall not include confinement due to a facility-wide or unit-wide lockdown that is required to ensure the safety of inmates and staff.

“Less restrictive intervention” means a placement or conditions of confinement, or both, in the current or an alternative correctional facility, under conditions less restrictive of an inmate's movement, privileges, activities, or social interactions.

“Medical isolation” means isolated confinement of an inmate for medical reasons, including a mental health emergency or when necessary for preventing the spread of a communicable disease.

“Medical staff” means State licensed physicians, physician assistants, advanced practice nurses or clinical nurse specialists or, for mental health evaluations or decisions, those registered nurses with a specialty in psychiatric nursing, or comparably credentialed employees or contractors employed to provide healthcare.

“Member of a vulnerable population” means any inmate who:

- a. is 21 years of age or younger;
- b. is 65 years of age or older;
- c. has a disability based on a mental illness, as defined in subsection r. of section 2 of P.L.1987, c.116 (C.30:4-27.2), a history of psychiatric hospitalization, or has recently exhibited conduct, including but not limited to serious self-mutilation, indicating the need for further observation or evaluation to determine the presence of mental illness;
- d. has a developmental disability, as defined in subsection b. of section 3 of P.L.1985, c.145 (C.30:6D-25);
- e. has a serious medical condition which cannot effectively be treated in isolated confinement;
- f. is pregnant, is in the postpartum period, or has recently suffered a miscarriage or terminated a pregnancy;
- g. has a significant auditory or visual impairment; or
- h. is perceived to be lesbian, gay, bisexual, transgender, or intersex.

“Postpartum period” means the 45 days after childbirth.

“Protective custody” means confinement of an inmate in a cell or similarly confined holding or living space, under conditions necessary to protect the inmate or others.

“State correctional facility” means a State prison or other penal institution or an institution or facility designated by the commissioner as a place of confinement under section 2 of P.L.1969, c.22 (C.30:4-91.2).

C.30:4-82.8 Limitations on use of isolated confinement in correctional facilities.

4. a. The use of isolated confinement in correctional facilities in this State shall be limited as follows:

(1) Except as otherwise provided in paragraphs (1), (3), and (4) of subsection d. of this section, an inmate shall not be placed in isolated confinement unless there is reasonable cause to believe that the inmate would create a substantial risk of serious harm to himself or another, including but not limited to a correctional police officer or other employee or volunteer in the facility, as evidenced by recent threats or conduct, and a less restrictive

intervention would be insufficient to reduce this risk. Except as otherwise provided in paragraphs (1), (3), and (4) of subsection d. of this section, the correctional facility shall bear the burden of establishing this standard by clear and convincing evidence.

(2) Except as otherwise provided in paragraphs (1), (3), and (4) of subsection d. of this section, an inmate shall not be placed in isolated confinement for non-disciplinary reasons.

(3) Except as otherwise provided in paragraph (1) of subsection d. of this section, an inmate shall not be placed in isolated confinement before receiving a personal and comprehensive medical and mental health examination conducted by a clinician; however, in a county correctional facility, a preliminary examination shall be conducted by a member of the medical staff within 12 hours of confinement and the clinical examination shall be conducted within 48 hours of confinement, but if staffing levels require, the period for conducting a clinical examination may be extended to 72 hours of confinement.

(4) Except as otherwise provided in paragraph (1) of subsection d. of this section, an inmate shall only be held in isolated confinement pursuant to initial procedures and reviews which provide timely, fair and meaningful opportunities for the inmate to contest the confinement. These procedures shall include the right to an initial hearing within 72 hours of placement absent exigent circumstances, and a review every 30 days thereafter, in the absence of exceptional circumstances, unavoidable delays, or reasonable postponements; the right to appear at the hearing; the right to be represented at the hearing; an independent hearing officer; and a written statement of reasons for the decision made at the hearing.

(5) Except as otherwise provided in paragraph (3) of subsection d. of this section, the final decision to place an inmate in isolated confinement shall be made by the facility administrator.

(6) Except as otherwise provided in paragraph (7) of subsection a. of this section and paragraph (3) of subsection d. of this section, an inmate shall not be placed or retained in isolated confinement if the facility administrator determines that the inmate no longer meets the standard for the confinement.

(7) A clinician shall conduct a mental health and physical health status examination for each inmate placed in isolated confinement on a daily basis, in a confidential setting outside of the cell whenever possible, to determine whether the inmate is a member of a vulnerable population; however, in a county correctional facility, an inmate in isolated confinement shall be evaluated by a member of the medical staff as frequently as clinically indicated, but at least once per week. Except as otherwise provided in subsection d. of this section, an inmate determined to be a member of a vulnerable population shall be immediately removed from isolated confinement and moved to an appropriate placement.

(8) A disciplinary sanction of isolated confinement which has been imposed on an inmate who is removed from isolated confinement pursuant to paragraph (7) of subsection a. of this section shall be deemed to be satisfied.

(9) Except as otherwise provided in paragraph (1) of subsection d. of this section during a facility-wide lock down, an inmate shall not be placed in isolated confinement for more than 20 consecutive days, or for more than 30 days during any 60-day period.

(10) Cells or other holding or living space used for isolated confinement are to be properly ventilated, lit, temperature-monitored, clean, and equipped with properly functioning sanitary fixtures.

(11) A correctional facility shall maximize the amount of time that an inmate held in isolated confinement spends outside of the cell by providing, as appropriate, access to recreation, education, clinically appropriate treatment therapies, skill-building activities, and social interaction with staff and other inmates.

(12) An inmate held in isolated confinement shall not be denied access to food, water, or any other basic necessity.

(13) An inmate held in isolated confinement shall not be denied access to appropriate medical care, including emergency medical care.

(14) An inmate in a State correctional facility shall not be directly released from isolated confinement to the community during the final 180 days of the inmate's term of incarceration, unless it is necessary for the safety of the inmate, staff, other inmates, or the public. An inmate in a county correctional facility shall not be directly released from isolated confinement to the community during the final 30 days of the inmate's term of incarceration, unless it is necessary for the safety of the inmate, staff, other inmates, or the public.

(15) An inmate shall not be held in isolated confinement based on the inmate's race, creed, color, national origin, nationality, ancestry, age, marital status, domestic partnership or civil union status, affectional or sexual orientation, genetic information, pregnancy or breastfeeding status, sex, gender identity or expression, disability or atypical hereditary cellular or blood trait.

b. Except as otherwise provided in subsection d. of this section, an inmate who is a member of a vulnerable population shall not be placed in isolated confinement.

c. An inmate shall not be placed in isolated confinement or in any other cell or other holding or living space, in any facility, with one or more inmates if there is reasonable cause to believe that there is a risk of harm or harassment, intimidation, extortion, or other physical or emotional abuse to that inmate or another inmate in that placement.

d. Isolated confinement shall be permitted under limited circumstances as follows:

(1) The facility administrator or designated shift commander determines that a facility-wide lock down is required to ensure the safety of inmates in the facility until the administrator or shift commander determines that these circumstances no longer exist. The facility administrator or shift commander shall document specific reasons why any lockdown is necessary for more than 24 hours, and why less restrictive interventions are insufficient to accomplish the facility's safety goals. Within 15 days the commissioner shall publish the reasons on the Department of Corrections website and provide meaningful notice of the reasons for the lockdown to the Legislature.

(2) The facility administrator determines that an inmate should be placed in emergency confinement, provided that:

(a) an inmate shall not be held in emergency confinement for more than 24 hours; and

(b) an inmate held in emergency confinement in a State correctional facility shall receive an initial medical and mental health evaluation immediately prior to placement in emergency confinement and a personal and comprehensive medical and mental health evaluation within 24 hours. The examination shall be conducted by a member of the medical staff within 12 hours of confinement and the comprehensive medical and mental health evaluation within 72 hours. Reports of these evaluations shall be immediately provided to the facility administrator.

(3) A clinician, based on a personal examination, determines that an inmate should be placed or retained in medical isolation.

The decision to place and retain an inmate in medical isolation due to a mental health emergency shall be made by a clinician based on a personal examination. In any case of isolation under this paragraph, a clinical review shall be conducted at least every eight hours and as clinically indicated. An inmate in medical isolation pursuant to this paragraph may be placed in a mental health unit as designated by the commissioner. In the case of a county

correctional facility, a decision to place an inmate in medical isolation shall be made by a member of the medical staff and be based on a personal examination; clinical reviews shall be conducted within 72 hours and then as clinically indicated.

(4) The facility administrator determines that an inmate should be placed in protective custody as follows:

(a) The facility shall keep a written record of a request by an inmate to be placed in voluntary protective custody. The inmate may be placed in voluntary protective custody only with informed, voluntary consent and when there is reasonable cause to believe that confinement is necessary to prevent reasonably foreseeable harm. When an inmate makes an informed voluntary request for protective custody, the correctional facility shall bear the burden of establishing a basis for refusing the request.

(b) The inmate may be placed in involuntary protective custody only when there is clear and convincing evidence that confinement is necessary to prevent reasonably foreseeable harm and that a less restrictive intervention would not be sufficient to prevent the harm.

(c) An inmate placed in protective custody shall receive similar opportunities for activities, movement, and social interaction, consistent with their safety and the safety of others, as are inmates in the general population of the facility.

(d) An inmate subject to removal from protective custody shall be provided with a timely, fair, and meaningful opportunity to contest the removal.

(e) An inmate who may be placed or currently is in voluntary protective custody may opt out of that status by providing informed, voluntary, written refusal of that status.

(f) The facility administrator shall place an inmate in a less restrictive intervention, including transfer to the general population of another institution or to a special-purpose housing unit for inmates who face similar threats, before placing the inmate in isolated confinement for protection unless the inmate poses a security risk so great that transferring the inmate would be insufficient to ensure the inmate's safety.

C.30:4-82.9 Placement in isolated confinement pending investigation of disciplinary offense.

5. a. An inmate shall not be placed in isolated confinement pending investigation of a disciplinary offense unless:

(1) the inmate's presence in the general population poses a danger to the inmate, staff, other inmates, or the public. In making this determination, the facility administrator shall consider the seriousness of the alleged offense, including whether the offense involved violence or escape or posed a threat to institutional safety by encouraging others to engage in misconduct; or

(2) the facility administrator has granted approval in an emergency situation.

b. An inmate's placement in isolated confinement pending investigation of a disciplinary offense shall be reviewed within 24 hours by a supervisory employee who was not involved in the initial placement decision.

C.30:4-82.10 Duties of commissioner prior to effective date.

6. Not less than 90 days before the effective date of this act, the commissioner shall:

a. develop policies and implement procedures for the review of inmates placed in isolated confinement and submit proposed regulations for promulgation as required by section 7 of this act;

b. initiate a review of each inmate placed in isolated confinement pursuant to the policies and procedures developed and implemented under subsection a. of this section; and

c. develop a plan for providing step-down and transitional units, programs, and staffing patterns to accommodate inmates currently placed in isolated confinement, inmates who will be placed in isolated confinement, and inmates who receive an intermediate sanction in lieu of being placed in isolated confinement. Staffing patterns for correctional and program staff shall be set at levels necessary to ensure the safety of staff and inmates under the provisions of this act.

C.30:4-82.11 Regulations.

7. In accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the commissioner shall promulgate regulations to effectuate the provisions of this act. The regulations shall include but not be limited to:

a. establishing less restrictive interventions to isolated confinement, including separation from other inmates; transfer to other correctional facilities; and any non-isolated confinement sanction authorized by Department of Corrections regulations; restrictions on religious, mail, and telephone privileges, visit contacts, or outdoor and recreation access shall only be imposed as is necessary for the safety of the inmate or others, but shall not restrict access to food, basic necessities, or legal access;

b. requiring training of disciplinary staff and all staff working with inmates in isolated confinement and requiring that this training include:

(1) assistance from appropriate professionals to periodically train all staff working with inmates in isolated confinement;

(2) standards for isolated confinement, including that it shall be limited to when an inmate commits an offense involving violence, escapes or attempts to escape, or poses a threat to institutional safety; that the maximum penalties for each offense shall be based on the seriousness of the offense; and available less restrictive interventions; and

(3) the identification of developmental disabilities, and the symptoms of mental illness, including trauma disorders, and methods of safe responses to people in distress;

c. requiring documentation of all decisions, procedures, and reviews of inmates placed in isolated confinement;

d. requiring monitoring of compliance with all rules governing cells, units, and other places where inmates are placed in isolated confinement;

e. requiring posting on the official website of the Department of Corrections of quarterly reports on the use of isolated confinement, without revealing any personal identifying information, by age, sex, gender identity, ethnicity, incidence of mental illness, and type of confinement status, at each facility, including a county correctional facility; these reports shall include the population on the last day of each quarter and a non-duplicative cumulative count of people exposed to isolated confinement for each fiscal year. These inmate reports also shall include the incidence of emergency confinement, self-harm, suicide, and assault in any isolated confinement unit. These reports shall not include personally identifiable information regarding any inmate; and

f. modifying the New Jersey Administrative Code for consistency with the provisions of this act and to require appropriate alternative placements for vulnerable populations in county correctional facilities.

8. This act shall take effect on the first day of the thirteenth month next following enactment, except the commissioner may take any anticipatory administrative action in advance as shall be necessary for the implementation of this act.

Approved July 11, 2019.

EXHIBIT B

New Jersey Administrative Code

Title 10a. Corrections

Chapter 5. Close Custody Units

N.J.A.C. T. 10A, Ch. 5, Refs & Annos

Currentness

Editors' Notes

CHAPTER EXPIRATION DATE

<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Credits


R.2015 d.161, effective September 11, 2015.

2015. See: 47 N.J.R. 978(a), 47 N.J.R. 2500(a).

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

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New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 1. General Provisions

N.J.A.C. 10A:5-1.1

10A:5-1.1 Purpose

Currentness

(a) The purpose of this chapter is to establish rules for close custody units, including the Pre-Hearing Disciplinary Housing Unit (P.H.D.H), Management Control Unit (M.C.U.), Restorative Housing Unit (R.H.U.), Adjustment Unit (A.U.), Protective Custody Unit (P.C.), Emergency Confinement (E.C.), Investigative Housing Unit (I.H.U.), and Temporary Administrative Housing Unit (T.A.H.).

(b) Inmates housed in the M.C.U., R.H.U., P.C., or T.A.H. will not be confined in a cell or similarly confined holding or living space for approximately 20 hours or more per day with severely restricted activity, movement, or interaction.

Credits

Amended by R.2008 d.97, effective April 21, 2008; R.2011 d.277, effective November 7, 2011; R.2014 d.027, effective February 3, 2014; 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE


<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-1.1, NJ ADC 10A:5-1.1

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New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 1. General Provisions

N.J.A.C. 10A:5-1.2
Formerly cited as NJ ADC 10A:5-1.3

10A:5-1.2 Definitions

Currentness

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

“Adjustment Unit” mean a close custody unit used as a form of separation of an inmate from general population for a specific period of time after a finding of guilt for any offense in Category A. The Adjustment Unit is intended to deter the inmate from future violations.

“Emergency Confinement” means the segregation of an inmate in a correctional facility when there is reasonable cause to believe that this segregation is necessary for reducing a substantial risk of imminent serious harm to the inmate or others, as evidenced by recent conduct.

“Investigative Housing Unit (I.H.U.)” means a close custody unit used for 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, in order to conduct an investigation related to the inmate, which may include, but is not limited to, special observations (other than healthcare) of the inmate in relation to a disciplinary offense, unless information or evidence warrants an extension beyond 72 hours and the extension is approved by the appropriate supervisor.

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

“Management Control Unit Review Committee (M.C.U.R.C.)” means the Committee that is responsible for hearing cases of inmates referred for placement in the Management Control Unit (M.C.U.) and for conducting three month status reviews of inmates assigned to M.C.U.

“M.C.U. Hearing Officer” or “Hearing Officer” means the staff member, with the rank of Assistant Superintendent or above, designated by the Deputy Commissioner or Assistant Commissioner of Operations to hear and preside over M.C.U. initial

placement hearings.

“Member of vulnerable population” means any inmate who:

1. Is 21 years of age or younger;
2. Is 65 years of age or older;
3. Has a disability based on a mental illness, as defined in subsection r. of section 2 of P.L. 1987, c. 116 (N.J.S.A. 30:4-27.2), a history of psychiatric hospitalization, or has recently exhibited conduct, including, but not limited to, serious self-mutilation, indicating the need for further observation or evaluation to determine the presence of mental illness;
4. Has a developmental disability, as defined at N.J.S.A. 30:6D-25;
5. Has a serious medical condition that cannot effectively be treated in isolated confinement;
6. Is pregnant, is in the postpartum period, or has recently suffered a miscarriage or terminated a pregnancy. “Postpartum period” means the 45 days after childbirth;
7. Has a significant auditory or visual impairment; or
8. Is perceived to be lesbian, gay, bisexual, transgender, or intersex.

“Prehearing Disciplinary Housing” shall mean removal of an inmate from the general population or any other housing unit of a correctional facility to a short-term close custody unit because of a disciplinary infraction(s) pending an investigation and a hearing into an alleged violation of a prohibited act.

“Restorative Housing Unit” (R.H.U.) means a close custody unit that is less restrictive than the Adjustment Unit and may be used to remove an inmate from the general population of a correctional facility because of one or more disciplinary infractions.

“Special Administrative Review Committee (S.A.R.C.)” means the committee members designated by the Director, Division of Operations, who are responsible for the bimonthly review of the status of the inmates assigned to the Restorative Housing Unit (R.H.U.).

Credits

Amended by R.2006 d.151, effective May 1, 2006; R.2008 d.97, effective April 21, 2008; R.2011 d.277, effective November 7, 2011; R.2014 d.027, effective February 3, 2014; R.2015 d.161, effective October 5, 2015; R.2017 d.007, effective January 3, 2017. Recodified from N.J.A.C. 10A:5-1.3 and amended by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE


<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-1.2, NJ ADC 10A:5-1.2

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New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 1. General Provisions

N.J.A.C. 10A:5-1.3
Formerly cited as NJ ADC 10A:5-2.28

10A:5-1.3 Rules common to all close custody units

Currentness

(a) Special custodial responsibilities are as follows:

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

2. Precautions shall be taken to ensure that the inmates in the M.C.U. are not subjected to unnecessary limitations of their personal privacy. The close custody unit supervisor or another person acting on the direct or standing orders of the Administrator must authorize any non-routine cell searches.

(b) Disciplinary action within close custody units shall be in full force and effect (see N.J.A.C. 10A:4, Inmate Discipline).

(c) In addition to the rules contained in this subchapter, all other Department rules applicable to inmates shall apply with equal force to inmates in the close custody units.

(d) Ventilation, heating, lighting, and sanitation shall be as follows:

1. Proper ventilation, lighting, room temperatures, cleanliness, and properly functioning sanitary fixtures shall be maintained in cells within close custody units.

2. The Administrator or designee shall be responsible to provide for the daily inspections that shall be made to help ensure that the cells, corridors, toilets, showers, and other areas within close custody units are kept secure, clean, and sanitary.

3. Partial curtains may be permitted over the cell door, at the discretion of the Administrator.

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

(e) Close custody 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.

1. Disposable utensils shall be used when necessary.

(f) Grooming, showering, and shaving shall be as follows:

1. Hair care services shall be provided as needed.

2. Each inmate in a close custody unit shall be permitted to shave and shower three times a week, as indicated in the inmate handbook, unless permitting these activities would present an undue security hazard.

(g) Medical and psychiatric services shall be as follows:

1. Emergency medical and psychiatric care for inmates in close custody units shall be provided immediately;

2. Requests for inmate medical attention by staff or inmates in non-emergency situations shall be responded to by the health care staff who visit the close custody units daily;

3. Routine medical and psychiatric services shall be provided, equivalent to that which is provided to inmates in the general population for the M.C.U., R.H.U., T.A.H., and P.C.;

4. Ongoing healthcare services in other close custody units shall include daily health status examinations in accordance with N.J.S.A. 30:4-82.8.a(7);

5. Whenever it appears that an inmate is suffering from an emotional or psychiatric disturbance, arrangements shall be made for a psychiatric or psychological evaluation. See N.J.A.C. 10A:5-4.1 and 6.1 for rules specific to emergency housing and pre-hearing disciplinary housing; and

6. Medical and psychiatric evaluations or examinations shall be conducted outside the inmate's cell, whenever possible, with due consideration given to the necessary safety and security measures.

(h) After a thorough search for contraband, all inmates shall be admitted to the close custody units dressed in clothing issued by the correctional facility.

1. The following items, as approved by the Administrator or designee, shall be permitted, or made available, to inmates upon admission to a close custody unit, as soon as reasonably practicable:

i. Clothing required for use in cell;

ii. Bedding and mattress;

iii. Personal hygiene supplies;

iv. Eating utensils;

v. Eyeglasses;

vi. A wristwatch;

vii. Religious indicia;

viii. Legal materials;

ix. Postage stamps; and

x. Reading and writing materials.

2. The possession and use of radios, televisions, typewriters, and other appliances in the close custody units shall be subject to the same guidelines as those developed by the Administrator for the general population or in accordance with unit internal management procedures. Personal televisions may be permitted in the Restorative Housing Unit (R.H.U.) unless permitting these items would present an undue security hazard or the housing facility lacks the infrastructure to accommodate them.

3. Inmates in close custody units shall be permitted the same number of personal and library books as the general population. Procedures for requesting, receiving, and returning reading materials to the correctional facility's library and inmate law library are included in the inmate handbook.

4. Personal items, as approved by the Administrator or designee, shall be:

i. Permitted in accordance with the inmate handbook; and

ii. Purchased from an authorized source of sale.

(i) Disposition of inmate's personal possessions not authorized in close custody units are as follows:

1. Inmate personal possessions not authorized in close custody units shall not be stored by the correctional facility; and

2. Disposition of non-permissible personal possessions shall be handled in accordance with N.J.A.C. 10A:1-11, Personal Property of Inmates.

(j) Correctional facility clothing, bedding, and linens shall be laundered on a weekly basis.

(k) Inmates shall be provided access to legal services in accordance with N.J.A.C. 10A:6, Inmate Access to Courts.

1. Inmates shall also have access to the inmate law library by means of inmate paralegals who shall provide legal reference materials, services, and supplies to close custody unit inmates to the same degree as afforded inmates in the general population (see N.J.A.C. 10A:6-2.12 and 2.14).

(l) Correspondence, visiting, or telephone calling opportunities shall be available to inmates in the M.C.U., Restorative Housing Unit (R.H.U.), and Protective Custody units, but shall be provided in accordance with any special precautions, as deemed necessary or appropriate by the Administrator.

1. No staff member shall monitor the content of conversations between an inmate and the inmate's attorney or spiritual advisor during visits.

2. Restrictions of visits or telephone calls for inmates in close custody units shall be made in accordance with this section and applicable sanctions.

(m) Efforts shall be made to provide opportunities for exercise and recreation consistent with custodial considerations. Inmates in close custody units shall be offered a minimum of five hours of exercise each week, unless compelling security, safety, or weather reasons dictate otherwise. When exercise is not permitted, the reasons shall be clearly documented.

1. The Administrator 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 Administrator shall notify the Commissioner or designee.

(n) Educational programs shall be comparable to those programs available to inmates in general population to the extent possible, in accordance with security considerations and resources. Additional educational programs will be made available to inmates in the Restorative Housing Units as set forth at N.J.A.C. 10A:5-9.5(i).

(o) Inmates in the close custody units shall be visited daily during the business week by a member of the correctional facility's professional staff to determine any emergency or unusual needs of the inmates and to make referrals to appropriate departments or staff members.

1. Spiritual counseling shall be available on an individual basis as coordinated by the correctional facility's chaplain.

(p) Work opportunities shall be provided to inmates in Protective Custody (P.C.) in keeping with appropriate security considerations.

1. Pay and work time credits shall be commensurate with the skill level and the amount of work responsibilities involved, in applicable close custody housing units.

2. Education and program credits shall be commensurate with credits available to the general population.

3. Inmates in the I.H.U. shall be reassigned to cell sanitation and shall be able to earn work time credits and pay for this status.

4. Inmates in Protective Custody who are participating in formal school (not independent study) shall be entitled to earn work credits and special program credits, but shall not receive pay.

(q) Social, psychological, and counseling programs shall be as follows:

1. Treatment programs shall be available in close custody units to at least the same extent as available to the general inmate population. Healthcare personnel and a psychologist shall be assigned to close custody units and an area or office shall be provided for these services. The professionals shall provide services consistent with those provided to the general population and shall work closely with close custody unit supervisors and staff.

2. Counseling sessions shall be arranged upon the request of an inmate confined in close custody units.

3. Social, educational, and chaplaincy services/programs focused on transitioning inmates back into general population will be made available in Restorative Housing Units as set forth at [N.J.A.C. 10A:5-9.3](#).

4. Two interview rooms shall be available within close custody units for use by the assigned professional staff, the close custody unit supervisor, the parole counselor, and professional representatives of outside agencies, such as, but not limited to, the Social Security Administration, the Veteran's Administration, and vocational rehabilitation agencies.

(r) Procedures for obtaining commissary items while in close custody units shall be detailed in the Inmate Handbook and/or as approved by the Administrator.

(s) Withdrawal of personal items or activities shall be done as follows:

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

the custody staff member;

2. 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 a close custody unit supervisor shall identify the inmate and the item or activity withheld;

3. The Administrator or designee shall review any such restriction within one week. Any continued restriction shall be permitted only with the written authorization of the Administrator or designee; and

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

Credits

Recodified from [N.J.A.C. 10A:5-2.28](#) and amended by [53 N.J.R. 719\(a\)](#) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE


<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>


Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-1.3, NJ ADC 10A:5-1.3

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 KeyCite Red Flag - Severe Negative Treatment
KeyCite Red Flag Negative Treatment 10A:5-1.4 (Reserved)

 KeyCite Yellow Flag - Negative Treatment Proposed Regulation

New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 1. General Provisions

N.J.A.C. 10A:5-1.4

10A:5-1.4 (Reserved)

Currentness

Credits

Former section, titled Forms, had the following history: Adopted by R.2002 d.388, effective December 2, 2002. Amended by R.2006 d.419, effective December 4, 2006; R.2008 d.97, effective April 21, 2008; R.2011 d.277, effective November 7, 2011. Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE


<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

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N.J.A.C. 10A:5-1.4, NJ ADC 10A:5-1.4

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New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 2. Management Control Unit (M.C.U.)

N.J.A.C. 10A:5-2.1

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

Currentness

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

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

Credits

Amended by R.2008 d.97, effective April 21, 2008; R.2015 d.161, effective October 5, 2015; 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE


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Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-2.1, NJ ADC 10A:5-2.1

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Proposed Regulation

New Jersey Administrative Code
Title 10a. Corrections (Refs & Annos)
Chapter 5. Close Custody Units (Refs & Annos)
Subchapter 2. Management Control Unit (M.C.U.)

N.J.A.C. 10A:5-2.2

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

Currentness

(a) The M.C.U.R.C. shall be composed of the following five regular voting members and one recorder:

1. A representative from New Jersey State Prison Administration;
2. A representative from the Education or Social Services Department;
3. A representative from Mental Health Services;
4. A representative from Custody;
5. A Chairperson, who shall be an employee permanently assigned to Central Office, designated by either the Deputy Commissioner or designee or the Assistant Commissioner of Operations or designee; and
6. A non-voting recorder who shall maintain records, minutes, and reports of the Committee.

(b) The Administrator or designee shall assign the Committee members with the exception of the chairperson as established in (a) above.

(c) The Committee members may include employees of New Jersey State Prison.

Credits

Amended by R.2008 d.97, effective April 21, 2008; R.2015 d.161, effective October 5, 2015.

CHAPTER EXPIRATION DATE


<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

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N.J.A.C. 10A:5-2.2, NJ ADC 10A:5-2.2

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New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 2. Management Control Unit (M.C.U.)

N.J.A.C. 10A:5-2.3

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

Currentness

(a) The M.C.U.R.C. shall meet as needed to carry out 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.;
2. Reviewing the progress of each inmate placed in M.C.U. at least every 90 days to determine whether continued placement in the Unit is appropriate;
3. Reviewing all circumstances, custody reports, professional reports, recommendations, inmate statements, and any other relevant evidence related to inmates placed in, or referred for placement, in M.C.U.;
4. Reviewing all circumstances, custody reports, professional reports, recommendations, inmate statements, and any other relevant evidence related to phase changes; and
5. Any other functions deemed necessary to ensure the safe, secure, and effective running of the M.C.U.

Credits

Amended by R.2015 d.161, effective October 5, 2015.

CHAPTER EXPIRATION DATE


<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

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N.J.A.C. 10A:5-2.3, NJ ADC 10A:5-2.3

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New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 2. Management Control Unit (M.C.U.)

N.J.A.C. 10A:5-2.4

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

Currentness

(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 an inmate to the M.C.U.:

1. Disciplinary records during the inmate's 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 nondestructive manner.

CHAPTER EXPIRATION DATE


<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-2.4, NJ ADC 10A:5-2.4

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New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 2. Management Control Unit (M.C.U.)

N.J.A.C. 10A:5-2.5

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

Currentness

(a) An inmate shall be assigned to the M.C.U. when the M.C.U.R.C., after considering the criteria at N.J.A.C. 10A:5-2.4, concludes that the inmate poses a substantial threat to the safety of others or to the safe and secure operation of a correctional facility.

(b) Procedures for 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.

Credits

Amended by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE


<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

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N.J.A.C. 10A:5-2.5, NJ ADC 10A:5-2.5

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New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 2. Management Control Unit (M.C.U.)

N.J.A.C. 10A:5-2.6

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

Currentness

- (a) When an inmate is placed in the M.C.U. by the M.C.U. Hearing Officer, a preliminary determination shall also be made by the M.C.U.R.C. as to when the need for the M.C.U. program shall be reviewed. A formal review of each inmate in the M.C.U. shall be made at least every 90 days. During the reviews, inmates in M.C.U. may be considered for release, phase change, or any other action deemed appropriate as a result of the review.
- (b) Prior to an M.C.U.R.C. hearing, the inmate shall be given written notice at least 24 hours in advance of appearing before the M.C.U.R.C. The staff member delivering the notice shall sign it and indicate the time and date of delivery.
- (c) The inmate shall also be notified that he or she may obtain the help of an inmate paralegal to act as a counsel substitute approved by the M.C.U.R.C. to assist in the adequate collection and presentation of the facts in the inmate's case and to be present at the hearing as a spokesperson (see N.J.A.C. 10A:6-2.12 and 2.14).
- (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 that 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 ensure that the hearing does not develop into an adversarial proceeding.
- (f) 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. All M.C.U.R.C. reports shall be signed by all M.C.U.R.C. members.

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

(h) At each review, the M.C.U.R.C. shall 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. Program participation, such as, but not limited to, education, counseling, recreational activities; and

3. Records of the inmate's behavior and attitude while in the M.C.U., such as custody and professional staff reports that must be periodically filed, describing pertinent observations, both positive and negative, of the inmate's behavior and attitude while in the M.C.U.

(i) At the review 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 or the M.C.U.R.C. 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.

1. At this review, the inmate has the initial burden of demonstrating that the inmate has:

i. Participated in available jobs and educational and recreational programs;

ii. Complied with the criteria detailed by the M.C.U.R.C. at earlier hearings or reviews;

iii. Remained free from prohibited acts; and

iv. Agreed to reaffirm the obligation to adhere to the rules and regulations for inmate behavior, as described in the handbook on discipline for inmates and correctional facility inmate handbooks.

2. If the inmate demonstrates participation and compliance in accordance with (i)1 above, the inmate will be considered for release from the M.C.U. or for a phase change. The inmate will be released unless the Department of Corrections can

demonstrate through clear and convincing evidence, including behavior, correctional facility adjustment, and disciplinary history that the inmate continues to pose an identifiable threat to the safety of others and the safe and secure operation of a State correctional facility.

(j) 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.

(k) If the M.C.U.R.C. considerations are 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 his or her 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 his or her statement.

(l) 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 the provisions of this section.

(m) 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.

(n) 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 safe and secure operation of a State correctional facility. The M.C.U.R.C. shall have the discretion, however, to keep the hearing within reasonable limits.

(o) 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. For purposes of this subsection, "repetitive witnesses" are witnesses who provide the same account as a previous witness(es). "Repetitive witnesses" are not intended to refer to the calling of a witness(es) who previously provided written documentary evidence. 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.

(p) 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.

(q) 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 internal management procedures of the correctional facility.

(r) 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.

(s) 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.

(t) 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 (r) above; and
5. The decision of the M.C.U.R.C.

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

(v) 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 the event a record contains information received from a confidential informant, the M.C.U.R.C. shall provide a summary of facts upon which the Committee concluded that:

1. The informant is credible and that his or her information is reliable;
2. The informant's statement (either in writing or as reported) is in language that is factual rather than a conclusion; and

3. The informant's statement and information is based on his or her personal knowledge of the matters.

(w) In the written notice of decision, 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 within 90 days.

Credits

Amended by R.2008 d.97, effective April 21, 2008; R.2015 d.161, effective October 5, 2015; R.2017 d.007, effective January 3, 2017; 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE


<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-2.6, NJ ADC 10A:5-2.6

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New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 2. Management Control Unit (M.C.U.)

N.J.A.C. 10A:5-2.7

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

Currentness

(a) At the time the inmate is provided with the M.C.U.R.C.'s decision, the inmate shall be advised of the opportunity to appeal the decision to an employee designated by the Commissioner to receive such appeals. The inmate shall have seven business days to submit a letter of appeal. The employee receiving such appeals may approve or modify any M.C.U.R.C. decision as deemed appropriate. The employee receiving such appeals may also order further hearings where appropriate.

(b) During the employee'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 rendered was appropriate to the inmate's case.

(c) The employee's decision shall be forwarded to the inmate in writing within seven business days following receipt of the appeal.

Credits

Amended by R.2008 d.97, effective April 21, 2008; R.2015 d.161, effective October 5, 2015.

CHAPTER EXPIRATION DATE


<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-2.7, NJ ADC 10A:5-2.7

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 KeyCite Yellow Flag - Negative Treatment
Proposed Regulation

New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 2. Management Control Unit (M.C.U.)

N.J.A.C. 10A:5-2.8

10A:5-2.8 Prehearing, initial placement hearing, and appeal of initial placement hearing

Currentness

(a) The inmate may be placed in Prehearing M.C.U. by order of an Administrator or designee utilizing an authorization for prehearing M.C.U. form when there is reasonable evidence that, if the inmate remains in general population, there is an immediate threat to the safety of others or of interrupting the safe, secure, and orderly operation of the correctional facility.

1. The inmate shall be entitled to an initial placement hearing within 72 hours following placement into Prehearing M.C.U., absent exceptional circumstances.
2. An inmate placed in Prehearing M.C.U. shall be given written notice on the Criteria Record Sheet, as described at N.J.A.C. 10A:5-2.6 within 24 hours following placement in Prehearing M.C.U.
3. When an emergency exists that precludes completion of the authorization form prior to placement, the form shall be completed immediately following placement.
4. In all cases where an inmate is placed in Prehearing M.C.U., the chairperson of the M.C.U.R.C. shall review the authorization form, which shall be forwarded to the chairperson by the next full business day of placement into the Prehearing M.C.U., and determine, based on the criteria set forth at (a) above, if there is reasonable evidence to hold the inmate in the M.C.U. The chairperson shall then communicate the determination to the Administrator or designee within 24 hours. The chairperson shall be granted access to whatever evidence the chairperson deems necessary to make a recommendation.

(b) The initial placement hearing shall be conducted by an M.C.U. Hearing Officer. This person shall hold the rank of Assistant Superintendent or above and be designated by the Deputy Commissioner or Assistant Commissioner of Operations to hear and preside over the M.C.U. initial placement hearings. The M.C.U. Hearing Officer shall conduct the initial placement hearing utilizing the same processes for M.C.U.R.C. formal reviews and shall fulfill the functions designated for

the M.C.U.R.C. and Administrator set forth at [N.J.A.C. 10A:5-2.6](#).

1. The administration shall present its case first, followed by the inmate. The administration representative may question witnesses directly. The inmate may not directly question witnesses, including witnesses called by the inmate. The inmate, however, may submit questions through the inmate's representative or the M.C.U. Hearing Officer. The M.C.U. Hearing Officer may exclude any questions deemed irrelevant or harassing in nature.

2. 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 establishing 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, not conclusive, and is based upon the informant's personal knowledge of the matters contained in his or her statement.

3. When information utilized by the M.C.U. Hearing Officer is deemed confidential and cannot be fully disclosed to the inmate, the Hearing Officer shall direct the inmate and the inmate's representative to leave the hearing while this information is being presented or discussed. Whenever practical, the inmate shall be informed of the confidential information in accordance with the provisions of this section.

4. The same criteria appearing at (b)1 above, which are used to initially place the inmate in the Prehearing M.C.U. shall apply to the decision to place an inmate in the M.C.U.

5. The M.C.U. Hearing Officer shall apply the following factors when making a decision:

i. Disciplinary records;

ii. Past criminal offences;

iii. Previous institutionalizations, including records of serious misbehavior;

iv. Reports by professional staff;

v. Reports indicating current criminal behavior;

vi. Evidence of an attitude that indicates an unwillingness to follow rules or obey orders;

- vii. Inability to maintain a satisfactory work record;

- viii. Unsatisfactory progress in treatment or rehabilitative programs; and/or

- ix. Evidence of an inability to house with other inmates in a non-disruptive manner.

6. Within seven business days, the M.C.U. Hearing Officer 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. Hearing Officer to place an inmate in the M.C.U. shall be based on the information contained in the record. In the event a record contains information received from a confidential informant, the M.C.U. Hearing Officer shall provide a summary of facts upon which the M.C.U. Hearing Officer concluded that:

- i. The informant is credible and that his or her information is reliable;

- ii. The informant's statement (either in writing or as reported) is in language that is factual rather than a conclusion; and

- iii. The informant's statement and information is based on his or her personal knowledge of the matters.

7. A non-voting recorder shall be present for the initial placement hearing to make a record of the proceedings. The recorder shall place all proceedings in the inmate's M.C.U. and classification folders as appropriate.

(c) At the time the inmate is provided with the M.C.U. Hearing Officer's decision, the inmate shall be advised of the opportunity to appeal the decision to an employee designated by the Commissioner to receive such appeals. The inmate shall have seven business days to submit a letter of appeal. The employee receiving such appeals may approve or modify any M.C.U.R.C. decision as deemed appropriate. The employee receiving such appeals may also order further hearings where appropriate.

1. During the employee's review, the following factors shall be considered:

- i. Whether there was compliance with [N.J.A.C. 10A:5-2.6](#) and this section;

ii. Whether the decision of the M.C.U. Hearing Officer was based on clear and convincing evidence; and

iii. Whether the decision rendered was appropriate to the inmate's case.

2. The employee's decision shall be forwarded to the inmate in writing within seven business days following receipt of the appeal.

Credits

Amended by R.2015 d.161, effective October 5, 2015; 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE


<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-2.8, NJ ADC 10A:5-2.8

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Proposed Regulation

New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 2. Management Control Unit (M.C.U.)

N.J.A.C. 10A:5-2.9

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

Currentness

(a) In the event an emergency is declared, 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.

(b) When an unusually large number of inmates are 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 safe and secure operation of the correctional facility shall remain in Prehearing M.C.U. at housing assignments to be designated by the Administrator or 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 safe and secure operation of the correctional facility; and

iii. The inmate will receive an in-person hearing within 72 hours, absent exceptional circumstances.

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

4. The Administrator 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 his or her own behalf or to submit a written statement. If the inmate is illiterate or otherwise demonstrates a need for assistance in presenting his or her 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 calendar 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 [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 pending period of the emergency to ensure the safe and secure operation of the correctional facility.

Credits

Amended by R.2008 d.97, effective April 21, 2008; [53 N.J.R. 719\(a\)](#) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE


<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: [54 N.J.R. 1679\(a\)](#).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-2.9, NJ ADC 10A:5-2.9

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Proposed Regulation

New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 2. Management Control Unit (M.C.U.)

N.J.A.C. 10A:5-2.10

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

Currentness

(a) In every case where an inmate has been confined to the M.C.U. for a period of two consecutive years, the review procedure set forth in N.J.A.C. 10A:5-2.6 shall require the approval of the Deputy Commissioner or Assistant Commissioner of Operations for continued confinement in the M.C.U.

(b) The Deputy Commissioner's or Assistant Commissioner of Operations' approval for continued placement in the M.C.U. shall be required for each subsequent review after two consecutive years in M.C.U.

Credits

Adopted by R.2015 d.161, effective October 5, 2015.

CHAPTER EXPIRATION DATE


<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-2.10, NJ ADC 10A:5-2.10

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New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 2. Management Control Unit (M.C.U.)

N.J.A.C. 10A:5-2.11

10A:5-2.11 Disciplinary action within the Management Control Unit (M.C.U.)

Currentness

Except in the case of a termination of contact visits sanction as established at [N.J.A.C. 10A:4-5.1\(c\)](#), no special restriction of privilege on disciplinary grounds, such as denial of outside recreation or of work opportunities, may be continued in M.C.U. for longer than 30 days. If, in the judgment of the Disciplinary Hearing Officer/Adjustment Committee, there are special custodial reasons for desiring to continue special restriction of the inmate's privileges for longer than 30 days, the Disciplinary Hearing Officer/Adjustment Committee shall recommend extending the restrictions for the approval by the Administrator, or designee. Inmates assigned to the M.C.U. found guilty of a Category A or B infraction and sanctioned to the Restorative Housing Unit (R.H.U.) will serve the sanction within the M.C.U. due to the increased safety and security measures required for inmates assigned to M.C.U. All restrictions and/or opportunities available in the R.H.U. are applicable.

Credits

Adopted by [53 N.J.R. 719\(a\)](#) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE


<Pursuant to [N.J.S.A. 52:14B-5.1.c\(2\)](#), Chapter 5, Close Custody Units, expires on March 10, 2023. See: [54 N.J.R. 1679\(a\)](#).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

[N.J.A.C. 10A:5-2.11](#), [NJ ADC 10A:5-2.11](#)

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Proposed Regulation

New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 2. Management Control Unit (M.C.U.)

N.J.A.C. 10A:5-2.12
Formerly cited as NJ ADC 10A:5-2.30

10A:5-2.12 Program monitoring, review, and modification

Currentness

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

Credits

Amended by R.2015 d.161, effective October 5, 2015. Recodified from N.J.A.C. 10A:5-2.30 by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE



<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-2.12, NJ ADC 10A:5-2.12

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KeyCite Red Flag Negative Treatment 10A:5-2.13 (Reserved)
 KeyCite Yellow Flag - Negative Treatment Proposed Regulation

New Jersey Administrative Code
Title 10a. Corrections (Refs & Annos)
Chapter 5. Close Custody Units (Refs & Annos)
Subchapter 2. Management Control Unit (M.C.U.)

N.J.A.C. 10A:5-2.13

10A:5-2.13 (Reserved)

Currentness

Credits

Former section, titled Food, had the following history: Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE



<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-2.13, NJ ADC 10A:5-2.13

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KeyCite Red Flag Negative Treatment 10A:5-2.14 (Reserved)
 KeyCite Yellow Flag - Negative Treatment Proposed Regulation

New Jersey Administrative Code
Title 10a. Corrections (Refs & Annos)
Chapter 5. Close Custody Units (Refs & Annos)
Subchapter 2. Management Control Unit (M.C.U.)

N.J.A.C. 10A:5-2.14

10A:5-2.14 (Reserved)

Currentness

Credits

Former section, titled Grooming, showering and shaving, had the following history: Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE



<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-2.14, NJ ADC 10A:5-2.14

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 KeyCite Red Flag - Severe Negative Treatment
KeyCite Red Flag Negative Treatment 10A:5-2.15 (Reserved)
 KeyCite Yellow Flag - Negative Treatment Proposed Regulation

New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 2. Management Control Unit (M.C.U.)

N.J.A.C. 10A:5-2.15

10A:5-2.15 (Reserved)

Currentness

Credits

Former section, titled Medical and psychiatric services, had the following history: Amended by R.2008 d.97, effective April 21, 2008. Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE



<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-2.15, NJ ADC 10A:5-2.15

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 KeyCite Red Flag - Severe Negative Treatment
KeyCite Red Flag Negative Treatment 10A:5-2.16 (Reserved)
 KeyCite Yellow Flag - Negative Treatment Proposed Regulation

New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 2. Management Control Unit (M.C.U.)

N.J.A.C. 10A:5-2.16

10A:5-2.16 (Reserved)

Currentness

Credits

Former section, titled Personal items, had the following history: Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE


<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-2.16, NJ ADC 10A:5-2.16

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KeyCite Red Flag Negative Treatment 10A:5-2.17 (Reserved)

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New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 2. Management Control Unit (M.C.U.)

N.J.A.C. 10A:5-2.17

10A:5-2.17 (Reserved)

Currentness

Credits

Former section, titled Disposition of inmate's personal possessions not authorized in the Management Control Unit (M.C.U.), had the following history: Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE


<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-2.17, NJ ADC 10A:5-2.17

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 KeyCite Red Flag - Severe Negative Treatment
KeyCite Red Flag Negative Treatment 10A:5-2.18 (Reserved)

 KeyCite Yellow Flag - Negative Treatment Proposed Regulation

New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 2. Management Control Unit (M.C.U.)

N.J.A.C. 10A:5-2.18

10A:5-2.18 (Reserved)

Currentness

Credits

Former section, titled Correctional facility clothing, bedding and linen, had the following history: Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE



<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-2.18, NJ ADC 10A:5-2.18

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KeyCite Red Flag Negative Treatment 10A:5-2.19 (Reserved)
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New Jersey Administrative Code
Title 10a. Corrections (Refs & Annos)
Chapter 5. Close Custody Units (Refs & Annos)
Subchapter 2. Management Control Unit (M.C.U.)

N.J.A.C. 10A:5-2.19

10A:5-2.19 (Reserved)

Currentness

Credits

Former section, titled Legal services, had the following history: Amended by R.2008 d.97, effective April 21, 2008. Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE


<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-2.19, NJ ADC 10A:5-2.19

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KeyCite Red Flag Negative Treatment 10A:5-2.20 (Reserved)

 KeyCite Yellow Flag - Negative Treatment Proposed Regulation

New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 2. Management Control Unit (M.C.U.)

N.J.A.C. 10A:5-2.20

10A:5-2.20 (Reserved)

Currentness

Credits

Former section, titled Correspondence, visits and telephone calls, had the following history: Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE



<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-2.20, NJ ADC 10A:5-2.20

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KeyCite Red Flag Negative Treatment 10A:5-2.21 (Reserved)
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New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 2. Management Control Unit (M.C.U.)

N.J.A.C. 10A:5-2.21

10A:5-2.21 (Reserved)

Currentness

Credits

Former section, titled Exercise and recreation, had the following history: Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE



<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

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KeyCite Red Flag Negative Treatment 10A:5-2.22 (Reserved)
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New Jersey Administrative Code
Title 10a. Corrections (Refs & Annos)
Chapter 5. Close Custody Units (Refs & Annos)
Subchapter 2. Management Control Unit (M.C.U.)

N.J.A.C. 10A:5-2.22

10A:5-2.22 (Reserved)

Currentness

Credits

Former section, titled Education, had the following history: Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE



<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-2.22, NJ ADC 10A:5-2.22

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KeyCite Red Flag Negative Treatment 10A:5-2.23 (Reserved)
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New Jersey Administrative Code
Title 10a. Corrections (Refs & Annos)
Chapter 5. Close Custody Units (Refs & Annos)
Subchapter 2. Management Control Unit (M.C.U.)

N.J.A.C. 10A:5-2.23

10A:5-2.23 (Reserved)

Currentness

Credits

Former section, titled Visits by professional staff, had the following history: Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE



<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

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N.J.A.C. 10A:5-2.23, NJ ADC 10A:5-2.23

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 KeyCite Red Flag - Severe Negative Treatment
KeyCite Red Flag Negative Treatment 10A:5-2.24 (Reserved)
 KeyCite Yellow Flag - Negative Treatment Proposed Regulation

New Jersey Administrative Code
Title 10a. Corrections (Refs & Annos)
Chapter 5. Close Custody Units (Refs & Annos)
Subchapter 2. Management Control Unit (M.C.U.)

N.J.A.C. 10A:5-2.24

10A:5-2.24 (Reserved)

Currentness

Credits

Former section, titled Work opportunities, had the following history: Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE



<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-2.24, NJ ADC 10A:5-2.24

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 KeyCite Red Flag - Severe Negative Treatment
KeyCite Red Flag Negative Treatment 10A:5-2.25 (Reserved)
 KeyCite Yellow Flag - Negative Treatment Proposed Regulation

New Jersey Administrative Code
Title 10a. Corrections (Refs & Annos)
Chapter 5. Close Custody Units (Refs & Annos)
Subchapter 2. Management Control Unit (M.C.U.)

N.J.A.C. 10A:5-2.25

10A:5-2.25 (Reserved)

Currentness

Credits

Former section, titled Social, psychological and counseling program, had the following history: Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE

<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>


Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-2.25, NJ ADC 10A:5-2.25

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 KeyCite Red Flag - Severe Negative Treatment
KeyCite Red Flag Negative Treatment 10A:5-2.26 (Reserved)

 KeyCite Yellow Flag - Negative Treatment Proposed Regulation

New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 2. Management Control Unit (M.C.U.)

N.J.A.C. 10A:5-2.26

10A:5-2.26 (Reserved)

Currentness

Credits

Former section, titled Commissary, had the following history: Amended by R.2008 d.97, effective April 21, 2008. Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE



<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-2.26, NJ ADC 10A:5-2.26

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 KeyCite Red Flag - Severe Negative Treatment
KeyCite Red Flag Negative Treatment 10A:5-2.27 (Reserved)
 KeyCite Yellow Flag - Negative Treatment Proposed Regulation

New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 2. Management Control Unit (M.C.U.)

N.J.A.C. 10A:5-2.27

10A:5-2.27 (Reserved)

Currentness

Credits

Former section, titled Withdrawal of personal items or activities, had the following history: Amended by R.2008 d.97, effective April 21, 2008. Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE


<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>


Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-2.27, NJ ADC 10A:5-2.27

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 KeyCite Red Flag - Severe Negative Treatment
KeyCite Red Flag Negative Treatment 10A:5-2.28 (Reserved)

 KeyCite Yellow Flag - Negative Treatment Proposed Regulation

New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 2. Management Control Unit (M.C.U.)

N.J.A.C. 10A:5-2.28

10A:5-2.28 (Reserved)

Currentness

Credits

Former section, titled Special custodial responsibilities, had the following history: Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE


<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>


Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-2.28, NJ ADC 10A:5-2.28

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 KeyCite Red Flag - Severe Negative Treatment
KeyCite Red Flag Negative Treatment 10A:5-2.29 (Reserved)

 KeyCite Yellow Flag - Negative Treatment Proposed Regulation

New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 2. Management Control Unit (M.C.U.)

N.J.A.C. 10A:5-2.29

10A:5-2.29 (Reserved)

Currentness

Credits

Former section, titled Disciplinary action within the Management Control Unit (M.C.U.), had the following history: Adopted by R.1986 d.409, effective October 6, 1986. Amended by R.2006 d.398, effective November 20, 2006; R.2008 d.97, effective April 21, 2008; R.2014 d.027, effective February 3, 2014. Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE



<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-2.29, NJ ADC 10A:5-2.29

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 KeyCite Red Flag - Severe Negative Treatment
KeyCite Red Flag Negative Treatment 10A:5-2.30 (Reserved)
 KeyCite Yellow Flag - Negative Treatment Proposed Regulation

New Jersey Administrative Code
Title 10a. Corrections (Refs & Annos)
Chapter 5. Close Custody Units (Refs & Annos)
Subchapter 2. Management Control Unit (M.C.U.)

N.J.A.C. 10A:5-2.30

10A:5-2.30 (Reserved)

Currentness

Credits

Former section, titled Program monitoring, review, and modification, had the following history: Amended by R.2015 d.161, effective October 5, 2015. Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE



<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-2.30, NJ ADC 10A:5-2.30

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 KeyCite Red Flag - Severe Negative Treatment
KeyCite Red Flag Negative Treatment 10A:5-2.31 (Reserved)
 KeyCite Yellow Flag - Negative Treatment Proposed Regulation

New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 2. Management Control Unit (M.C.U.)

N.J.A.C. 10A:5-2.31

10A:5-2.31 (Reserved)

Currentness

Credits

Former section, titled Compliance with all other rules, had the following history: Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE

<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-2.31, NJ ADC 10A:5-2.31

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New Jersey Administrative Code

Title 10a. Corrections

Chapter 5. Close Custody Units

Subchapter 3. Out-of-Cell Activities in Close Custody Units

N.J.A.C. T. 10A, Ch. 5, Subch. 3, Refs & Annos

Currentness

Editors' Notes

Credits


R.2021 d.037, effective May 3, 2021.

2021. See: 52 N.J.R. 1321(b), 53 N.J.R. 719(a).

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

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 KeyCite Yellow Flag - Negative Treatment
Proposed Regulation

New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 3. Out-of-Cell Activities in Close Custody Units (Refs & Annos)

N.J.A.C. 10A:5-3.1

10A:5-3.1 Out-of-cell activities in Close Custody Units

Currentness

(a) Inmates housed in the Management Control Unit (M.C.U.), Restorative Housing Unit (R.H.U.), Protective Custody (P.C.), and Temporary Administrative Housing Unit (T.A.H.) shall have meaningful opportunities to participate in out-of-cell activities, including recreation, services, and programs of a chaplaincy, substance abuse, or addiction nature. For safety and security reasons, opportunities for social interaction and congregate activities will be based on custody status, the risk or threat of harm to themselves or others, the destruction of property, and the safe and secure operation of the correctional facility.

(b) Inmate participation in out-of-cell services and activities is voluntary and refusal to participate will not be subject to disciplinary sanction as set forth at N.J.A.C. 10A:4-5.1, but will result in an advisement or report to the housing unit review committee, such as the Management Control Unit Review Committee (M.C.U.R.C.), Special Segregation Review Committee (S.A.R.C.), or Institutional Classification Committee (I.C.C.), as applicable.

1. Whenever an inmate refuses to participate in the opportunity for out-of-cell time, the Department's obligations under the Isolated Confinement Restriction Act for out-of-cell time shall be considered fulfilled and any related confinement will be of the inmate's choosing and shall not be considered Isolated Confinement, as defined at N.J.S.A. 30:4-82.5 through 11. *

(c) Inmate behavior while participating in out-of-cell services and activities shall be monitored by staff and reported to the unit specific review committee, as appropriate.

(d) Disruptive inmate behavior shall result in removal of the inmate from the out-of-cell service or activity and an advisement or report to the unit specific review committee. Any behavior rising to a disciplinary infraction will be addressed through the disciplinary process set forth at N.J.A.C. 10A:4-4.1 and 5.1.

Credits

Adopted by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE


<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-3.1, NJ ADC 10A:5-3.1

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 KeyCite Red Flag - Severe Negative Treatment
KeyCite Red Flag Negative Treatment 10A:5-3.2 (Reserved)

 KeyCite Yellow Flag - Negative Treatment Proposed Regulation

New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 3. Out-of-Cell Activities in Close Custody Units (Refs & Annos)

N.J.A.C. 10A:5-3.2

10A:5-3.2 (Reserved)

Currentness

Credits

Former section, titled Special Administrative Segregation Review Committee (S.A.S.R.C.), had the following history: Amended by R.2005 d.445, effective December 19, 2005; R.2008 d.97, effective April 21, 2008; R.2011 d.277, effective November 7, 2011; R.2014 d.027, effective February 3, 2014; R.2015 d.161, effective October 5, 2015; R.2017 d.007, effective January 3, 2017. Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE


<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-3.2, NJ ADC 10A:5-3.2

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 KeyCite Red Flag - Severe Negative Treatment
KeyCite Red Flag Negative Treatment 10A:5-3.3 (Reserved)

 KeyCite Yellow Flag - Negative Treatment Proposed Regulation

New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 3. Out-of-Cell Activities in Close Custody Units (Refs & Annos)

N.J.A.C. 10A:5-3.3

10A:5-3.3 (Reserved)

Currentness

Credits

Former section, titled Separate facilities, had the following history: Amended by R.2014 d.027, effective February 3, 2014. Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE


<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-3.3, NJ ADC 10A:5-3.3

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 KeyCite Red Flag - Severe Negative Treatment
KeyCite Red Flag Negative Treatment 10A:5-3.4 (Reserved)

 KeyCite Yellow Flag - Negative Treatment Proposed Regulation

New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 3. Out-of-Cell Activities in Close Custody Units (Refs & Annos)

N.J.A.C. 10A:5-3.4

10A:5-3.4 (Reserved)

Currentness

Credits

Former section, titled Ventilation, heating, lighting, sanitation and observation, had the following history: Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE


<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-3.4, NJ ADC 10A:5-3.4

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 KeyCite Red Flag - Severe Negative Treatment
KeyCite Red Flag Negative Treatment 10A:5-3.5 (Reserved)

 KeyCite Yellow Flag - Negative Treatment Proposed Regulation

New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 3. Out-of-Cell Activities in Close Custody Units (Refs & Annos)

N.J.A.C. 10A:5-3.5

10A:5-3.5 (Reserved)

Currentness

Credits

Former section, titled Food, had the following history: Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE


<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-3.5, NJ ADC 10A:5-3.5

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 KeyCite Red Flag - Severe Negative Treatment
KeyCite Red Flag Negative Treatment 10A:5-3.6 (Reserved)

 KeyCite Yellow Flag - Negative Treatment Proposed Regulation

New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 3. Out-of-Cell Activities in Close Custody Units (Refs & Annos)

N.J.A.C. 10A:5-3.6

10A:5-3.6 (Reserved)

Currentness

Credits

Former section, titled Grooming, showering and shaving, had the following history: Amended by R.2014 d.027, effective February 3, 2014. Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE


<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-3.6, NJ ADC 10A:5-3.6

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 KeyCite Red Flag - Severe Negative Treatment
KeyCite Red Flag Negative Treatment 10A:5-3.7 (Reserved)

 KeyCite Yellow Flag - Negative Treatment Proposed Regulation

New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 3. Out-of-Cell Activities in Close Custody Units (Refs & Annos)

N.J.A.C. 10A:5-3.7

10A:5-3.7 (Reserved)

Currentness

Credits

Former section, titled Medical and psychiatric services, had the following history: Amended by R.2008 d.97, effective April 21, 2008; R.2014 d.027, effective February 3, 2014. Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE


<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>


Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-3.7, NJ ADC 10A:5-3.7

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 KeyCite Red Flag - Severe Negative Treatment
KeyCite Red Flag Negative Treatment 10A:5-3.8 (Reserved)

 KeyCite Yellow Flag - Negative Treatment Proposed Regulation

New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 3. Out-of-Cell Activities in Close Custody Units (Refs & Annos)

N.J.A.C. 10A:5-3.8

10A:5-3.8 (Reserved)

Currentness

Credits

Former section, titled Personal items, had the following history: Amended by R.2014 d.027, effective February 3, 2014. Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE


<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-3.8, NJ ADC 10A:5-3.8

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 KeyCite Red Flag - Severe Negative Treatment
KeyCite Red Flag Negative Treatment 10A:5-3.9 (Reserved)

 KeyCite Yellow Flag - Negative Treatment Proposed Regulation

New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 3. Out-of-Cell Activities in Close Custody Units (Refs & Annos)

N.J.A.C. 10A:5-3.9

10A:5-3.9 (Reserved)

Currentness

Credits

Former section, titled Correctional facility clothing, bedding and linen, had the following history: Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE



<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-3.9, NJ ADC 10A:5-3.9

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 KeyCite Red Flag - Severe Negative Treatment
KeyCite Red Flag Negative Treatment 10A:5-3.10 (Reserved)
 KeyCite Yellow Flag - Negative Treatment Proposed Regulation

New Jersey Administrative Code
Title 10a. Corrections (Refs & Annos)
Chapter 5. Close Custody Units (Refs & Annos)
Subchapter 3. Out-of-Cell Activities in Close Custody Units (Refs & Annos)

N.J.A.C. 10A:5-3.10

10A:5-3.10 (Reserved)

Currentness

Credits

Former section, titled Inmate legal service, had the following history: Amended by R.2014 d.027, effective February 3, 2014. Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE


<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-3.10, NJ ADC 10A:5-3.10

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 KeyCite Red Flag - Severe Negative Treatment
KeyCite Red Flag Negative Treatment 10A:5-3.11 (Reserved)

 KeyCite Yellow Flag - Negative Treatment Proposed Regulation

New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 3. Out-of-Cell Activities in Close Custody Units (Refs & Annos)

N.J.A.C. 10A:5-3.11

10A:5-3.11 (Reserved)

Currentness

Credits

Former section, titled Reading material, had the following history: Amended by R.2014 d.027, effective February 3, 2014. Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE



<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-3.11, NJ ADC 10A:5-3.11

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 KeyCite Red Flag - Severe Negative Treatment
KeyCite Red Flag Negative Treatment 10A:5-3.12 (Reserved)
 KeyCite Yellow Flag - Negative Treatment Proposed Regulation

New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 3. Out-of-Cell Activities in Close Custody Units (Refs & Annos)

N.J.A.C. 10A:5-3.12

10A:5-3.12 (Reserved)

Currentness

Credits

Former section, titled Correspondence, visits, and telephone calls, had the following history: Amended by R.2014 d.027, effective February 3, 2014. Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE


<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>


Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-3.12, NJ ADC 10A:5-3.12

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KeyCite Red Flag Negative Treatment 10A:5-3.13 (Reserved)

 KeyCite Yellow Flag - Negative Treatment Proposed Regulation

New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 3. Out-of-Cell Activities in Close Custody Units (Refs & Annos)

N.J.A.C. 10A:5-3.13

10A:5-3.13 (Reserved)

Currentness

Credits

Former section, titled Recreation, had the following history: Amended by R.2008 d.97, effective April 21, 2008; R.2014 d.027, effective February 3, 2014. Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE

<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>


Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-3.13, NJ ADC 10A:5-3.13

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 KeyCite Red Flag - Severe Negative Treatment
KeyCite Red Flag Negative Treatment 10A:5-3.14 (Reserved)

 KeyCite Yellow Flag - Negative Treatment Proposed Regulation

New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 3. Out-of-Cell Activities in Close Custody Units (Refs & Annos)

N.J.A.C. 10A:5-3.14

10A:5-3.14 (Reserved)

Currentness

Credits

Former section, titled Education, had the following history: Amended by R.2014 d.027, effective February 3, 2014. Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE


<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-3.14, NJ ADC 10A:5-3.14

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KeyCite Red Flag Negative Treatment 10A:5-3.15 (Reserved)

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New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 3. Out-of-Cell Activities in Close Custody Units (Refs & Annos)

N.J.A.C. 10A:5-3.15

10A:5-3.15 (Reserved)

Currentness

Credits

Former section, titled Visits by professional and correctional supervisory staff, had the following history: Amended by R.2014 d.027, effective February 3, 2014. Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE



<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-3.15, NJ ADC 10A:5-3.15

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KeyCite Red Flag Negative Treatment 10A:5-3.16 (Reserved)
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New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 3. Out-of-Cell Activities in Close Custody Units (Refs & Annos)

N.J.A.C. 10A:5-3.16

10A:5-3.16 (Reserved)

Currentness

Credits

Former section, titled Work opportunities, had the following history: Amended by R.2008 d.97, effective April 21, 2008; R.2014 d.027, effective February 3, 2014. Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE



<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-3.16, NJ ADC 10A:5-3.16

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Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 3. Out-of-Cell Activities in Close Custody Units (Refs & Annos)

N.J.A.C. 10A:5-3.17

10A:5-3.17 (Reserved)

Currentness

Credits

Former section, titled Psychological/psychiatric evaluations, had the following history: Amended by R.2014 d.027, effective February 3, 2014. Repealed by [53 N.J.R. 719\(a\)](#) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE



<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: [54 N.J.R. 1679\(a\)](#).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-3.17, NJ ADC 10A:5-3.17

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KeyCite Red Flag Negative Treatment 10A:5-3.18 (Reserved)
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New Jersey Administrative Code
Title 10a. Corrections (Refs & Annos)
Chapter 5. Close Custody Units (Refs & Annos)
Subchapter 3. Out-of-Cell Activities in Close Custody Units (Refs & Annos)

N.J.A.C. 10A:5-3.18

10A:5-3.18 (Reserved)

Currentness

Credits

Former section, titled Withdrawal of personal items or activities, had the following history: Amended by R.2014 d.027, effective February 3, 2014. Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE


<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-3.18, NJ ADC 10A:5-3.18

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Proposed Regulation

New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 3. Out-of-Cell Activities in Close Custody Units (Refs & Annos)

N.J.A.C. 10A:5-3.19

10A:5-3.19 (Reserved)

Currentness

Credits

Repealed by R.2014 d.027, effective February 3, 2014.

CHAPTER EXPIRATION DATE



<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

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New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 3. Out-of-Cell Activities in Close Custody Units (Refs & Annos)

N.J.A.C. 10A:5-3.20

10A:5-3.20 (Reserved)

Currentness

Credits

Former section, titled Records, had the following history: Amended by R.2008 d.97, effective April 21, 2008; R.2014 d.027, effective February 3, 2014. Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE

<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

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New Jersey Administrative Code

Title 10a. Corrections

Chapter 5. Close Custody Units

Subchapter 4. Emergency Confinement Unit

N.J.A.C. T. 10A, Ch. 5, Subch. 4, Refs & Annos

Currentness

Editors' Notes

Credits


R.2021 d.037, effective May 3, 2021.

2021. See: 52 N.J.R. 1321(b), 53 N.J.R. 719(a).

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Proposed Regulation

New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 4. Emergency Confinement Unit (Refs & Annos)

N.J.A.C. 10A:5-4.1

10A:5-4.1 Emergency Confinement

Currentness

(a) An inmate may be placed in Emergency Confinement for a period not to exceed 24 hours when the Administrator, or designee, determines that it is necessary to reduce a substantial risk to the inmate or others, or as evidenced by recent conduct.

(b) Criteria for placement in Emergency Confinement are:

1. When there is reasonable belief the confinement is necessary to reduce a substantial risk of imminent serious harm to the inmate or others as evidenced by recent conduct;
2. That the inmate's presence in general population poses a danger to the inmate, staff, other inmates, or the public; or
3. When there is clear and convincing evidence that the inmate has committed a violation of a prohibited act listed at N.J.A.C. 10A:4-4.

(c) An inmate held in Emergency Confinement in a State correctional facility shall receive a personal and comprehensive medical and mental health evaluation immediately prior to placement in Emergency Confinement by a clinician. Reports of these evaluations shall be immediately provided to the facility Administrator.

(d) An inmate shall not be placed in Emergency Confinement for non-disciplinary reasons.

(e) An inmate shall not be placed in Emergency Confinement if the inmate is a member of a vulnerable population.

Credits

Adopted by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE

<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-4.1, NJ ADC 10A:5-4.1

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Title 10a. Corrections

Chapter 5. Close Custody Units

Subchapter 5. Protective Custody


N.J.A.C. T. 10A, Ch. 5, Subch. 5, Refs & Annos

Currentness

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Proposed Regulation

New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 5. Protective Custody (Refs & Annos)

N.J.A.C. 10A:5-5.1

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

Currentness

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

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

(b) If an inmate voluntarily requests placement in Protective Custody, he or she shall complete, sign, and submit to the appropriate Custody Supervisor a voluntary protective custody consent form indicating the reasons for requesting Protective Custody. The Administrator must have reasonable cause to believe that confinement in Protective Custody is necessary to

prevent reasonably foreseeable harm and when an inmate makes an informed voluntary request for Protective Custody, the correctional facility shall bear the burden of establishing a basis for refusing the request. If through initial investigation, the inmate's reasons cannot be verified, are deemed to be frivolous by the Administrator, or designee, or if the conditions forming the basis for the voluntary placement are found to have abated or are found to no longer exist, placement in Protective Custody may be denied or the inmate may be released from Protective Custody.

(c) Prehearing Protective Custody shall be used when necessary in order to conduct an in depth investigation. In all cases of inmate voluntary and involuntary placement in Prehearing Protective Custody, the Administrator, or designee, shall gather facts, information, and available documentation to support or reject the placement and shall order such additional investigation as is deemed necessary for a clear understanding of the case. Prehearing Protective Custody may consist of confinement to the inmate's cell or placement into a secure Close Custody Unit.

Credits

Amended by R.2008 d.97, effective April 21, 2008; R.2010 d.054, effective April 5, 2010; 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE


<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-5.1, NJ ADC 10A:5-5.1

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Proposed Regulation

New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 5. Protective Custody (Refs & Annos)

N.J.A.C. 10A:5-5.2

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

Currentness

(a) An inmate under consideration for placement in Protective Custody shall be given written notice of an involuntary Protective Custody hearing, as soon as practicable.

(b) A copy of the written notice shall be given to the inmate at least 24 hours prior to the in-person hearing and may include any of the following:

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

(c) 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 Administrator or 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.

(d) Illiterate inmates or inmates otherwise unable to adequately collect and present the facts shall receive the assistance of a counsel substitute assigned by the Disciplinary Hearing Officer or Administrator or designee. An interpreter shall be utilized, if needed, at the discretion of the Disciplinary Hearing Officer.

(e) The Disciplinary Hearing Officer 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 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 ensure that the hearing does not develop into an adversarial proceeding.

(f) Inmates placed involuntarily in Prehearing Protective Custody shall receive a hearing within 72 hours of placement in Prehearing Protective Custody, unless there are exceptional circumstances, unavoidable delays, or reasonable postponements.

(g) The inmate shall be permitted to be present at the hearing except during the necessary deliberations of the Disciplinary Hearing Officer and except in instances where the security or order of the facility would be jeopardized. Reasons for excluding an inmate from the hearing shall be documented in the record. At the hearing, the inmate shall be informed of all information related to the inmate's case, with the exception of information designated confidential. In the event the inmate is not permitted to be present at the hearing, the inmate shall be notified of information related to the case in accordance with (l) below.

(h) When reviewing confidential informant information, the Disciplinary Hearing Officer 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 the informant information shall be withheld on grounds of confidentiality.

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

i. A concise summary of the facts on which the Disciplinary Hearing Officer 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 is not permitted to disclose the identity of the informant.

(i) The Disciplinary Hearing Officer shall provide a written notice of decision and a summary of the evidence relied upon.

(j) The inmate may be placed in involuntary Protective Custody only when there is clear and convincing evidence that confinement is necessary to prevent reasonably foreseeable harm and a less restrictive intervention or transfer to another

correctional facility would not be sufficient to prevent the harm (N.J.S.A. 30:4-82.8.d(4)(b)).

(k) An inmate held in involuntary Protective Custody in a State correctional facility shall receive a personal and comprehensive medical and mental health evaluation by a clinician prior to placement in involuntary Protective Custody. Reports of these evaluations shall be immediately provided to the facility Administrator.

(l) Within 10 business days of the hearing, the Disciplinary Hearing Officer shall provide a written notice of decision and a summary of the evidence relied upon.

Credits

Amended by R.2008 d.97, effective April 21, 2008; R.2010, d.054, effective April 5, 2010; R.2015 d.161, effective October 5, 2015; 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE


<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-5.2, NJ ADC 10A:5-5.2

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Proposed Regulation

New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 5. Protective Custody (Refs & Annos)

N.J.A.C. 10A:5-5.3

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

Currentness

(a) The inmate shall be advised of the opportunity to appeal to the Administrator or designee at the time that the inmate is provided with the Protective Custody hearing decision.

(b) The inmate shall have five business 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 Administrator or designee 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 safe and secure operation of the correctional facility.

(d) Within 10 business days of receipt of the appeal, the Administrator or designee may:

1. Approve the Disciplinary Hearing Officer's decision;

2. Modify the Disciplinary Hearing Officer's decision; or

3. Order further hearings.

(e) In all cases, the inmate shall be notified in writing of the decision of the Administrator or designee.

Credits

Amended by R.2010 d.054, effective April 5, 2010; R.2015 d.161, effective October 5, 2015; 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE


<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-5.3, NJ ADC 10A:5-5.3

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Proposed Regulation

New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 5. Protective Custody (Refs & Annos)

N.J.A.C. 10A:5-5.4

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

Currentness

(a) Inmates in Protective Custody shall be provided a review every 30 days, 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, in accordance with procedures specified at N.J.A.C. 10A:5-5.2 and 5.3.

(c) If an inmate chooses to waive the hearing, the decision to waive the hearing shall be documented and retained in the inmate file.

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

Credits

Amended by R.2008 d.97, effective April 21, 2008; R.2010 d.054, effective April 5, 2010; 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE

<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some


10A:5-5.4 Review of all inmates in Protective Custody units, NJ ADC 10A:5-5.4

sections may be more current, see credits for details.

N.J.A.C. 10A:5-5.4, NJ ADC 10A:5-5.4

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Proposed Regulation

New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 5. Protective Custody (Refs & Annos)

N.J.A.C. 10A:5-5.5

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

Currentness

(a) An inmate who has voluntarily signed himself or herself into Protective Custody who wishes to be released from Protective Custody may submit a request for release from Protective Custody to the appropriate Custody Supervisor. In order to approve such a requested release, the Institutional Classification Committee (I.C.C.), the Administrator or designee must be satisfied that there is no known danger to the inmate's well-being and no known threat to the safe and secure operation of the correctional facility. Should the request for release from voluntary Protective Custody be denied, the inmate may request in writing that continued placement in protective custody be considered an involuntary placement in Protective Custody.

(b) An inmate who has been placed in Protective Custody involuntarily may be released by the Administrator or designee, upon recommendation by the I.C.C. when they are satisfied that the conditions forming the basis for the inmate's placement in Protective Custody have abated or no longer exist and there is no known threat to the safe and secure operation of the correctional facility.

(c) Inmates released from Protective Custody shall, when appropriate, be referred to the CRAF Intake Unit for assignment to a suitable correctional facility.

(d) An inmate in a State correctional facility shall not be directly released from non-congregate Protective Custody to the community during the final 180 days of the inmate's term of incarceration, unless it is necessary for the safety of the inmate, staff, other inmates, or the public.

Credits

Amended by R.2010 d.054, effective April 5, 2010; R.2015 d.161, effective October 5, 2015; 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE


<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-5.5, NJ ADC 10A:5-5.5

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Proposed Regulation

New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 5. Protective Custody (Refs & Annos)

N.J.A.C. 10A:5-5.6
Formerly cited as NJ ADC 10A:5-5.22

10A:5-5.6 Disciplinary action within Protective Custody Units

Currentness

(a) 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.

(b) An inmate assigned to Prehearing Protective Custody or a Protective Custody Unit who requires an administrative transfer to another Close Custody Unit or who is found guilty of a prohibited act that results in a sanction that includes assignment to another Close Custody Unit shall be subject to the rules of that Unit.

Credits

Amended by R.2010 d.054, effective April 5, 2010. Recodified from N.J.A.C. 10A:5-5.22 by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE


<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>


Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-5.6, NJ ADC 10A:5-5.6

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KeyCite Red Flag Negative Treatment 10A:5-5.7 (Reserved)

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New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 5. Protective Custody (Refs & Annos)

N.J.A.C. 10A:5-5.7

10A:5-5.7 (Reserved)

Currentness

Credits

Former section, titled Food, had the following history: Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE


<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-5.7, NJ ADC 10A:5-5.7

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 KeyCite Red Flag - Severe Negative Treatment
KeyCite Red Flag Negative Treatment 10A:5-5.8 (Reserved)

 KeyCite Yellow Flag - Negative Treatment Proposed Regulation

New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 5. Protective Custody (Refs & Annos)

N.J.A.C. 10A:5-5.8

10A:5-5.8 (Reserved)

Currentness

Credits

Former section, titled Grooming, showering and shaving, had the following history: Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE


<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-5.8, NJ ADC 10A:5-5.8

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 KeyCite Red Flag - Severe Negative Treatment
KeyCite Red Flag Negative Treatment 10A:5-5.9 (Reserved)

 KeyCite Yellow Flag - Negative Treatment Proposed Regulation

New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 5. Protective Custody (Refs & Annos)

N.J.A.C. 10A:5-5.9

10A:5-5.9 (Reserved)

Currentness

Credits

Former section, titled Medical services, had the following history: Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE



<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-5.9, NJ ADC 10A:5-5.9

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 KeyCite Red Flag - Severe Negative Treatment
KeyCite Red Flag Negative Treatment 10A:5-5.10 (Reserved)
 KeyCite Yellow Flag - Negative Treatment Proposed Regulation

New Jersey Administrative Code
Title 10a. Corrections (Refs & Annos)
Chapter 5. Close Custody Units (Refs & Annos)
Subchapter 5. Protective Custody (Refs & Annos)

N.J.A.C. 10A:5-5.10

10A:5-5.10 (Reserved)

Currentness

Credits

Former section, titled Personal items, had the following history: Amended by R.2008 d.97, effective April 21, 2008. Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE



<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-5.10, NJ ADC 10A:5-5.10

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 KeyCite Red Flag - Severe Negative Treatment
KeyCite Red Flag Negative Treatment 10A:5-5.11 (Reserved)
 KeyCite Yellow Flag - Negative Treatment Proposed Regulation

New Jersey Administrative Code
Title 10a. Corrections (Refs & Annos)
Chapter 5. Close Custody Units (Refs & Annos)
Subchapter 5. Protective Custody (Refs & Annos)

N.J.A.C. 10A:5-5.11

10A:5-5.11 (Reserved)

Currentness

Credits

Former section, titled Correctional facility clothing, bedding and linen, had the following history: Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE


<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-5.11, NJ ADC 10A:5-5.11

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 KeyCite Red Flag - Severe Negative Treatment
KeyCite Red Flag Negative Treatment 10A:5-5.12 (Reserved)

 KeyCite Yellow Flag - Negative Treatment Proposed Regulation

New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 5. Protective Custody (Refs & Annos)

N.J.A.C. 10A:5-5.12

10A:5-5.12 (Reserved)

Currentness

Credits

Former section, titled Inmate legal services, had the following history: Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE


<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-5.12, NJ ADC 10A:5-5.12

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 KeyCite Red Flag - Severe Negative Treatment
KeyCite Red Flag Negative Treatment 10A:5-5.13 (Reserved)

 KeyCite Yellow Flag - Negative Treatment Proposed Regulation

New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 5. Protective Custody (Refs & Annos)

N.J.A.C. 10A:5-5.13

10A:5-5.13 (Reserved)

Currentness

Credits

Former section, titled Correspondence, visits and telephone calls, had the following history: Amended by R.2010 d.054, effective April 5, 2010. Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE



<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-5.13, NJ ADC 10A:5-5.13

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 KeyCite Red Flag - Severe Negative Treatment
KeyCite Red Flag Negative Treatment 10A:5-5.14 (Reserved)
 KeyCite Yellow Flag - Negative Treatment Proposed Regulation

New Jersey Administrative Code
Title 10a. Corrections (Refs & Annos)
Chapter 5. Close Custody Units (Refs & Annos)
Subchapter 5. Protective Custody (Refs & Annos)

N.J.A.C. 10A:5-5.14

10A:5-5.14 (Reserved)

Currentness

Credits

Former section, titled Recreation, had the following history: Amended by R.2008 d.97, effective April 21, 2008. Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE



<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-5.14, NJ ADC 10A:5-5.14

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 KeyCite Red Flag - Severe Negative Treatment
KeyCite Red Flag Negative Treatment 10A:5-5.15 (Reserved)
 KeyCite Yellow Flag - Negative Treatment Proposed Regulation

New Jersey Administrative Code
Title 10a. Corrections (Refs & Annos)
Chapter 5. Close Custody Units (Refs & Annos)
Subchapter 5. Protective Custody (Refs & Annos)

N.J.A.C. 10A:5-5.15

10A:5-5.15 (Reserved)

Currentness

Credits

Former section, titled Education, had the following history: Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE



<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-5.15, NJ ADC 10A:5-5.15

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 KeyCite Red Flag - Severe Negative Treatment
KeyCite Red Flag Negative Treatment 10A:5-5.16 (Reserved)
 KeyCite Yellow Flag - Negative Treatment Proposed Regulation

New Jersey Administrative Code
Title 10a. Corrections (Refs & Annos)
Chapter 5. Close Custody Units (Refs & Annos)
Subchapter 5. Protective Custody (Refs & Annos)

N.J.A.C. 10A:5-5.16

10A:5-5.16 (Reserved)

Currentness

Credits

Former section, titled Visits by professional and correctional facility supervisory staff, had the following history: Amended by R.2008 d.97, effective April 21, 2008. Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE



<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-5.16, NJ ADC 10A:5-5.16

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 KeyCite Red Flag - Severe Negative Treatment
KeyCite Red Flag Negative Treatment 10A:5-5.17 (Reserved)
 KeyCite Yellow Flag - Negative Treatment Proposed Regulation

New Jersey Administrative Code
Title 10a. Corrections (Refs & Annos)
Chapter 5. Close Custody Units (Refs & Annos)
Subchapter 5. Protective Custody (Refs & Annos)

N.J.A.C. 10A:5-5.17

10A:5-5.17 (Reserved)

Currentness

Credits

Former section, titled Work opportunities, had the following history: Amended by R.2008 d.97, effective April 21, 2008. Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE



<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-5.17, NJ ADC 10A:5-5.17

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 KeyCite Red Flag - Severe Negative Treatment
KeyCite Red Flag Negative Treatment 10A:5-5.18 (Reserved)
 KeyCite Yellow Flag - Negative Treatment Proposed Regulation

New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 5. Protective Custody (Refs & Annos)

N.J.A.C. 10A:5-5.18

10A:5-5.18 (Reserved)

Currentness

Credits

Former section, titled Psychological examination, had the following history: Amended by R.2008 d.97, effective April 21, 2008. Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE


<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-5.18, NJ ADC 10A:5-5.18

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 KeyCite Red Flag - Severe Negative Treatment
KeyCite Red Flag Negative Treatment 10A:5-5.19 (Reserved)

 KeyCite Yellow Flag - Negative Treatment Proposed Regulation

New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 5. Protective Custody (Refs & Annos)

N.J.A.C. 10A:5-5.19

10A:5-5.19 (Reserved)

Currentness

Credits

Former section, titled Withdrawal of personal items or activities, had the following history: Amended by R.2008 d.97, effective April 21, 2008; R.2015 d.161, effective October 5, 2015. Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE


<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-5.19, NJ ADC 10A:5-5.19

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 KeyCite Yellow Flag - Negative Treatment
Proposed Regulation

New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 5. Protective Custody (Refs & Annos)

N.J.A.C. 10A:5-5.20

10A:5-5.20 (Reserved)

Currentness

Credits

Amended by R.2008 d.97, effective April 21, 2008. Repealed by R.2010 d.054, effective April 5, 2010.

CHAPTER EXPIRATION DATE


<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>


Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-5.20, NJ ADC 10A:5-5.20

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 KeyCite Red Flag - Severe Negative Treatment
KeyCite Red Flag Negative Treatment 10A:5-5.21 (Reserved)

 KeyCite Yellow Flag - Negative Treatment Proposed Regulation

New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 5. Protective Custody (Refs & Annos)

N.J.A.C. 10A:5-5.21

10A:5-5.21 (Reserved)

Currentness

Credits

Former section, titled Records, had the following history: Amended by R.2008 d.97, effective April 21, 2008. Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE


<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-5.21, NJ ADC 10A:5-5.21

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 KeyCite Yellow Flag - Negative Treatment
Proposed Regulation

New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 5. Protective Custody (Refs & Annos)

N.J.A.C. 10A:5-5.22

10A:5-5.22 (Reserved)

Currentness

Credits

Former section, titled Disciplinary action within Protective Custody Units, had the following history: Amended by R.2010 d.054, effective April 5, 2010. Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE



<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-5.22, NJ ADC 10A:5-5.22

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 KeyCite Red Flag - Severe Negative Treatment
KeyCite Red Flag Negative Treatment 10A:5-5.23 (Reserved)
 KeyCite Yellow Flag - Negative Treatment Proposed Regulation

New Jersey Administrative Code
Title 10a. Corrections (Refs & Annos)
Chapter 5. Close Custody Units (Refs & Annos)
Subchapter 5. Protective Custody (Refs & Annos)

N.J.A.C. 10A:5-5.23

10A:5-5.23 (Reserved)

Currentness

Credits

Former section, titled Transfers; record maintenance, had the following history: Amended by R.2008 d.97, effective April 21, 2008. Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE



<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-5.23, NJ ADC 10A:5-5.23

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 KeyCite Red Flag - Severe Negative Treatment
KeyCite Red Flag Negative Treatment 10A:5-5.24 (Reserved)
 KeyCite Yellow Flag - Negative Treatment Proposed Regulation

New Jersey Administrative Code
Title 10a. Corrections (Refs & Annos)
Chapter 5. Close Custody Units (Refs & Annos)
Subchapter 5. Protective Custody (Refs & Annos)

N.J.A.C. 10A:5-5.24

10A:5-5.24 (Reserved)

Currentness

Credits

Former section, titled Correctional facility procedures, had the following history: Repealed by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE

<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-5.24, NJ ADC 10A:5-5.24

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New Jersey Administrative Code

Title 10a. Corrections

Chapter 5. Close Custody Units

Subchapter 6. Prehearing Disciplinary Housing Unit

N.J.A.C. T. 10A, Ch. 5, Subch. 6, Refs & Annos

Currentness

Editors' Notes

Credits


R.2021 d.037, effective May 3, 2021.

2021. See: 52 N.J.R. 1321(b), 53 N.J.R. 719(a).

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

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 KeyCite Yellow Flag - Negative Treatment
Proposed Regulation

New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 6. Prehearing Disciplinary Housing Unit (Refs & Annos)

N.J.A.C. 10A:5-6.1
Formerly cited as NJ ADC 10A:4-10.1

10A:5-6.1 Confinement in Prehearing Disciplinary Housing

Currentness

(a) An inmate may be placed in Prehearing Disciplinary Housing in those instances where it appears necessary to remove or isolate the inmate from the general population until an investigation into the inmate's alleged misconduct can be completed and a disciplinary hearing can be held pursuant to N.J.A.C. 10A:4-9, Disciplinary Procedures. Confinement in Prehearing Disciplinary Housing shall be deemed necessary only where it appears that, if the inmate remained in his or her existing housing unit, the inmate would constitute a threat to other inmates, staff members, the inmate, or to the safe, secure, and orderly operations of the correctional facility.

1. An inmate shall not be placed in the Prehearing Disciplinary Housing if the inmate is a member of a vulnerable population.

(b) Confinement in Prehearing Disciplinary Housing may consist of placement in the close custody unit or confinement to the inmate's room or housing unit and shall be preceded by a personal and comprehensive medical and mental health evaluation conducted prior to placement by a clinician.

(c) Factors that may be considered in determining whether confinement in Prehearing Disciplinary Housing is warranted include that there is clear and convincing evidence that:

1. The inmate has been charged with an assault upon another person and, in the opinion of the correctional staff, there is a substantial possibility that the inmate may assault another inmate or staff member;

2. The inmate has been charged with threatening another person and, in the opinion of the correctional staff, there is a substantial possibility that the inmate will act on his or her threat;

3. The inmate has been charged with being under the influence of drugs or intoxicants and, in the opinion of the correctional staff, the inmate's behavioral controls appear to be impaired;

4. The inmate has been charged with inciting others to engage in an assault upon another person, causing serious destruction of property, or participating in a group demonstration or work stoppage and, in the opinion of the correctional staff, there is a substantial possibility the inmate will continue such incitement causing a threat to the safety and security of a correctional facility;

5. The inmate has been charged with arson, flooding the cell, damaging plumbing fixtures, or other actions causing a threat to the safety and security of a correctional facility and, in the opinion of the correctional staff, there is a substantial likelihood that the inmate may engage in additional arson or destruction of property or other behaviors that threaten the safety and security of the correctional facility. (Whenever the destruction to property threat to the safety and security of a correctional facility consists of flooding the cell or damaging plumbing fixtures, the inmate may be placed in Prehearing Disciplinary Housing in a "DRY" cell);

6. The inmate has received a disciplinary charge and, in the opinion of the correctional staff, there is a substantial possibility that the inmate will attempt to harm, threaten or intimidate potential witnesses or that the inmate will attempt to organize or encourage others to harm, threaten or intimidate potential witnesses;

7. The inmate has been charged with participating in an unauthorized gathering or group demonstration and the inmate refuses to abandon his or her participation;

8. The inmate has been charged with escape or attempted escape and evidence has been produced that indicates the inmate presents a serious escape risk if permitted to remain in general population; and

9. The inmate has been charged with conduct that disrupts and in the opinion of correctional facility staff, there is a substantial possibility that such behavior has the potential to threaten the safe, secure, and orderly operation of the correctional facility.

(d) If an inmate is confined in Prehearing Disciplinary Housing as a result of any of the factors at (c) above, such confinement must be authorized, in writing, by the custody staff supervisor prior to placing the inmate in Prehearing Disciplinary Housing. When an emergency exists, written authorization shall be completed immediately following placement. After all appropriate parties have signed the authorization, it shall be placed in the inmate's folder. Additional copies shall be maintained, for recordkeeping purposes, in areas designated by the Administrator and a Correction Major.

(e) Where possible, an Administrator, Associate Administrator, Assistant Superintendent, or a Correction Major shall review and approve or disapprove a request to place an inmate in Prehearing Disciplinary Housing. In all cases, placement of the inmate in Prehearing Disciplinary Housing shall be reviewed within 24 hours of placement by a supervisor who was not involved in the initial placement decision.

(f) Any time spent in Prehearing Disciplinary Housing shall be credited to any subsequent Restorative Housing Unit (R.H.U.) sanction imposed when a sanction in the A.U. is not also imposed. When both A.U. and R.H.U. sanctions are imposed, any time spent in Prehearing Disciplinary Housing shall be credited only to the A.U. sanction.

Credits

Adopted by R.1986 d.283, effective July 21, 1986. Amended by R.1991 d.276, effective June 3, 1991; R.1996 d.237, effective May 20, 1996; R.2006 d.398, effective November 20, 2006; R.2017 d.007, effective January 3, 2017. Recodified from N.J.A.C. 10A:4-10.1 and amended by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE

<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-6.1, NJ ADC 10A:5-6.1

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New Jersey Administrative Code

Title 10a. Corrections

Chapter 5. Close Custody Units

Subchapter 7. Investigative Housing Unit

N.J.A.C. T. 10A, Ch. 5, Subch. 7, Refs & Annos

Currentness

Editors' Notes

Credits

R.2021 d.037, effective May 3, 2021.

2021. See: 52 N.J.R. 1321(b), 53 N.J.R. 719(a).

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

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New Jersey Administrative Code

Title 10a. Corrections

Chapter 5. Close Custody Units

Subchapter 7. Investigative Housing Unit

N.J.A.C. T. 10A, Ch. 5, Subch. 7, Refs & Annos

Currentness

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

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 KeyCite Yellow Flag - Negative Treatment
Proposed Regulation

New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 7. Investigative Housing Unit (Refs & Annos)

N.J.A.C. 10A:5-7.1

10A:5-7.1 Placement in the Investigative Housing Unit (I.H.U.)

Currentness

(a) An inmate may be placed in the I.H.U. for a period not to exceed 72 hours unless exceptional circumstances, such as, but not limited to, other information received or other clear and convincing evidence found warrant extension of this time period.

1. Placement of the inmate in I.H.U. will be reviewed within 24 hours of placement by a supervisor that was not involved in the initial placement decision. Placement in I.H.U. shall be preceded by a personal and comprehensive medical and mental health evaluation conducted by a clinician.

2. An inmate shall not be placed in the Investigative Housing Unit if the inmate is a member of a vulnerable population.

(b) When an inmate's presence in general population poses a danger to the inmate, staff, other inmates, or the public, the inmate may be considered for placement in the I.H.U. In making this determination, the facility Administrator shall consider the seriousness of the alleged offense, including whether the offense involved violence or escape or posed a threat to institutional safety by encouraging others to engage in misconduct; or the facility Administrator has granted approval in an emergency situation. (See N.J.S.A. 30:4-82.9.a). Additional criteria for placement of an inmate in the Investigative Housing Unit (I.H.U.) and status are:

1. Clear and convincing evidence 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. Clear and convincing evidence 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. Any other emergency reason, which, in the opinion of the Administrator, or designee, requires Investigative Housing Unit (I.H.U.) confinement to protect the inmate, staff, general public, and/or the security and control of the correctional facility; and/or

4. The final decision to place an inmate in the I.H.U. shall be made by the Administrator, or designee.

(c) On or before the expiration of the 72-hour period, unless there are emergent reasons for extension, the inmate shall be released from the Investigative Housing Unit (I.H.U.) to:

1. The general population;

2. A medical or psychiatric housing unit for continued observation, treatment, or commitment procedures (N.J.A.C. 10A:16-13); or

3. Another close custody unit such as, the Protective Custody Unit or the Management Control Unit.

(d) Release from the Investigative Housing Unit (I.H.U.) may be ordered only by the Administrator, or designee.

(e) In consideration of the reason for an inmate's placement in the Investigative Housing Unit (I.H.U.), a Correction Major, or designee, shall determine the personal property and other privileges, such as, but not limited to, visits and telephone calls, which the inmate may be afforded while in the Investigative Housing Unit (I.H.U.).

Credits

Amended by R.2015 d.161, effective October 5, 2015; R.2017 d.007, effective January 3, 2017. Amended by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE

<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-7.1, NJ ADC 10A:5-7.1

New Jersey Administrative Code

Title 10a. Corrections

Chapter 5. Close Custody Units

Subchapter 8. Adjustment Unit

N.J.A.C. T. 10A, Ch. 5, Subch. 8, Refs & Annos

Currentness

Editors' Notes

Credits


R.2021 d.037, effective May 3, 2021.

2021. See: 52 N.J.R. 1321(b), 53 N.J.R. 719(a).

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

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New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 8. Adjustment Unit (Refs & Annos)

N.J.A.C. 10A:5-8.1

10A:5-8.1 Placement in the Adjustment Unit (A.U.)

Currentness

(a) An inmate may be placed in the Adjustment Unit (A.U.) for a period of five to 15 days with a finding of guilt for any offense in Category A when there is reasonable cause to believe that the inmate would create a substantial risk of serious harm to himself, herself, or another, including, but not limited to, a correctional police officer, other employee, or volunteer in the facility, as evidenced by recent threats or conduct, and a less restrictive intervention would be insufficient to reduce this risk (see [N.J.A.C. 10A:4-4.1](#)) unless:

1. The inmate is a member of a vulnerable population; or
2. If a medical or mental health professional determines that the inmate is not appropriate for placement in the A.U.

(b) An inmate held in the Adjustment Unit in a State correctional facility shall receive a personal and comprehensive medical and mental health evaluation conducted by a healthcare professional prior to placement in the Adjustment Unit. Reports of these evaluations shall be immediately provided to the facility administrator.

(c) Release from the Adjustment Unit (A.U.) may be ordered only by the Administrator or designee.

(d) In consideration of the reason for an inmate's placement in the Adjustment Unit (A.U.), a Correction Major, or designee, shall determine the personal property and other privileges, such as, but not limited to, visits and telephone calls, which the inmate may be afforded while in the A.U.

(e) The Administrator shall forward a monthly written report of all placements and releases in the Adjustment Unit (A.U.) to the Assistant Commissioner, Division of Operations, for review.

Credits

Adopted by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE

<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. Sec: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-8.1, NJ ADC 10A:5-8.1

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New Jersey Administrative Code

Title 10a. Corrections

Chapter 5. Close Custody Units

Subchapter 9. Restorative Housing Unit (R.H.U.)

N.J.A.C. T. 10A, Ch. 5, Subch. 9, Refs & Annos

Currentness

Editors' Notes

Credits


R.2021 d.037, effective May 3, 2021.

2021. Sec: 52 N.J.R. 1321(b), 53 N.J.R. 719(a).

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

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New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 9. Restorative Housing Unit (R.H.U.) (Refs & Annos)

N.J.A.C. 10A:5-9.1

10A:5-9.1 Criteria for assigning inmates to the Restorative Housing Unit (R.H.U.)

Currentness

(a) An inmate who is found guilty of committing one or more of the prohibited acts in Category A or B, as set forth at N.J.A.C. 10A:4-4.1(a)1 and 2 shall be subject to disciplinary action and one or more sanctions imposed by a Disciplinary Hearing Officer. Sanctions imposed for a finding of guilt for the prohibited acts in Categories A and/or B are the most serious and may include removal from general population and assignment to a Restorative Housing Unit (R.H.U.) in addition to other sanctions as may be deemed necessary by the Disciplinary Hearing Officer and/or Administrator. However, where a medical or mental health professional has made a determination that the inmate is not appropriate for placement in an R.H.U., the inmate may receive one or more of the less restrictive sanctions listed at N.J.A.C. 10A:4-5.1(d) and (e).

(b) Repeat occurrences of a specific infraction(s) are addressed at N.J.A.C. 10A:4-5.1(d) and may include removal from general population and assignment to a Restorative Housing Unit (R.H.U.).

Credits

Adopted by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE


<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-9.1, NJ ADC 10A:5-9.1

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New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 9. Restorative Housing Unit (R.H.U.) (Refs & Annos)

N.J.A.C. 10A:5-9.2

10A:5-9.2 Structure of the Restorative Housing Unit (R.H.U.)

Currentness

The R.H.U. shall provide a structured, controlled environment where inmate behavior shall be closely monitored and documented by a team of custody and civilian staff. The R.H.U. is designed to encourage inmates to improve behavior patterns. Inmates in the R.H.U. are afforded the opportunity to participate in authorized out-of-cell programming and congregate interactions, structured activities, and educational programs to prepare them for reintegration into general population.

Credits

Adopted by [53 N.J.R. 719\(a\)](#) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE


<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: [54 N.J.R. 1679\(a\)](#).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-9.2, NJ ADC 10A:5-9.2

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New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 9. Restorative Housing Unit (R.H.U.) (Refs & Annos)

N.J.A.C. 10A:5-9.3

10A:5-9.3 (Reserved)

Currentness

CHAPTER EXPIRATION DATE

<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-9.3, NJ ADC 10A:5-9.3

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New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 9. Restorative Housing Unit (R.H.U.) (Refs & Annos)

N.J.A.C. 10A:5-9.4

10A:5-9.4 Inmate behaviors in the R.H.U.

Currentness

(a) Inmates in R.H.U. shall be responsible for their own:

1. Participation in authorized congregate interactions, structured activities, and educational programs;
2. Behavior modification enabling the inmate to return to general population;
3. Personal interactions and behaviors with others; and
4. Compliance with the rules of the Department, the correctional facility, and the R.H.U.

(b) Failure to follow rules and inappropriate or disrespectful behavior shall result in disciplinary action and/or further loss of privileges.

(c) Minor infractions that demonstrate a resistance to comply with expected behaviors while in the R.H.U. or the offered services and programs shall be documented and addressed utilizing the "On the Spot" disciplinary process at the discretion of the custody or civilian staff member (See [N.J.A.C. 10A:4-7.3](#)).

(d) All infractions, as well as all custody and program reports, shall be provided to S.A.R.C., so the committee can make a proper determination when reviewing inmate progress in the R.H.U.

(c) Serious disciplinary infractions shall be addressed through the disciplinary process (See [N.J.A.C. 10A:4-4.1](#)).

Credits

Adopted by [53 N.J.R. 719\(a\)](#) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE

<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: [54 N.J.R. 1679\(a\)](#).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

[N.J.A.C. 10A:5-9.4](#), [NJ ADC 10A:5-9.4](#)

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New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 9. Restorative Housing Unit (R.H.U.) (Refs & Annos)

N.J.A.C. 10A:5-9.5

10A:5-9.5 Assignment to the Restorative Housing Unit (R.H.U.)

Currentness

(a) All sanctions, or parts of sanctions, imposed by the Disciplinary Hearing Officer that include assignment to a Restorative Housing Unit (R.H.U.), shall be referred by the Disciplinary Hearing Officer to the Institutional Classification Committee (I.C.C.) for review. The I.C.C. shall consider any relevant factors including, but not limited to:

1. The circumstances and gravity of the disciplinary infraction;
2. The reason(s) given by the Disciplinary Hearing Officer 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.

(b) If an inmate receives a Restorative Housing Unit sanction, the inmate shall be referred to the Centralized Reception Assignment Facility (CRAF) to schedule inmate transfer and/or transport to a R.H.U.

(c) Time served in Prehearing Disciplinary Housing will be credited as time served in administrative segregation.

(d) If the I.C.C. determines that the sanction is appropriate and within acceptable limits, and the inmate's presence in the general population could pose a threat to the safe, secure, and orderly operations of the correctional facility, the I.C.C. shall confirm assignment of the inmate to the R.H.U.

(e) The I.C.C. shall provide written notice to the inmate of its decision confirming, modifying, or overruling the R.H.U. sanction together with the rationale for the decision.

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

(g) If the inmate appeals the R.H.U. sanction, the appeal disposition will be completed by the Administrator, or designee, of the facility in which the charge was received.

(h) Confrontations with the custody staff member initiating the disciplinary charge may be completed through Video TeleConferencing (VTC).

(i) Inmates housed in R.H.U. shall have meaningful opportunities to participate in out-of-cell interaction provided through the Office of Transitional Services, Office of Education, Chaplaincy Office, and the Office of Substance Abuse Programming and Addiction Services. Additionally, inmates shall be afforded the opportunity to participate in congregate interaction above and beyond the five hours per week required pursuant to [N.J.A.C. 10A:5-1.3\(m\)](#).

Credits

Adopted by [53 N.J.R. 719\(a\)](#) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE

<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: [54 N.J.R. 1679\(a\)](#).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

[N.J.A.C. 10A:5-9.5](#), NJ ADC [10A:5-9.5](#)

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New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 9. Restorative Housing Unit (R.H.U.) (Refs & Annos)

N.J.A.C. 10A:5-9.6

10A:5-9.6 Special Administrative Review Committee ("S.A.R.C." or "the Committee")

Currentness

(a) The S.A.R.C. is responsible for providing a bimonthly review, or more frequent reviews if deemed necessary, of the status of inmates assigned to all Restorative Housing Units (R.H.U.).

(b) The Director of the Division of Operations shall designate the following four voting members to serve on the S.A.R.C.:

1. An Associate Administrator or Assistant Superintendent from a facility;
2. A representative from the Division of Operations;
3. A chairperson from among the voting members; and
4. A supervisory custody staff member of the rank of Correction Major or a Lieutenant to attend each meeting of the S.A.R.C.

(c) The other members of the S.A.R.C. shall be composed of:

1. One voting member, who shall be a representative from the correctional facility where the R.H.U. is located; and

2. Two non-voting members, who shall include an in-house psychiatrist or psychologist and a representative of the classification department that shall attend each meeting of the S.A.R.C.

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

(e) All inmates assigned to a R.H.U. shall have their assignment reviewed by the S.A.R.C. every 60 days, or more frequently if deemed necessary by the S.A.R.C., to evaluate inmate behavior while in the R.H.U.

(f) The S.A.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.

(g) Upon review of the inmate's behavior, the S.A.R.C. may determine that the inmate should be released from the R.H.U. when it concludes that:

1. The initial need for placement in the R.H.U. 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 would not adversely affect the safety and security goals of a correctional facility; and/or
5. The inmate has a history or presence of a healthcare condition and continued confinement in R.H.U. is likely to add to the inmate's mental decompensation.

(h) If the S.A.R.C. determines not to release the inmate from the Restorative Housing Unit (R.H.U.), the inmate shall be so advised in writing, together with the reasons therefor, unless security considerations preclude disclosure of the reasons, 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.

(i) If the S.A.R.C determines to release the inmate, the Committee shall give the inmate written notice of the decision, however, institutional designations will not be shared with the inmate. The inmate shall be:

1. Released into the general population of the correctional facility in which he or she has been confined in the R.H.U.;
2. Referred to the M.C.U.R.C. for placement in the M.C.U.;
3. Referred for a protective custody hearing; or
4. Referred to the CRAF Intake Unit for transfer to a correctional facility as determined by the S.A.R.C.

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

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

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

Credits

Adopted by [53 N.J.R. 719\(a\)](#) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE

<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-9.6, NJ ADC 10A:5-9.6

New Jersey Administrative Code

Title 10a. Corrections

Chapter 5. Close Custody Units

Subchapter 10. Temporary Administrative Housing

N.J.A.C. T. 10A, Ch. 5, Subch. 10, Refs & Annos

Currentness

Editors' Notes

Credits


R.2021 d.037, effective May 3, 2021.

2021. Sec: 52 N.J.R. 1321(b), 53 N.J.R. 719(a).

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

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New Jersey Administrative Code

Title 10a. Corrections (Refs & Annos)

Chapter 5. Close Custody Units (Refs & Annos)

Subchapter 10. Temporary Administrative Housing (Refs & Annos)

N.J.A.C. 10A:5-10.1

10A:5-10.1 Temporary Administrative Housing (T.A.H.)

Currentness

(a) T.A.H. is a temporary close custody unit for the non-punitive removal of an inmate from general population for a period not to exceed 72 hours to accommodate other temporary situations in which there is a concern for the safety of the inmate, or others, or in other emergent situations in which general population and other close custody units are not applicable. Inmates housed in this status for 20 hours or more shall be afforded the opportunity to have four hours of out-of-cell activity for every 24-hour period.

(b) Initial placement in T.A.H. shall be approved by a custody staff member of the rank of lieutenant or higher.

(c) Placement that extends 20 hours or more shall be approved by the Administrator or on call designee.

Credits

Adopted by 53 N.J.R. 719(a) R.2021 d.037, effective May 3, 2021.

CHAPTER EXPIRATION DATE

<Pursuant to N.J.S.A. 52:14B-5.1.c(2), Chapter 5, Close Custody Units, expires on March 10, 2023. See: 54 N.J.R. 1679(a).>

Current through amendments included in the New Jersey Register, Volume 54, Issue 20, dated October 17, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 10A:5-10.1, NJ ADC 10A:5-10.1

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N.J. Admin. Code § 10A:31-16.1

Current through Register Vol. 53, No. 13, July 6, 2021

Section 10A:31-16.1 - Disciplinary rules and sanctions

- (a) Equitable and consistent inmate discipline shall be employed to ensure the maintenance of security and the orderly operation of all adult county correctional facilities.
- (b) Rules, upon which inmate discipline is based, must be reasonable and evenly applied, and the action taken to determine an alleged infraction must be based on findings of fact.
- (c) The sanction(s) for infractions shall not be imposed in any manner that violates the inmate's civil rights. The sanction(s) must be related to the infraction, and must be fairly applied to all inmates.
- (d) All persons who supervise the activities of inmates shall receive sufficient training to ensure that these staff members understand the rules of inmate conduct, the sanctions available and the rationale for the rules.
- (e) N.J.A.C. 10A:4, Inmate Discipline, applies to State inmates incarcerated at adult county correctional facilities.
- (f) Confinement of an inmate in a county correctional facility, for disciplinary, administrative, protective, investigative, medical, or other classification reasons, in a cell or similarly confined space, alone or with other inmates, for 22 hours or more per day, with severely restricted activity, movement, and social interaction shall be permitted only if the following general conditions and medical examination requirements and placement hearing conditions are met:

1. Prior to such confinement, inmates shall receive a preliminary medical and mental health examination conducted by a member of the medical staff within 12 hours of confinement and a clinical examination within 48 hours of confinement unless staffing levels require that the period for conducting the clinical examination be extended to 72 hours following confinement;

2. Absent exigent circumstances, unavoidable delays, or reasonable postponements, inmates shall have the right to an initial hearing within 72 hours of placement, and a review every 30 days thereafter; the right to appear at the hearing; the right to be represented at the hearing; an independent hearing officer; and a written statement of reasons for the decision made at the hearing ; and

3. An inmate in Disciplinary Detention must receive a mental health and physical health status examination, conducted by a member of the medical staff as frequently as clinically indicated, but at least once per week. These examinations must occur in a confidential setting outside of the cell, whenever possible. If it is determined that the inmate is a member of a vulnerable population, the inmate shall be immediately removed from Disciplinary Detention.

(g) Any inmate meeting the criteria in this subsection shall not be confined as described at (f) above for any reason, excluding medical quarantines or facility-wide lockdowns:

1. Is 21 years of age or younger;

2. Is 65 years of age or older;

3. Has a disability based on a mental illness, as defined at N.J.S.A. 30:4-27.2, a history of psychiatric hospitalization, or has recently exhibited conduct, including, but not limited to, serious self-mutilation, indicating the need for further observation or evaluation to determine the presence of mental illness;

4. Has a developmental disability, as defined at N.J.S.A. 30:4-27.2;

5. Has a serious medical condition that cannot effectively be treated in isolated confinement;
6. Is pregnant, is in the postpartum period, has recently suffered a miscarriage, or terminated a pregnancy;
7. Has a significant auditory or visual impairment; or
8. Is perceived to be lesbian, gay, bisexual, transgender, or intersex.

(h) Placement in Disciplinary Detention must be established by clear and convincing evidence.

(i) The final decision to place an inmate in Disciplinary Detention must be made by the facility administrator.

(j) There is reasonable cause to believe that the inmate would create a substantial risk of serious harm to himself, herself, or another and a less restrictive intervention would be insufficient to reduce this risk.

(k) An inmate shall not be placed in Disciplinary Detention or in any other cell or other holding or living space, in any facility, with one or more inmates if there is reasonable cause to believe that there is a risk of harm or harassment, intimidation, extortion, or other physical or emotional abuse to that inmate or another inmate in that placement.

Section 10A:31-16.2 - Disciplinary rule book

(a) Staff at the adult county correctional facility shall develop a written inmate disciplinary rule book which includes:

1. All chargeable offenses;
2. The schedule of sanctions;
3. The disciplinary procedures;
4. The disciplinary appeal process; and

5. A notice that N.J.A.C. 10A:4, Inmate Discipline, also applies to State sentenced inmates incarcerated within the adult county correctional facility.

(b) Each inmate, upon admission to the facility, shall be given a copy of the disciplinary rule book, the contents of which may be incorporated into a general book of facility rules and regulations, and the inmate shall sign a form acknowledging receipt of the rule book.

(c) Each staff member shall be given a copy of the inmate disciplinary rule book.

(d) Staff members shall assist inmates who are illiterate, not sufficiently conversant with the English language or otherwise unable to read due to a physical or medical inability in understanding the disciplinary rules.

(e) Where a facility has a large number of inmates in the population who speak a foreign language, the disciplinary rules shall be printed and/or presented verbally in the foreign language.

Section 10A:31-16.3 - Disciplinary report

(a) Employees shall prepare a disciplinary report when the employees have reasonable belief that an inmate has committed a violation of the adult county correctional facility rules.

(b) The disciplinary report shall include the following information:

- 1.** The specific rule violated;
- 2.** Facts supporting the charge;
- 3.** Unusual inmate behavior;
- 4.** Staff or inmate witnesses;
- 5.** The disposition of any physical evidence;

6. Any immediate action taken, including the use of force;
7. The reporting staff member's signature;
8. The date and time the report is prepared; and
9. The date, time and name of staff person who delivers the disciplinary report to the inmate.

Section 10A:31-16.4 - Inmate Law Library violation and sanctions

Punishment for any Inmate Law Library infraction, such as damage to the law books or disruptive conduct, shall not ordinarily include denial of access to the Inmate Law Library (see 10A:31-15.2).

Section 10A:31-16.5 - Minor violations and sanctions

(a) The immediate imposition of a sanction upon an inmate for a minor violation shall be referred to as On-The-Spot Correction.

(b) Written guidelines shall specify the minor violations that may be handled informally through the imposition of On-The-Spot Correction.

(c) The following are authorized sanctions for On-The-Spot Correction:

1. Verbal reprimand;
2. Loss of recreation privileges for a period of no more than five days;
3. Up to four hours of extra work duty;
4. Up to four hours confinement to tier, room or cell;
5. Loss of radio or television privileges for a period of no more than five days; and/or
6. Confiscation.

(d) Minor violations must be reported in writing and forwarded immediately to the shift supervisor for review.

(e) The shift supervisor shall issue the inmate a copy of the report and afford the inmate the right to a conference before the imposition of any sanction(s).

(f) If the shift supervisor concurs with the written minor violation report, the On-The-Spot Correction sanction shall be imposed within 24 hours of the shift supervisor's review.

(g) The shift supervisor may also dismiss the minor rule violation or upgrade the minor violation to a major violation.

Section 10A:31-16.6 - Major violations and sanctions

(a) Major violations shall be defined as that conduct which is punishable by sanctions more stringent than those for minor violations.

(b) The following are authorized sanctions for major violations:

1. Up to 15 days Disciplinary Detention;
2. Loss of commutation time subject to confirmation by the adult county correctional facility Administrator;
3. Loss of privileges up to 30 days;
4. Forfeiture/confiscation;
5. Restitution;
6. Any sanction prescribed for On-the-Spot Correction; and/or
7. Suspension of any one or more of the above sanctions at the discretion of the Disciplinary Board/hearing officer for 60 days.

(c) No inmate may receive more than 15 days in Disciplinary Detention as a result of a single disciplinary charge.

(d) If an inmate is found guilty of multiple disciplinary charges, he or she may receive up to 15 days Disciplinary Detention for each charge and no more than 20 days for a single incident, provided that the total time to be served does not exceed 30 days in a 60-day period.

(e) All violations that may constitute crimes of the first, second, third or fourth degree under the Criminal Code of the State of New Jersey, 2C:1-1 et seq., shall be referred to the prosecutor of the county in which the adult county correctional facility is located.

Section 10A:31-16.7 - Notification of inmate

(a) As a notification of the major violation charge(s), a copy of the disciplinary report shall be served upon the inmate within 48 hours of the violation unless there are exceptional circumstances, and at least 24 hours prior to the disciplinary hearing unless such notice is waived by the inmate in writing.

(b) The disciplinary report shall be delivered by the reporting staff member or the investigating officer. The report shall be signed by the person delivering it, and the time of delivery shall be noted.

Section 10A:31-16.8 - Use immunity

(a) In all cases, the inmate shall be advised of his or her right to use immunity at any investigative interview and at the disciplinary hearing.

(b) The use immunity warning shall consist of a statement which indicates that any statements made in connection with the disciplinary hearing or evidence derived directly or indirectly from those statements shall not be used in any subsequent criminal proceeding.

(c) Failure to give the use immunity warning by the investigative officer shall not be grounds for dismissing the disciplinary report.

Section 10A:31-16.9 – Investigation

(a) An investigation of the infraction shall be conducted within 48 hours of the time the disciplinary report is served upon the inmate, unless there are exceptional circumstances for delaying the investigation.

(b) The adult county correctional facility Administrator shall appoint an investigating officer who was not involved in the incident to conduct the investigation.

(c) The inmate shall be advised of his or her right to consult with a counsel substitute prior to the Disciplinary Hearing.

(d) The inmate shall be advised of his or her right to waive the Disciplinary Hearing and plead guilty to the disciplinary charges.

Section 10A:31-16.10 - Prehearing Detention

(a) Until the Disciplinary Hearing, the inmate shall remain in his or her existing status, unless the inmate 's presence in general population poses a danger to other inmates, staff members, himself or herself or the public.

(b) If Prehearing Detention is ordered by the shift supervisor, such order shall be reviewed within 24 hours by a supervisory employee who was not involved in the initial placement decision and shall also be reviewed by the adult county correctional facility Administrator, or designee, within 24 hours. Failure to do so shall return the inmate to his or her previous status.

Section 10A:31-16.11 - Disciplinary Board/hearing officer

(a) All hearings for major offenses shall take place before a hearing officer or a Disciplinary Board composed of an impartial three-member panel which shall include one custody supervisor and two non-custody staff members.

(b) Any hearing officer or Disciplinary Board member shall be disqualified in every case in which the hearing officer or Board member:

1. Filed the complaint or witnessed the incident;
2. Participated as an investigating officer;
3. Will be charged with subsequent review of the decision; and/or
4. Has personal interest in the outcome.

Section 10A:31-16.12 - Disciplinary hearing

(a) The inmate shall be entitled to a hearing within seven calendar days of the alleged violation, provided the inmate remains in general population pending the hearing. Calculation of the seven days shall include weekends and holidays, unless such hearing is prevented by exceptional circumstances, unavoidable delays, or reasonable postponements. Should the seventh day fall on a Saturday, Sunday, or holiday, the hearing shall be held on the business day immediately following the weekend or holiday.

(b) Inmates confined in Prehearing Detention shall receive a hearing within 72 hours of their placement in Prehearing Detention, absent exigent circumstances.

(c) Inmates confined in Prehearing Detention shall be given priority in scheduling their appearance before the Disciplinary Board or hearing officer.

(d) Time spent in Prehearing Detention shall be credited against any subsequent sentence imposed.

(e) No delays in hearing a case shall be permitted for the purpose of punishment or discipline.

(f) An inmate shall be provided the opportunity to be present during the Disciplinary Hearing except for the Disciplinary Board's/hearing officer's deliberations and reasons of security. The reasons for excluding an inmate from a Disciplinary Hearing shall be documented in the inmate's record.

(g) An inmate may be represented by a counsel substitute (staff or inmate) when it is determined by the Disciplinary Board/hearing officer that the inmate is illiterate, not sufficiently conversant with the English language, or otherwise unable to read, understand or communicate due to a physical/medical inability, or cannot adequately collect and present the evidence on his or her own behalf.

(h) An inmate shall be provided an opportunity to call witnesses on his or her behalf, unless doing so would be irrelevant, repetitive or unduly effect the safe, secure or orderly operation of the adult county correctional facility safety. The reasons for denying the opportunity to call witnesses shall be stated in writing and filed in the inmate's record.

(i) An inmate shall be provided the opportunity to make a statement and present documentary evidence.

(j) An inmate shall be provided the opportunity to confront and cross-examine his or her accuser and all adverse witnesses unless doing so would be unduly hazardous to facility safety or would endanger the physical safety of a witness. The reasons for denying the opportunity to cross-examine accusers or adverse witnesses shall be stated in writing and filed in the inmate's record.

(k) In absentia hearings may be held if the inmate refuses to attend the Disciplinary Hearing. Documentation of this refusal shall be reported in writing.

(l) Should further investigation be required, the Disciplinary Hearing may be postponed by the Disciplinary Board/hearing officer but the inmate shall not be held in Prehearing Detention for more than a total of 72 hours for Prehearing Detention cases and for seven days for when inmates remain in general population awaiting a disciplinary hearing.

Section 10A:31-16.13 - Referral to the prosecutor

All rule violations which may constitute crimes of the first, second, third or fourth degree under the Criminal Code of the State of New Jersey (2C:1-1 et seq.) shall be referred to the prosecutor of the county in which the adult county correctional facility is located.

Section 10A:31-16.14 - Decision of the Disciplinary Board

(a) At the conclusion of the Disciplinary Hearing, the Disciplinary Board/hearing officer shall issue a written decision taking into consideration the criteria set forth at N.J.A.C. 10A:31-16.1(f).

This decision shall contain:

1. The finding on the question of guilt;
2. The sanction imposed;
3. A summary of the evidence upon which the finding is based, with the exception of confidential information which was withheld for security reasons;
4. A list of all non-confidential witnesses;
5. The reason requested witnesses were not called or cross-examination was not permitted if applicable;

6. The reason for the sanction which shall include such factors as the offender's past history and circumstances of the offense;
7. The date and time of the Disciplinary Hearing; and
8. The signatures of all Board members or the hearing officer.

Section 10A:31-16.15 - Appeal of disciplinary decisions

- (a) The inmate shall be advised of his or her right to appeal the decision of the Disciplinary Board/hearing officer.
- (b) Appeals of disciplinary decisions shall be submitted to the adult county correctional facility Administrator in writing, within 48 hours of the Disciplinary Hearing.
- (c) Appeals of disciplinary decisions shall be reviewed by the adult county correctional facility Administrator who shall affirm, rescind or down-grade the decision. The Administrator may reduce but may not increase the sanction imposed by the Disciplinary Board/hearing officer.
- (d) Copies of the appeal and the disposition on appeal shall be forwarded to the Disciplinary Board and Classification Unit for their records.

Section 10A:31-16.16 – Expungement

- (a) If the Disciplinary Board/hearing officer finds the inmate innocent of the charges, all references to the offense shall be removed from the inmate's classification file.
- (b) Copies of the disciplinary report, investigation and adjudication sheet shall be maintained by staff at the adult county correctional facility, the Disciplinary Board/hearing officer and the Classification Unit in the event of judicial review and for statistical and accounting purposes only. These records shall be maintained separately from the inmate's record.

Section 10A:31-17.1 - Placement in Disciplinary Detention

A decision to place an inmate in Disciplinary Detention may be made only by the Disciplinary Board/hearing officer subject to approval by the adult county correctional facility Administrator.

Section 10A:31-17.2 - Time spent in Disciplinary Detention

(a) Inmates may be placed in Disciplinary Detention by the Disciplinary Board/hearing officer for a period not to exceed 15 days as a result of a single disciplinary charge.

(b) Inmates found guilty of multiple disciplinary charges may receive up to 15 days Disciplinary Detention for each charge provided that the total time to be served does not exceed 30 days in a 60-day period.

(c) An inmate shall not be placed in Disciplinary Detention for more than 20 consecutive days, or for more than 30 days during any 60-day period.

(d) The time an inmate spends in Disciplinary Detention shall be proportionate to the offense committed, taking into consideration:

1. The severity of the offense;
2. The inmate's prior conduct;
3. The inmate's specific program needs; and
4. Other relevant factors.

Section 10A:31-17.3 - Disciplinary problems while in Disciplinary Detention

In the event of further disciplinary infractions by the inmate(s) while in Detention, the inmate(s) shall be charged with the appropriate violation and be given a Disciplinary Hearing.

Section 10A:31-17.4 - Security checks

Security and visual observation checks in Disciplinary Detention shall take place in staggered and irregular intervals that are no more than 30 minutes apart.

Section 10A:31-17.5 - Records in Disciplinary Detention

(a) A written log of all security checks and/or counts shall be maintained, and the log shall be signed by the respective custody staff member conducting the security check(s) and/or counts.

(b) Visits by medical, psychiatric, social work or custody supervisory staff, and all unusual behavior shall be noted in the log book together with the time and date.

(c) A record stating the following information shall be maintained in Disciplinary Detention

1. The inmate's name;
2. The inmate's number;
3. The date of admission;
4. The type of infraction leading to Disciplinary Detention;
5. The expiration date of Disciplinary Detention; and
6. Any special problems, such as medical, behavioral, etc.

Section 10A:31-17.6 - Security procedures for Disciplinary Detention

(a) Each adult county correctional facility Administrator shall be responsible to develop written internal management procedures for the safe, secure and orderly operation of Disciplinary Detention and for setting forth the ratio of custody staff members to inmates.

(b) At no time in Disciplinary Detention shall more than one inmate at a time be out of his or her cell.

(c) The Disciplinary Detention area shall be equipped with an alarm device which, when activated, will alert the Center Control of any unusual occurrences. The alarm device shall be tested on each shift.

(d) A telephone(s) shall be available within Disciplinary Detention in order to provide immediate communication with the Center Control.

(e) All inmates in Disciplinary Detention may be strip searched any time they enter or leave the Disciplinary Detention area in accordance with internal management procedures of the adult county correctional facility.

(f) Bars, doors, windows, locks, corridors, floors and ceilings of the Disciplinary Detention area shall be checked daily and a written report completed and forwarded to the supervising custody staff member responsible for this area.

Section 10A:31-17.7 - Correspondence, visits, and telephone calls

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

(b) Inmates in Disciplinary Detention shall not be provided with visit or telephone opportunities while in Disciplinary Detention except for:

1. Legal visits and legal telephone calls when authorized by the adult county correctional facility Administrator or designee; and
2. Special visits or telephone calls when compelling reasons exist and when authorized by the adult county correctional facility Administrator or designee.

(c) Every effort shall be made to notify expected social visitors of the restriction on ordinary visiting procedures prior to the next regularly scheduled visiting period. If adequate time for correspondence exists, the burden of this notification shall be placed on the inmate.

Section 10A:31-17.8 – Recreation

The facility shall provide inmate recreation outside the cells for at least five hours per week, unless security or safety considerations dictate otherwise.



N.J.A.C. 19:31-1.1

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 53 No. 23,
December 6, 2021

NJ - New Jersey Administrative Code > TITLE 19. OTHER AGENCIES > NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY > CHAPTER 31. AUTHORITY ASSISTANCE PROGRAMS > SUBCHAPTER 1. BOND FINANCING PROGRAM

§ 19:31-1.1 Program description

- (a) The Authority is empowered to issue tax-exempt and taxable bonds, the proceeds of which can be used to provide low-interest loans to businesses, governmental entities and certain nonprofit organizations to finance projects which provide or maintain employment and/or tax ratables.
- (b) Most bond financings are not guaranteed by the Authority or the State, and are payable solely from revenues generated by the project being financed.
- (c) The general credit of neither the Authority nor the State is pledged to secure the bonds.

History

HISTORY:

Amended by R.2000 d.297, effective July 17, 2000.

See: 32 New Jersey Register 1705(a), 32 New Jersey Register 2602(c).

In (a), inserted a reference to governmental entities.

NEW JERSEY ADMINISTRATIVE CODE

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N.J.A.C. 19:31-1.2

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 53 No. 23,
December 6, 2021

NJ - New Jersey Administrative Code > TITLE 19. OTHER AGENCIES > NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY > CHAPTER 31. AUTHORITY ASSISTANCE PROGRAMS > SUBCHAPTER 1. BOND FINANCING PROGRAM

§ 19:31-1.2 Bond purchaser

- (a) The applicant shall secure a written commitment from a bond purchaser.
- (b) A bond purchaser shall be:
 - 1. A commercial bank or other institutional lender;
 - 2. An underwriter or placement agent;
 - 3. A privately owned entity; or
 - 4. An individual.
- (c) A bond purchaser other than a commercial bank or institutional lender must submit an Application to Purchase Bonds, which will be reviewed by the Authority to determine acceptability to purchase a bond. This application includes requests for identification of, or information about:
 - 1. The officers, directors, partners, owners and stockholders of the applicant;
 - 2. Litigation involving the applicant;
 - 3. Applicant's counsel, principal banks of account, and accountant; and
 - 4. Financial statements of applicant.
- (d) The bond purchaser establishes the amount, term, interest rate, collateral, etc., for the bond in negotiation with the applicant.

History

HISTORY:

Amended by R.1997 d.270, effective July 7, 1997.

See: 29 New Jersey Register 1485(b), 29 New Jersey Register 2844(b).

Deleted (c), barring bond purchaser from being substantial owner or user of project; and recodified former (d) and (e) as (c) and (d).

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N.J.A.C. 19:31-1.3

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 53 No. 23,
December 6, 2021

NJ - New Jersey Administrative Code > TITLE 19. OTHER AGENCIES > NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY > CHAPTER 31. AUTHORITY ASSISTANCE PROGRAMS > SUBCHAPTER 1. BOND FINANCING PROGRAM

§ 19:31-1.3 Bond financing

- (a) Typically, the bonds are secured by a loan agreement and a mortgage on project assets.
- (b) The funds raised by the bond issue are loaned by the Authority to pay for eligible project costs. The borrower signs an agreement with the Authority pledging to make payments sufficient to cover principal and interest on the bond. This agreement is then assigned to the bond purchaser.
- (c) The borrower makes payments directly to the bond purchaser or trustee.

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N.J.A.C. 19:31-1.4

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 53 No. 23,
December 6, 2021

NJ - New Jersey Administrative Code > TITLE 19. OTHER AGENCIES > NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY > CHAPTER 31. AUTHORITY ASSISTANCE PROGRAMS > SUBCHAPTER 1. BOND FINANCING PROGRAM

§ 19:31-1.4 Eligibility standards

(a) Generally, to be eligible for bond financing:

1. A project must serve a public purpose; that is, maintain or expand employment in New Jersey, assist in the economic development or redevelopment of a municipality, maintain or increase the tax base of the municipality, and maintain or diversify business and industry in the State; and
2. Applicants must represent to the Authority that they would not proceed with their project in the present time, place, or scope without the Authority's assistance.

(b) The Authority generally will not approve financial assistance to a project involving relocation within New Jersey if the relocation will result in a job loss and/or hardship for the existing employees or if the relocation endangers the maintenance of tax rates in a particular community.

(c) There is no minimum size for borrowings under the program, but loan requests of less than \$ 750,000 should be carefully reviewed by the applicant to assure that participation in the program is cost effective.

(d) Tax-exempt bonds are subject to the terms and conditions of the Internal Revenue Codes (IRC); therefore, it is advisable to consult with financial and legal advisors to determine the eligibility of the project.

(e) Taxable bonds issued through the Authority are not subject to the IRC. Loans may be made to borrowers for various projects and purposes including, but not limited to:

1. Office buildings;
2. Healthcare financings;
3. Warehouses and distribution facilities;

4. Manufacturing projects;
5. Commercial and retail projects;
6. Debt refinancing; and
7. Working capital needs.

History

HISTORY:

Amended by R.1995 d.435, effective August 21, 1995.

See: 27 New Jersey Register 2377(a), 27 New Jersey Register 3216(a).

Amended by R.1997 d.270, effective July 7, 1997.

See: 29 New Jersey Register 1485(b), 29 New Jersey Register 2844(b).

In (d), deleted last sentence, relating to tax exemptions for interest income.

NEW JERSEY ADMINISTRATIVE CODE

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N.J.A.C. 19:31-1.5

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 53 No. 23,
December 6, 2021

NJ - New Jersey Administrative Code > TITLE 19. OTHER AGENCIES > NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY > CHAPTER 31. AUTHORITY ASSISTANCE PROGRAMS > SUBCHAPTER 1. BOND FINANCING PROGRAM

§ 19:31-1.5 Application procedures

- (a) A prospective applicant should consult with the Authority to determine if the project is eligible.
- (b) To apply, a completed Application for Financial Assistance (Application) concerning the project shall be submitted to the Authority for review, together with the Application fee.
- (c) The Application includes requests for information about:
 - 1. The applicant's business, including financial statements and projections;
 - 2. The project to be undertaken;
 - 3. The officers, directors, partners, owners and stockholders of the applicant;
 - 4. Litigation involving the applicant;
 - 5. Other users of the project, if applicable;
 - 6. Municipal approvals, if applicable;
 - 7. Contractors, subcontractors, architects, engineers, and planners who will work on the project, if known;
 - 8. Equipment to be purchased as part of the project; and
 - 9. The relocation of any part of the applicant's or user's business, if applicable.
- (d) Applications are logged in and assigned a number and project officer for review and processing.
- (e) Applications are assigned to a bond counsel firm from the Authority's list of designated bond counsel to review the project for eligibility under Federal and State law (see N.J.A.C. 19:31-1.6). At the time of

application, applicants may request assignment of one of the designated bond counsel firms, which request may be approved by the Authority at its discretion.

(f) Applications are processed through several levels of staff review, and may then be recommended for consideration and official action of the Members of the Authority (Members) at a public meeting. The applicant has no right to have its Application presented to the Members.

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N.J.A.C. 19:31-1.6

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 53 No. 23,
December 6, 2021

NJ - New Jersey Administrative Code > TITLE 19. OTHER AGENCIES > NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY > CHAPTER 31. AUTHORITY ASSISTANCE PROGRAMS > SUBCHAPTER 1. BOND FINANCING PROGRAM

§ 19:31-1.6 Bond counsel review and fees

(a) The Authority is represented in bond transactions by bond counsel, a private law firm with particular experience and expertise in this specialized area of law. The bond counsel firm:

1. Reviews Applications to determine eligibility under Federal and State law;
2. Assists the Authority in drafting the necessary resolutions to be adopted concerning projects;
3. Publishes notice of public hearing;
4. Drafts financing documents to be used in the transaction;
5. Prepares certain Federal forms for filing with the IRS relating to bond financing;
6. Delivers an opinion at the settlement of the transaction indicating, among other things:
 - i. The project qualifies for Authority assistance;
 - ii. The Authority has taken all necessary steps to accomplish the transaction; and
 - iii. The interest income to be earned on the Authority bonds issued for the project is exempt from most Federal and/or State income taxes.

(b) Bond counsel fees are paid by the applicant usually at the closing of the transaction, and may, subject to certain limitations, be included as a project cost to be financed out of the Authority bond issue.

(c) The borrower also is responsible for paying other professional fees associated with financing the project, including, but not limited to:

1. Printing fees;

2. Real estate commissions;
3. Consulting fees; and
4. Bond purchaser counsel fees.

(d) Applicants may be charged a fee by bond counsel even though the project does not close with Authority bonds.

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This file includes all Regulations adopted and published through the New Jersey Register, Vol. 53 No. 23,
December 6, 2021

NJ - New Jersey Administrative Code > TITLE 19. OTHER AGENCIES > NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY > CHAPTER 31. AUTHORITY ASSISTANCE PROGRAMS > SUBCHAPTER 1. BOND FINANCING PROGRAM

§ 19:31-1.7 Approval process

(a) Only the Members acting at a duly constituted public meeting can authorize or approve assistance to a project. These public meetings will satisfy the requirements for public hearings in accordance with the IRC. The Authority staff is not empowered to authorize or approve such assistance.

(b) The following approvals are required:

1. A preliminary resolution prepared by bond counsel making certain affirmative findings and determinations concerning the eligibility for assistance.
 - i. Such official action permits an applicant to begin making expenditures on the project without jeopardizing the tax-free eligibility.
 - ii. If an applicant makes substantial expenditures on a project prior to such official action, the expenditures may not be eligible for tax-free financing. The applicant should consult with bond counsel for advice as to how the IRC applies to expenditures.
 - iii. A preliminary approval is not by itself sufficient authorization to permit the issuance of bonds;
2. A final bond resolution prepared by bond counsel authorizing bonds to be issued, subject to the following:
 - i. Receipt of a written commitment acceptable to the Authority from a bond purchaser;
 - ii. Substantial agreement among the interested parties as to the form and substance of the financing documents; and

iii. Availability under the State volume cap or carryforward bond allocation for bond financing in accordance with the IRC; and

3. Approval of the Governor.

(c) Bond counsel may prepare a combination resolution granting both preliminary and final bond approval at a single meeting, if the requirements set forth in (b)1 and 2 above have been met.

(d) The bond closing must occur within a specified period of time, usually not exceeding 90 days from the date of final bond approval.

History

HISTORY:

Amended by R.1995 d.435, effective August 21, 1995.

See: 27 New Jersey Register 2377(a), 27 New Jersey Register 3216(a).

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N.J.A.C. 19:31-1.8

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 53 No. 23,
December 6, 2021

NJ - New Jersey Administrative Code > TITLE 19. OTHER AGENCIES > NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY > CHAPTER 31. AUTHORITY ASSISTANCE PROGRAMS > SUBCHAPTER 1. BOND FINANCING PROGRAM

§ 19:31-1.8 Attorney General review

All financing documents, including the Application, are subject to review by the Attorney General.

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N.J.A.C. 19:31-1.9

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 53 No. 23,
December 6, 2021

NJ - New Jersey Administrative Code > TITLE 19. OTHER AGENCIES > NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY > CHAPTER 31. AUTHORITY ASSISTANCE PROGRAMS > SUBCHAPTER 1. BOND FINANCING PROGRAM

§ 19:31-1.9 Post-closing review

The loan agreement executed with the Authority includes certain public purpose covenants and obligations that must be observed by the applicant during the term of the financing. Failure to comply with these covenants and obligations may result in cancellation of the bond by the Authority.

History

HISTORY:

Amended by R.1995 d.435, effective August 21, 1995.

See: 27 New Jersey Register 2377(a), 27 New Jersey Register 3216(a).

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N.J.A.C. 19:31-17.1

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 53 No. 23,
December 6, 2021

NJ - New Jersey Administrative Code > TITLE 19. OTHER AGENCIES > NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY > CHAPTER 31. AUTHORITY ASSISTANCE PROGRAMS > SUBCHAPTER 17. ENERGY SALES TAX EXEMPTION PROGRAM FOR CERTAIN COUNTIES

§ 19:31-17.1 Applicability and scope

The rules in this subchapter are promulgated by the New Jersey Economic Development Authority (Authority) to implement P.L. 2005, c. 374 (the "Act"), and specifically, section 2 of the Act. Section 2 establishes an energy sales tax exemption program (the "Program") for retail sales of electricity and natural gas and their transport to a business in counties designated for the 50 percent tax exemption under section 1 of P.L. 1993, c. 373 that employs at least 50 people at that facility, at least 50 percent of whom are directly employed in a manufacturing process, and provided that the energy and utility services are consumed exclusively at that facility. The Program is to be administered by the Authority in accordance with the procedures for obtaining the exemption as may be provided under the Sales and Use Tax Act, P.L. 1966, c. 30, and this subchapter.

History

HISTORY:

Recodified from N.J.A.C. 12A:2A-4.1 and amended by R.2010 d.231, effective October 18, 2010.

See: 42 N.J.R. 1495(b), 42 N.J.R. 2436(a).

Substituted "Economic Development Authority (Authority)" for "Commerce, Economic Growth and Tourism Commission (the 'Commission')" and "Authority" for "Commission," preceding "in accordance", and deleted "established under the jurisdiction of the Commission, and is" following "Program is".

End of Document



N.J.A.C. 19:31-17.2

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 53 No. 23,
December 6, 2021

NJ - New Jersey Administrative Code > TITLE 19. OTHER AGENCIES > NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY > CHAPTER 31. AUTHORITY ASSISTANCE PROGRAMS > SUBCHAPTER 17. ENERGY SALES TAX EXEMPTION PROGRAM FOR CERTAIN COUNTIES

§ 19:31-17.2 Definitions

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

"Act" means P.L. 2005, c. 374, the Act extending the eligibility for the sales use tax exemption of energy and utility service purchases by certain manufacturing-intensive businesses in Urban Enterprise Zones and certain counties with reduced sales tax and amending P.L. 2004, c. 65.

"Application" means the authorized application submitted to the Authority from a business for approval of an energy sales tax exemption under the program.

"Authority" means the New Jersey Economic Development Authority.

"Board" means the Board of the New Jersey Economic Development Authority.

"Chief Executive Officer" means the Chief Executive Officer of the New Jersey Economic Development Authority.

"Directly employed" means employed as an employee, and not as an independent contractor, and directly involved in the manufacturing process of the business applying for the energy sales tax exemption.

"Director" means the Director of the Division of Taxation in the Department of the Treasury.

"Employ" means utilize the productive services of people as full-time employees. "Full-time employee" is defined at N.J.A.C. 19:31-14.2.

"Energy sales tax exemption" means the energy sales and use tax exemption for retail sales of energy and utility service approved by the Chief Executive Officer pursuant to the Act and this subchapter.

"Manufacturing" means the performance of an operation or series of operations, the object of which is to place items of tangible personal property in a form, composition or character different from that in which they were acquired. The change must be substantial and must result in a transformation of property into a different or substantially more useable product.

"Program" means the energy sales tax exemption program for retail sales of electricity and natural gas and their transport to a business in counties designated for the 50 percent tax exemption under section 1 of P.L. 1993, c. 373, that employs at least 50 people at that facility, at least 50 percent of whom are directly employed in a manufacturing process, and provided that the energy and utility services are consumed exclusively at that facility, as authorized by P.L. 2005, c. 374 and this subchapter.

"Qualified county" means a county that is designated for the 50 percent sales tax exemption under section 1 of P.L. 1993, c. 373 (N.J.S.A. 54:32B-8.45).

History

HISTORY:

Recodified from N.J.A.C. 12A:2A-4.2 and amended by R.2010 d.231, effective October 18, 2010.

See: 42 N.J.R. 1495(b), 42 N.J.R. 2436(a).

In definition "Application", substituted "Authority" for "Commission"; added definitions "Authority", "Board" and "Chief Executive Officer"; and deleted definitions "Commission" and "Secretary"; in definition "Employ", updated the N.J.A.C. reference; and in definition "Energy sales tax exemption", substituted "Chief Executive Officer" for "Secretary".

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N.J.A.C. 19:31-17.3

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December 6, 2021

NJ - New Jersey Administrative Code > TITLE 19. OTHER AGENCIES > NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY > CHAPTER 31. AUTHORITY ASSISTANCE PROGRAMS > SUBCHAPTER 17. ENERGY SALES TAX EXEMPTION PROGRAM FOR CERTAIN COUNTIES

§ 19:31-17.3 Eligibility criteria and condition for exemption

(a) To qualify for energy sales tax exemption for the retail sale, transmission, or distribution of electricity and natural gas, an applicant shall be required:

1. To operate a manufacturing facility in a qualified county; and
2. Employ at least 50 people at that facility, at least 50 percent of whom are directly employed in the manufacturing process.

(b) The exemption is limited to retail sales of electricity and natural gas that are consumed at the manufacturing facility located in the qualified county.

History

HISTORY:

Recodified from N.J.A.C. 12A:2A-4.3 by R.2010 d.231, effective October 18, 2010.

See: 42 N.J.R. 1495(b), 42 N.J.R. 2436(a).

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N.J.A.C. 19:31-17.4

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 53 No. 23,
December 6, 2021

NJ - New Jersey Administrative Code > TITLE 19. OTHER AGENCIES > NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY > CHAPTER 31. AUTHORITY ASSISTANCE PROGRAMS > SUBCHAPTER 17. ENERGY SALES TAX EXEMPTION PROGRAM FOR CERTAIN COUNTIES

§ 19:31-17.4 Requests for applications and renewal applications

- (a) All application requests shall be made to the New Jersey Economic Development Authority, 36 West State Street, P.O. Box 990, Trenton, NJ 08625, on forms and/or in a manner prescribed by the Authority.
- (b) Annual renewal applications by applicants satisfying the criteria of N.J.A.C. 19:31-17.3 shall be required to be submitted annually within 45 days prior to the expiration date of the energy sales tax exemption.

History

HISTORY:

Recodified from N.J.A.C. 12A:2A-4.4 and amended by R.2010 d.231, effective October 18, 2010.

See: 42 N.J.R. 1495(b), 42 N.J.R. 2436(a).

Rewrote (a); and in (b), updated the N.J.A.C. reference.

NEW JERSEY ADMINISTRATIVE CODE

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N.J.A.C. 19:31-17.5

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 53 No. 23,
December 6, 2021

NJ - New Jersey Administrative Code > TITLE 19. OTHER AGENCIES > NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY > CHAPTER 31. AUTHORITY ASSISTANCE PROGRAMS > SUBCHAPTER 17. ENERGY SALES TAX EXEMPTION PROGRAM FOR CERTAIN COUNTIES

§ 19:31-17.5 Application submission requirements

(a) Applicants shall submit to the Authority a completed Application for Energy Sales Tax Exemption signed by an authorized representative of the business. The application shall bear either a legible post-mark date or a date received stamp from the Authority.

(b) Each application for the energy sales tax exemption submitted to the Authority shall include the following:

1. The name, address and Employer Identification Number (EIN), also known as a Federal tax identification number, of the applicant;
2. The address of the facility that is the subject of this application;
3. The number of total full-time employees at the facility for which the exemption application is being submitted;
4. The number of full-time employees at that facility that are directly employed in the manufacturing process of the applicant;
5. The name and address of the company(ies) that supply, transmit, and distribute electricity and natural gas to the facility;
6. The account identification numbers and billing information including contact name for each account identified in (a)5 above;
7. An estimate of the facility's annual quantity use of electricity and natural gas in units and in dollars;
8. A description of the nature of the business and the facility for which the application is being made;

9. The North American Industrial Classification System identification number(s) relating to the applicant;
10. Certification that the business applying for this program is not in default with any other program administered by the State of New Jersey; and
11. Such additional information as may be required by the Chief Executive Officer to provide a complete and accurate description of a particular business that is applying for the exemption.

History

HISTORY:

Recodified from N.J.A.C. 12A:2A-4.5 and amended by R.2010 d.231, effective October 18, 2010.

See: 42 N.J.R. 1495(b), 42 N.J.R. 2436(a).

In (a) and the introductory paragraph of (b), substituted "Authority" for "Commission" throughout; and in (b)11, substituted "Chief Executive Officer" for "Secretary".

NEW JERSEY ADMINISTRATIVE CODE

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N.J.A.C. 19:31-17.6

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 53 No. 23,
December 6, 2021

NJ - New Jersey Administrative Code > TITLE 19. OTHER AGENCIES > NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY > CHAPTER 31. AUTHORITY ASSISTANCE PROGRAMS > SUBCHAPTER 17. ENERGY SALES TAX EXEMPTION PROGRAM FOR CERTAIN COUNTIES

§ 19:31-17.6 Application review procedures

(a) The Authority shall conduct a review of the applications in the order received, commencing with the application bearing the earliest submission date. The Authority may require the submission of additional information to complete the application. Once the Authority determines that the application is complete, the Authority has 20 days to determine whether:

1. The application complies with the eligibility criteria;
2. The application satisfies the submission requirements; and
3. The application adequately provides information for the subject applicants.

(b) Upon completion of the review of an application pursuant to (a) above:

1. In the event that an application is approved, the Chief Executive Officer will promptly notify the applicant, the President of the Board of Public Utilities, and the Director that a business has met the requirements for the energy sales tax exemption. In accordance with P.L. 1966, c. 30 (N.J.S.A. 54:32B-1 et seq.), the Division of Taxation shall then issue an Exemption Certificate to the approved applicant business.
2. In the event that an application is denied, the Chief Executive Officer will promptly notify the applicant of the denial and the reasons for the denial.
3. After notification of a denial, should the circumstances change so that the applicant reasonably believes its application will be approved, the applicant may reapply to the program no earlier than 90 days from the date the Chief Executive Officer issued the denial.

History

HISTORY:

Recodified from N.J.A.C. 12A:2A-4.6 and amended by R.2010 d.231, effective October 18, 2010.

See: 42 N.J.R. 1495(b), 42 N.J.R. 2436(a).

In the introductory paragraph of (a), substituted "Authority" for "Commission" throughout; and in (b)1 through (b)3, substituted "Chief Executive Officer" for "Secretary" throughout.

NEW JERSEY ADMINISTRATIVE CODE

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N.J.A.C. 19:31-17.7

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 53 No. 23,
December 6, 2021

NJ - New Jersey Administrative Code > TITLE 19. OTHER AGENCIES > NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY > CHAPTER 31. AUTHORITY ASSISTANCE PROGRAMS > SUBCHAPTER 17. ENERGY SALES TAX EXEMPTION PROGRAM FOR CERTAIN COUNTIES

§ 19:31-17.7 Monitoring, inspection, and reporting

- (a) The Authority and agents of the State of New Jersey shall monitor compliance with respect to the eligibility criteria and conditions for this energy sales tax exemption. An applicant that is approved to receive this exemption benefit shall permit any agency of the State of New Jersey to enter said business during reasonable business hours to determine compliance with the eligibility criteria and conditions of the program. Failure to permit access for this purpose will result in the forfeiture of the exemption benefit and may require repayment of sales and use tax previously exempted from payment, as the Authority shall determine.
- (b) Each business that receives this energy sales tax exemption shall be required to maintain records documenting all of its tax-exempt energy purchases. This information must be supplied to the Authority upon request. In addition, a report summarizing the totals of all exempt energy purchases must be provided for the prior year as a component of the annual renewal application.
- (c) The Chief Executive Officer shall provide the President of the Board of Public Utilities and Director with an annual list of all businesses that have been approved under this subchapter.

History

HISTORY:

Recodified from N.J.A.C. 12A:2A-4.7 and amended by R.2010 d.231, effective October 18, 2010.

See: 42 N.J.R. 1495(b), 42 N.J.R. 2436(a).

In (a) and (b), substituted "Authority" for "Commission" throughout; and in (c), substituted "Chief Executive Officer" for "Secretary".

NEW JERSEY ADMINISTRATIVE CODE

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N.J.A.C. 19:31-17.8

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 53 No. 23,
December 6, 2021

NJ - New Jersey Administrative Code > TITLE 19. OTHER AGENCIES > NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY > CHAPTER 31. AUTHORITY ASSISTANCE PROGRAMS > SUBCHAPTER 17. ENERGY SALES TAX EXEMPTION PROGRAM FOR CERTAIN COUNTIES

§ 19:31-17.8 Rescission

(a) The Chief Executive Officer, in addition to any other rights or remedies available pursuant to law, may withhold, reduce, or terminate this energy sales tax exemption or any portion thereof for good cause. The circumstances under which this may occur include, but are not limited to:

1. Failure to comply with the requirements of this subchapter, or other applicable State laws or rules, such as failure to maintain the employment levels or the direct employment in manufacturing process required for eligibility;
2. Submission of false or misleading information, or failure to submit relevant or complete information to the Authority;
3. Any act of insolvency, the filing of a petition in bankruptcy (voluntary or involuntary), or the existence of other conditions affecting the financial integrity of the business; or
4. Failure to comply with any condition, term, or requirement of the Authority relating to this program.

(b) The Chief Executive Officer shall provide written notice to the business of the intent to rescind the approval of the business' application for the energy sales tax exemption benefit.

(c) The Chief Executive Officer shall provide notice of the determination to rescind to the Director, who shall rescind the energy sales tax exemption certificate issued to the business.

(d) Any rescission of the energy sales tax exemption will require repayment by the business of all exempted tax payments, and such penalties as may be assessed in accordance with the State Uniform Tax Procedure Law, N.J.S.A. 54:48-1 et seq., from the effective date of the rescission as determined by the Authority.

History

HISTORY:

Recodified from N.J.A.C. 12A:2A-4.8 and amended by R.2010 d.231, effective October 18, 2010.

See: 42 N.J.R. 1495(b), 42 N.J.R. 2436(a).

In the introductory paragraph of (a), in (b) and in (c), substituted "Chief Executive Officer" for "Secretary"; and in (a)2, (a)4 and (d), substituted "Authority" for "Commission".

NEW JERSEY ADMINISTRATIVE CODE

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N.J.A.C. 19:31-17.9

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 53 No. 23,
December 6, 2021

NJ - New Jersey Administrative Code > TITLE 19. OTHER AGENCIES > NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY > CHAPTER 31. AUTHORITY ASSISTANCE PROGRAMS > SUBCHAPTER 17. ENERGY SALES TAX EXEMPTION PROGRAM FOR CERTAIN COUNTIES

§ 19:31-17.9 Appeals

Appeals under this subchapter shall be subject to the appeal procedures governing the subchapter on sales and use tax exemption at N.J.A.C. 19:31-16.13.

History

HISTORY:

Recodified from N.J.A.C. 12A:2A-4.9 and amended by R.2010 d.231, effective October 18, 2010.

See: 42 N.J.R. 1495(b), 42 N.J.R. 2436(a).

Updated the N.J.A.C. reference.

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N.J.A.C. 19:31-18.1

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December 6, 2021

NJ - New Jersey Administrative Code > TITLE 19. OTHER AGENCIES > NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY > CHAPTER 31. AUTHORITY ASSISTANCE PROGRAMS > SUBCHAPTER 18. GROW NEW JERSEY ASSISTANCE PROGRAM

§ 19:31-18.1 Applicability and scope

The rules in this subchapter are promulgated by the New Jersey Economic Development Authority ("EDA" or "Authority") to implement the Grow New Jersey Assistance Act, P.L. 2011, c. 149 (the Act). The Act establishes the Grow New Jersey Assistance Program (the Program), administered by the Authority, to encourage economic development and job creation and to preserve jobs that currently exist in New Jersey but which are in danger of being relocated outside of the State.

History

HISTORY:

Amended by R.2015 d.014, effective January 20, 2015.

See: 46 N.J.R. 1593(a), 47 N.J.R. 277(b).

Rewrote the section.

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N.J.A.C. 19:31-18.2

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 53 No. 23,
December 6, 2021

NJ - New Jersey Administrative Code > TITLE 19. OTHER AGENCIES > NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY > CHAPTER 31. AUTHORITY ASSISTANCE PROGRAMS > SUBCHAPTER 18. GROW NEW JERSEY ASSISTANCE PROGRAM

§ 19:31-18.2 Definitions

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

"Act" means the Grow New Jersey Assistance Program Act, P.L. 2011, c. 149.

"Affiliate" means an entity that directly or indirectly controls, is under common control with, or is controlled by the business. Control exists in all cases in which the entity is a member of a controlled group of corporations as defined pursuant to section 1563 of the Internal Revenue Code of 1986 (26 U.S.C. § 1563) or the entity is an organization in a group of organizations under common control as defined pursuant to subsection (b) or (c) of section 414 of the Internal Revenue Code of 1986 (26 U.S.C. § 414). A taxpayer may establish by clear and convincing evidence, as determined by the Director of the Division of Taxation in the Department of the Treasury, that control exists in situations involving lesser percentages of ownership than required by those statutes. An affiliate of a business may contribute to meeting either the qualified investment or full-time employee requirements of a business that applies for a credit under section 3 of P.L. 2007, c. 346 (N.J.S.A. 34:1B-209).

"Authority" means the New Jersey Economic Development Authority established by section 4 of P.L. 1974, c. 80 (N.J.S.A. 34:1B-4 et seq.).

"Aviation district" means the area within a one-mile radius of the outermost boundary of the "Atlantic City International Airport," established pursuant to section 24 of P.L. 1991, c. 252 (N.J.S.A. 27:25A-24).

"Board" means the Board of the New Jersey Economic Development Authority.

"Business" means an applicant proposing to own or lease premises, or that has acquired the premises within 24 months prior to project application, in a qualified business facility that is: a corporation that is

subject to the tax imposed pursuant to section 5 of P.L. 1945, c. 162 (N.J.S.A. 54:10A-5), a corporation that is subject to the tax imposed pursuant to sections 2 and 3 of P.L. 1945, c. 132 (N.J.S.A. 54:18A-2 and 54:18A-3), section 1 of P.L. 1950, c. 231 (N.J.S.A. 17:32-15) or N.J.S.A. 17B:23-5, or is a partnership, an S corporation, or a limited liability company or a non-profit corporation. If the business or tenant is a cooperative or part of a cooperative, then the cooperative may qualify for credits by counting the full-time employees and capital investments of its member organizations, and the cooperative may distribute credits to its member organizations. If the business or tenant is a cooperative that leases to its member organizations, the lease shall be treated as a lease to an affiliate or affiliates. In connection with a regional distribution facility of foodstuffs, the business entity or entities that own or lease such facility shall qualify as a business regardless of the type of the business entity or entities that own or lease such facility; the ownership or leasing of such facility by more than one business entity; or the ownership of the business entity or entities that own or lease such facility. Such ownership or leasing, whether by members, shareholders, partners, or other owners of the business entity or entities, shall be treated as ownership or leasing by affiliates. Such members, shareholders, partners, or other ownership or leasing participants and others that are tenants in the facility shall be treated as affiliates for the purpose of counting the full-time employees and capital investments in the facility. For the purposes of a regional distribution facility of foodstuffs, leasing shall include subleasing and tenants shall include subtenants. A business shall include an affiliate of the business if that business applies for a credit based upon any capital investment made by or full-time employees of an affiliate. After approval by the Board of the incentive, a business shall include a successor, as determined by the Authority in its sole discretion, to the business and a successor, as determined by the Authority in its sole discretion, to an affiliate of the business if the business applied for a credit based upon any capital investment made by or full-time employees of the affiliate, provided any successor must execute the incentive agreement, which shall include: the obligation to not reduce the number of full-time employees in the successor's Statewide employment in the last tax period prior to the approval of the award; an agreement that all parties to the incentive agreement are jointly and severally liable under the incentive agreement; and an acknowledgment that the tax credit will be allocated to each party to the incentive agreement in accordance with the number of full-time employees that each employs at the qualified business facility.

"Capital investment" in a qualified business facility means expenses by a business or any affiliate of the business incurred after application for: site preparation and construction, repair, renovation, improvement, equipping, or furnishing on real property or of a building, structure, facility, or improvement to real property; obtaining and installing furnishings and machinery, apparatus, or equipment, including, but not limited to, material goods subject to bonus depreciation under sections 168 and 179 of the Federal Internal Revenue Code (26 U.S.C. §§ 168 and 179), for the operation of a business on real property in a building, structure, facility, or improvement to real property, including associated soft costs; and receiving Highlands Development Credits under the Highlands Transfer Development Rights Program authorized pursuant to section 13 of P.L. 2004, c. 120 (N.J.S.A. 13:20-13); or any of the preceding. Capital investment includes obtaining and installing furnishings and machinery, apparatus, or equipment for the operation of a business in a building, structure, facility, or improvement to real property, site-related utility and transportation

infrastructure improvements, plantings, or other environmental components required to attain the level of silver rating or above in the LEED building rating system, but only to the extent that such capital investments have not received any grant financial assistance from any other State funding source including N.J.S.A. 52:27H-80 et seq. (The United States Green Building Council has developed the Leadership in Energy & Environmental Design (LEED) Green Building Rating System for measuring the energy efficiency and environmental sustainability of buildings. The LEED Rating System is a third-party certification program and the nationally accepted benchmark for the design, construction, and operation of high performance buildings.) Vehicles and heavy equipment not permanently located in the building, structure, facility, or improvement shall not constitute a capital investment. Also included is remediation of the qualified business facility, but only to the extent that such remediation has not received financial assistance from any other Federal, State, or local funding source. In a Garden State Growth Zone, the following qualify as a capital investment: any development, redevelopment, and relocation costs, including, but not limited to, site acquisition if made within 24 months of application to the Authority, engineering, legal, accounting, and other professional services required; and relocation, environmental remediation, and infrastructure improvements for the project area, including, but not limited to, on- and off-site utility, road, pier, wharf, bulkhead, or sidewalk construction or repair. A business that acquires or leases a qualified business facility shall also be deemed to have acquired the capital investment made or acquired by the seller or landlord if pertaining primarily to the premises of the qualified business facility, and, if pertaining generally to the qualified business facility being acquired or leased, shall be allocated to the premises of the qualified business facility on the basis of the gross leasable area of the premises in relation to the total gross leasable area in the qualified business facility. The capital investment described in this definition may include any capital investment made or acquired within 24 months prior to the date of application, so long as the amount of capital investment made or acquired by the business, any affiliate of the business, or any owner after the date of application equals at least 50 percent of the amount of capital investment, allocated to the premises of the qualified business facility being acquired or leased on the basis of the gross leasable area of the premises in relation to the total gross leasable area in the qualified business facility made or acquired prior to the date of application.

"College or university" means a county college, an independent institution of higher education, a public research university, or a State college.

"Commitment period" means the period of time that is 1.5 times the eligibility period.

"Complex of buildings" means buildings that are part of the same financing plan and operational plan.

"County college" means an educational institution established by one or more counties, pursuant to Chapter 64A of Title 18A of the New Jersey Statutes.

"Deep poverty pocket" means a population census tract having a poverty level of 20 percent or more, and which is located within the qualified incentive area.

"Disaster recovery project" means a project located on property that has been wholly or substantially damaged or destroyed as a result of a Federally declared disaster which, after utilizing all disaster funds available from Federal, State, county, and local funding sources, demonstrates to the satisfaction of the

Authority that access to additional funding authorized pursuant to the New Jersey Economic Opportunity Act of 2013, P.L. 2013, c. 161, is necessary to complete the redevelopment project, and which is located within the qualified incentive area.

"Distressed municipality" means a municipality that is qualified to receive assistance under P.L. 1978, c. 14 (N.J.S.A. 52:27D-178 et seq.), a municipality under the supervision of the Local Finance Board pursuant to the provisions of the Local Government Supervision Act (1947), P.L. 1947, c. 151 (N.J.S.A. 52:27BB-1 et seq.), a municipality identified by the Director of the Division of Local Government Services in the Department of Community Affairs to be facing serious fiscal distress, an SDA municipality, or a municipality in which a major rail station is located.

"Doctoral university" means a university located within New Jersey that is classified as a doctoral university under the Carnegie Classification of Institutions of Higher Education's Basic Classification methodology on August 7, 2017, the effective date of P.L. 2017, c. 221.

"Eligibility period" means the period in which a business may claim a tax credit under the Grow New Jersey Assistance Program, beginning with the tax period in which the Authority accepts certification of the business that it has met the capital investment and employment requirements of the Grow New Jersey Assistance Program and extending thereafter for a term of not more than 10 years, with the term to be determined solely at the discretion of the applicant, at the time of approval.

"Eligible position" or "full-time job" means a full-time position in a business in this State that the business has filled with a full-time employee. To be eligible as an eligible position or full-time job, the employee must have his or her primary office at the qualified business facility and must spend at least 80 percent of his or her time at the qualified business facility, or spend any other period of time generally accepted by custom or practice as full-time employment at the qualified business facility, as determined by the Authority in its sole discretion based on the characteristics of the employee's job and time at the facility, including, but not limited to, the amount of continuous time spent at the facility and the economic impact of the employee on the area in which the facility is located. For example, a reduced period of time is not applicable to a truck driver or salesperson who does not regularly contribute to the local economy due to the transient nature of his or her job responsibilities at the qualified business facility.

"Full-time employee" means a person: who is employed by a business for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, or who is employed by a professional employer organization pursuant to an employee leasing agreement between the business and the professional employer organization, in accordance with P.L. 2001, c. 260 (N.J.S.A. 34:8-67 et seq.) for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, and whose wages are subject to withholding as provided in the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq., or who is a resident of another state but whose income is not subject to the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq., or who is a partner of a business who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, and whose distributive share of income, gain, loss, or deduction, or

whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq., and who, except for purposes of the Statewide workforce, is provided, by the business, with employee health benefits under a health benefits plan authorized pursuant to State or Federal law. With respect to a logistics, manufacturing, energy, defense, aviation, or maritime business, excluding primarily warehouse or distribution operations, located in a port district having a container terminal: the requirement that employee health benefits are to be provided shall be deemed to be satisfied if the benefits are provided in accordance with industry practice by a third party obligated to provide such benefits pursuant to a collective bargaining agreement; full-time employment shall include, but not be limited to, employees that have been hired by way of a labor union hiring hall or its equivalent; 35 hours of employment per week at a qualified business facility shall constitute one "full-time employee," regardless of whether or not the hours of work were performed by one or more persons. For any project located in a Garden State Growth Zone that qualifies under the Municipal Rehabilitation and Economic Recovery Act, P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et seq.), or any project located in the Atlantic City Tourism District as established pursuant to section 5 of P.L. 2011, c. 18 (N.J.S.A. 5:12-219) and regulated by the Casino Reinvestment Development Authority, and which will include a retail facility of at least 150,000 square feet, of which at least 50 percent will be occupied by either a full-service supermarket or grocery store, 30 hours of employment per week at a qualified business facility shall constitute one "full-time employee," regardless of whether the hours of work were performed by one or more persons, and the requirement that employee health benefits are to be provided shall be deemed to be satisfied if the employees of the business are covered by a collective bargaining agreement. "Full-time employee" shall not include any person who works as an independent contractor or on a consulting basis for the business. Full-time employee shall also not include any person who at the time of project application works in New Jersey for consideration for at least 35 hours per week, or who renders any other standard of service generally accepted by custom or practice as full-time employment but who prior to project application was not provided, by the business, with employee health benefits under a health benefits plan authorized pursuant to State or Federal law.

"Garden State Create Zone" means the campus of a doctoral university and the area within a three-mile radius of the outermost boundary of the campus of a doctoral university, according to a map appearing in the doctoral university's official catalog or other official publication on August 7, 2017, the effective date of P.L. 2017, c. 221.

"Garden State Growth Zone" or "growth zone" means the four New Jersey cities with the lowest median family income based on the 2009 American Community Survey from the U.S. Census, (Table 708. Household, Family, and Per Capita Income and Individuals, and Families Below Poverty Level by City: 2009); or a municipality which contains a Tourism District as established pursuant to section 5 of P.L. 2011, c. 18 (N.J.S.A. 5:12-219) and regulated by the Casino Reinvestment Development Authority.

"Grow New Jersey tax credit transferee" or "tax credit transferee" means if the business transfers its tax credits, pursuant to N.J.A.C. 19:31-18.13, the purchaser of the tax credits, including any subsequent purchasers of the tax credits.

"Highlands development credit receiving area or redevelopment area" means an area located within a qualified incentive area and designated by the Highlands Water Protection and Planning Council for the receipt of Highlands Development Credits under the Highlands Transfer of Development Rights Program authorized pursuant to section 13 of P.L. 2004, c. 120 (N.J.S.A. 13:20-13).

"Incentive agreement" means the contract between the business and the Authority, which sets forth the terms and conditions under which the business shall be eligible to receive the incentives authorized pursuant to the Program.

"Incentive effective date" means the date the Authority issues a tax credit based on documentation submitted by a business pursuant to paragraph (1) of subsection b. of section 6 of P.L. 2011, c. 149 (N.J.S.A. 34:1B-247).

"Independent institution of higher education" means a college or university incorporated and located in New Jersey, which by virtue of law or character or license is a nonprofit educational institution authorized to grant academic degrees and which provides a level of education that is equivalent to the education provided by the State's public institutions of higher education, as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which is eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey, but does not include any educational institution dedicated primarily to the education or training of ministers, priests, rabbis, or other professional persons in the field of religion.

"Industrial premises" or "industrial space" means premises or space in which at least 51 percent of the square footage will be or has been used for the assembling, processing, and/or manufacturing of finished or partially finished products from materials or fabricated parts, including, but not limited to, factories or as a warehouse if the business uses the warehouse as part of the chain of distribution for products assembled, processed, and/or manufactured by the business at the qualified business facility; for the breaking or demolishing of finished or partially finished products; or for the production of oil or gas or the generation or transformation of electricity.

"Industrial use" means assembling, processing, and/or manufacturing of finished or partially finished products from materials or fabricated parts; the breaking or demolishing of finished or partially finished products; or the production of oil or gas or the generation or transformation of electricity, and including farming purposes as that term is defined under IRC section 6420(c)(3)(A), undertaken in an industrial space.

"Major rail station" means a railroad station located within a qualified incentive area that provides access to the public to a minimum of six rail passenger service lines operated by the New Jersey Transit Corporation.

"Mega project" means:

1. A qualified business facility located in a port district housing a business in the logistics, manufacturing, energy, defense, or maritime industries, either:

- i. Having a capital investment in excess of \$ 20,000,000, and at which more than 250 full-time employees of the business are created or retained; or
 - ii. At which more than 1,000 full-time employees of the business are created or retained;
2. A qualified business facility located in an aviation district housing a business in the aviation industry, in a Garden State Growth Zone, or in a priority area housing the United States headquarters and related facilities of an automobile manufacturer, either:
 - i. Having a capital investment in excess of \$ 20,000,000, and at which more than 250 full-time employees of the business are created or retained; or
 - ii. At which more than 1,000 full-time employees of the business are created or retained;
3. A qualified business facility located in an urban transit hub housing a business of any kind, having a capital investment in excess of \$ 50,000,000, and at which more than 250 full-time employees of the business are created or retained;
4. A project located in an area designated in need of redevelopment, pursuant to P.L. 1992, c. 79 (N.J.S.A. 40A:12A-1 et seq.), prior to the enactment of P.L. 2014, c. 63, within Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, or Salem counties, having capital investment in excess of \$ 20,000,000, and at which more than 150 full-time employees of the business are created or retained; or
5. For applications submitted after July 1, 2016, a qualified business facility primarily used by a business principally engaged in research, development, or manufacture of a drug or device, as defined in N.J.S.A. 24:1-1, or primarily used by a business licensed to conduct a clinical laboratory and business facility pursuant to the "New Jersey Clinical Laboratory Improvement Act," P.L. 1975, c. 166 (N.J.S.A. 45:9-42.26 et seq.), either:
 - i. Having a capital investment in excess of \$ 20,000,000, and at which more than 250 full-time employees of the business are created or retained; or
 - ii. At which more than 1,000 full-time employees of the business are created or retained.

"Minimum environmental and sustainability standards" means the standards set forth in the green building manual prepared by the Commissioner of the Department of Community Affairs pursuant to section 1 of P.L. 2007, c. 132 (N.J.S.A. 52:27D-130.6), regarding the use of renewable energy, energy-efficient technology, and non-renewable resources in order to reduce environmental degradation and encourage long-term cost reduction.

"Moderate-income housing" means housing affordable, according to United States Department of Housing and Urban Development or other recognized standards for home ownership and rental costs, and occupied or reserved for occupancy by households with a gross household income equal to more than 50 percent but less than 80 percent of the median gross household income for households of the same size within the housing region in which the housing is located.

"Municipal Revitalization Index" means the 2007 index by the Office for Planning Advocacy within the Department of State measuring or ranking municipal distress.

"New full-time job" means an eligible position created by the business at the qualified business facility that did not previously exist in this State. For the purposes of determining a number of new full-time jobs, the eligible positions of an affiliate shall be considered eligible positions of the business.

"Non-gaming business" means any business, or portion of any business, which is not engaged in the operation of casino gambling or other gaming as defined in N.J.S.A. 5:12-218. For projects that contain both gaming and non-gaming operations, the number of full-time jobs and amounts of eligible capital investment shall be apportioned based on the proportionate revenue from all non-gaming revenue compared to total revenue, for example, if gaming revenue is 40 percent of total revenue, then 60 percent of the full-time employees would be deemed non-gaming and in an eligible position for the program.

"Other eligible area" means the portions of the qualified incentive area that are not located within a distressed municipality, or the priority area.

"Partnership" means an entity classified as a partnership for Federal income tax purposes.

"Port district" means the portions of a qualified incentive area that are located within: the Port of New York District of the Port Authority of New York and New Jersey, as defined in Article II of the Compact Between the States of New York and New Jersey of 1921; or a 15-mile radius of the outermost boundary of each marine terminal facility established, acquired, constructed, rehabilitated, or improved by the South Jersey Port District established pursuant to The South Jersey Port Corporation Act, P.L. 1968, c. 60 (N.J.S.A. 12:11A-1 et seq.).

"Priority area" means the portions of the qualified incentive area that are not located within a distressed municipality and which: are designated pursuant to the State Planning Act, P.L. 1985, c. 398 (N.J.S.A. 52:18A-196 et seq.), as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), a designated center under the State Development and Redevelopment Plan, or a designated growth center in an endorsed plan until June 30, 2013, or until the State Planning Commission revises and readopts New Jersey's State Strategic Plan and adopts regulations to revise this definition; intersect with portions of a deep poverty pocket, a port district, or were Federally owned land approved for closure under a Federal Commission on Base Realignment and Closure action; are the proposed site of a disaster recovery project, a qualified incubator facility, a highlands development credit receiving area or redevelopment area, a tourism destination project, or transit oriented development; or contain a vacant commercial building having over 400,000 square feet of office, laboratory, or industrial space available for occupancy for a period of over one year; or a site that has been negatively impacted by the approval of a "qualified business facility," as defined pursuant to section 2 of P.L. 2007, c. 346 (N.J.S.A. 34:1B-208).

"Professional employer organization" means an employee leasing company registered with the Department of Labor and Workforce Development pursuant to P.L. 2001, c. 260 (N.J.S.A. 34:8-67 et seq.).

"Program" means the Grow New Jersey Assistance Program established pursuant to P.L. 2011, c. 149 and provided in this subchapter.

"Project" means the capital investment and the employment commitment at a qualified business facility pursuant to the incentive agreement.

"Public research university" means a public research university as defined in section 3 of P.L. 1994, c. 48 (N.J.S.A. 18A:3B-3).

"Qualified business facility" means any building, complex of buildings, or structural components of buildings, and all machinery and equipment located within a qualified incentive area, used in connection with the operation of a business that is not engaged in final point of sale retail business at that location, which shall not include a university research hospital, unless the building, complex of buildings, or structural components of buildings, and all machinery and equipment located within a qualified incentive area, are used in connection with the operation of: a final point of sale retail business located in a Garden State Growth Zone that will include a retail facility of at least 150,000 square feet, of which at least 50 percent is occupied by either a full service supermarket or grocery store; or a tourism destination project located in the Atlantic City Tourism District as established pursuant to section 5 of P.L. 2011, c. 18 (N.J.S.A. 5:12-219).

"Qualified incentive area" means an aviation district, a port district, a distressed municipality, urban transit hub municipality, or an area:

1. Designated as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), or Planning Area 3 (Fringe Planning Area), pursuant to the State Planning Act, P.L. 1985, c. 398 (N.J.S.A. 52:18A-196 et seq.); or
2. Located within:
 - i. A smart growth area and planning area designated in a master plan adopted by the New Jersey Meadowlands Commission pursuant to subsection (i) of section 6 of P.L. 1968, c. 404 (N.J.S.A. 13:17-6) or subject to a redevelopment plan adopted by the New Jersey Meadowlands Commission pursuant to section 20 of P.L. 1968, c. 404 (N.J.S.A. 13:17-21);
 - ii. Any land owned by the New Jersey Sports and Exposition Authority, established pursuant to P.L. 1971, c. 137 (N.J.S.A. 5:10-1 et seq.), within the boundaries of the Hackensack Meadowlands District as delineated in section 4 of P.L. 1968, c. 404 (N.J.S.A. 13:17-4), including the sports complex, that is, the 750-acre sports and exposition site located in the Borough of East Rutherford under the jurisdiction of the New Jersey Sports and Exposition Authority as of the effective date of P.L. 2015, c. 19 (N.J.S.A. 5:10A-1 et seq.) and such additional property that is owned and controlled by the New Jersey Sports and Exposition Authority as may be designated by the Meadowlands Regional

Commission, as established by P.L. 1971, c. 137 (N.J.S.A. 5:10-1 et seq.), P.L. 1968, c. 404 (N.J.S.A. 13:17-1 et seq.), and section 6 of P.L. 2015, c. 19 (N.J.S.A. 5:10A-6) from time to time as part of the sports complex;

iii. A regional growth area, a rural development area zoned for industrial use as of December 15, 2016, the effective date of P.L. 2016, c. 75, a town, a village, or a military and Federal installation area designated in the comprehensive management plan prepared and adopted by the Pinelands Commission pursuant to the Pinelands Protection Act, P.L. 1979, c. 111 (N.J.S.A. 13:18A-1 et seq.);

iv. The planning area of the Highlands Region as defined in section 3 of P.L. 2004, c. 120 (N.J.S.A. 13:20-3) or in a highlands development credit receiving area or redevelopment area;

v. A Garden State Growth Zone;

vi. Land approved for closure under any Federal Commission on Base Realignment and Closure action; or

vii. Areas designated pursuant to the State Planning Act, P.L. 1985, c. 398 (N.J.S.A. 52:18A-196 et seq.), as Planning Area 4A (Rural Planning Area), Planning Area 4B (Rural/Environmentally Sensitive), or Planning Area 5 (Environmentally Sensitive) only if such areas are located within:

(1) A designated center under the State Development and Redevelopment Plan;

(2) A designated growth center in an endorsed plan until the State Planning Commission revises and readopts New Jersey's State Strategic Plan and adopts rules to revise this definition as it pertains to Statewide planning areas;

(3) Any area determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L. 1992, c. 79 (N.J.S.A. 40A:12A-5 and 40A:12A-6) or in need of rehabilitation pursuant to section 14 of P.L. 1992, c. 79 (N.J.S.A. 40A:12A-14);

(4) Any area on which a structure exists or previously existed, including any desired expansion of the footprint of the existing or previously existing structure, provided the expansion otherwise complies with all applicable Federal, State, county, and local permits and approvals;

(5) The planning area of the Highlands Region as defined in section 3 of P.L. 2004, c. 120 (N.J.S.A. 13:20-3) or a highlands development credit receiving area or redevelopment area; or

(6) Any area on which an existing tourism destination project is located.

"Qualified incentive area" shall not include any property located within the preservation area of the Highlands Region as defined in section 3 of P.L. 2004, c. 120 (N.J.S.A. 13:20-3).

"Qualified incubator facility" means a commercial building located within a qualified incentive area: that contains 50,000 or more square feet of office, laboratory, or industrial space; that is located near, and presents opportunities for collaboration with a research institution, teaching hospital, college, or university, which is evidenced by a written agreement that demonstrates this collaboration; and within which, at least 50 percent of the gross leasable area is restricted for use by one or more technology startup companies during the commitment period. The restricted space may be comprised of non-contiguous areas, and its location within the qualified incubator facility may change from time to time.

"Retained full-time job" means an eligible position that currently exists in New Jersey and is filled by a full-time employee but which, because of a potential relocation by the business, is at risk of being lost to another state or country or eliminated. For the purposes of determining a number of retained full-time jobs, the eligible positions of an affiliate shall be considered eligible positions of the business. For a project located in a Garden State Growth Zone that qualified for the Municipal Rehabilitation and Economic Recovery Act, P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et seq.) or a project located in a Garden State Growth Zone that contains a Tourism District as established pursuant to P.L. 2011, c. 18, § 5 (N.J.S.A. 5:12-219) and regulated by the Casino Reinvestment Development Authority, "retained full-time job" shall include any employee previously employed in New Jersey and transferred to the new location in the Garden State Growth Zone that qualified for the Municipal Rehabilitation and Economic Recovery Act, P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et seq.) or in the Garden State Growth Zone that contains a Tourism District as established pursuant to P.L. 2011, c. 18, § 5 (N.J.S.A. 5:12-219) and regulated by the Casino Reinvestment Development Authority. For the purposes of the certifications and annual reports required pursuant to the incentive agreement, N.J.S.A. 34:1B-245.e or 247.b(2), to the extent an eligible position that was the basis of the award no longer exists, a business shall include as a retained full-time job a new eligible position that is filled by a full-time employee as set forth in N.J.A.C. 19:31-18.4(d).

"SDA district" means an "SDA district" as defined in section 3 of P.L. 2000, c. 72 (N.J.S.A. 18A:7G-3).

"SDA municipality" means a municipality in which an SDA district is situate.

"Soft costs" means all costs associated with financing, design, engineering, legal, or real estate commissions, provided they do not exceed 20 percent of total capital investment.

"Square feet" means the sum of all areas on all floors of a building included within the outside faces of its exterior walls, including all vertical penetration areas, for circulation and shaft areas that connect one floor to another, disregarding cornices, pilasters, buttresses, and similar structures, that extend beyond the wall faces.

"Square feet of gross leasable area" or "gross leasable area" means rentable area of the building as calculated pursuant to the measuring standards of the project. This standard will be defined in the lease for tenant applicants. The rentable area measures the tenant's pro rata portion of the entire office floor, including public corridors, restrooms, janitor closets, utility closets, and machine rooms used in common with other tenants, but excluding elements of the building that penetrate through the floor to areas below. The rentable area of a floor is fixed for the life of a building and is not affected by changes in corridor sizes or configuration.

"State college" means a State college or university established pursuant to Chapter 64 of Title 18A of the New Jersey Statutes.

"Substantial environmental remediation" means the completion of the necessary actions to investigate and cleanup or respond to any known, suspected, or threatened discharge of contaminants, including, as necessary, the preliminary assessment, site investigation, remedial investigation, and remedial action, pursuant to N.J.S.A. 58:10B-1 et seq., which shall equal at least five percent of the capital investment in a qualified business facility.

"Targeted industry" means any industry identified from time to time by the Authority including initially, a transportation, manufacturing, defense, energy, logistics, life sciences, technology, health, and finance business, but excluding a primarily warehouse, distribution, or fulfillment center business.

"Technology startup company" means a for-profit business that has been in operation fewer than five years and is developing or possesses a proprietary technology or business method of a high technology or life science-related product, process, or service, which the business intends to move to commercialization. The business shall be deemed to have begun operation on the date that the business first hired at least one employee in a full-time position.

"Tourism destination project" means a qualified non-gaming business facility that will be among the most visited privately owned or operated tourism or recreation sites in the State, and which is located within the qualified incentive area and has been determined by the Authority to be in an area appropriate for development and in need of economic development incentive assistance, including a non-gaming business facility within an established Tourism District with a significant impact on the economic viability of that District.

"Transit oriented development" means a qualified business facility located within a 1/2-mile radius, or one-mile radius for projects located in a Garden State Growth Zone, surrounding the mid-point of a New Jersey Transit Corporation, Port Authority Transit Corporation, or Port Authority Trans-Hudson Corporation rail, bus, or ferry station platform area, including all light rail stations. For the purposes of determining the transit project bonus pursuant to N.J.A.C. 19:31-8.8(c)4, a bus station platform is a terminal as listed on the EDA's website at www.njeda.com.

"Urban transit hub" means an urban transit hub, as defined in section 10 of P.L. 2007, c. 346 (N.J.S.A. 34:1B-208), that is located within an eligible municipality, as defined in section 10 of P.L. 2007, c. 346 (N.J.S.A. 34:1B-208) and also located within a qualified incentive area.

"Urban transit hub municipality" means a municipality that qualifies for State aid pursuant to P.L. 1978, c. 14 (N.J.S.A. 52:27D-17 178 et seq.), or that has continued to be a qualified municipality thereunder pursuant to P.L. 2007, c. 111; and in which 30 percent or more of the value of real property was exempt from local property taxation during tax year 2006. The percentage of exempt property shall be calculated by dividing the total exempt value by the sum of the net valuation that is taxable and that which is tax exempt.

"Withholdings" means the amount withheld by a business from the wages of full-time employees or estimated taxes paid by, or on behalf of, partners that are full-time employees, or any combination thereof,

pursuant to the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq. Withholdings shall not include amounts withheld by a business from stock options or from stock options, money, or other payments given to a full-time employee pursuant to the termination of employment of the full-time employee. Withholdings shall include amounts withheld by a business from money or other payments given to a full-time employee pursuant to a bonus for commencing employment or for services rendered by the full-time employee.

History

HISTORY:

Amended by R.2015 d.014, effective January 20, 2015.

See: 46 N.J.R. 1593(a), 47 N.J.R. 277(b).

Added definitions, "Aviation district", "Commitment period", "Complex of buildings", "Deep poverty pocket", "Disaster recovery project", "Distressed municipality", "Eligibility period", " 'Garden State Growth Zone' or 'growth zone' ", "Highlands development credit receiving area or redevelopment area", "Incentive agreement", "Incentive effective date", "Industrial premises", "Major rail station", "Mega project", "Minimum environmental and sustainability standards", "Moderate-income housing", "Municipal Revitalization Index", "Non-industrial premises", "Other eligible area", "Port district", "Priority area", "Project", "Qualified incubator facility", "SDA district", "SDA municipality", "Square feet", " 'Square feet of gross leasable area' or 'gross leasable area' ", "Substantial environmental remediation", "Targeted industry", "Technology startup company", "Tourism destination project", "Transit oriented development", "Urban transit hub", "Urban transit hub municipality", and "Withholdings"; rewrote definitions "Business", "Capital investment", "Full-time employee", "Qualified business facility", "Qualified incentive area" and "Retained full-time job"; substituted definition, " 'Eligible position' or 'full-time job' " for definition "Eligible position"; and deleted definitions, "Commitment duration", "Public transit facility", and "Tax credit term".

Amended by R.2015 d.132, effective August 17, 2015.

See: 47 N.J.R. 258(a), 47 N.J.R. 2178(b).

Rewrote the section.

Amended by R.2015 d.201, effective December 21, 2015.

See: 47 N.J.R. 2055(a), 47 N.J.R. 3160(a).

Added definition "Non-gaming business"; and rewrote definition "Retained full-time job".

Amended by R.2016 d.045, effective May 16, 2016.

See: 47 N.J.R. 3104(a), 48 N.J.R. 103(a), 48 N.J.R. 858(a).

In definition "Business", inserted the last sentence; and rewrote definition " 'Eligible position' or 'full-time job' ".

Amended by R.2016 d.059, effective June 6, 2016.

See: 47 N.J.R. 2341(a), 48 N.J.R. 977(b).

In definition "Qualified incentive area", rewrote paragraph 2ii; and in definitions "Qualified incubator facility" and "Technology startup company", inserted the last sentence.

Amended by R.2017 d.010, effective January 3, 2017.

See: 48 N.J.R. 2031(a), 49 N.J.R. 134(a).

In definition "Mega project", in paragraph 3, deleted "or" from the end, in paragraph 4, inserted a comma following ")" and following "63", and substituted "; or" for a period at the end, and added paragraph 5; and in definition "Retained full-time job", substituted "as set forth in N.J.A.C. 19:31-18.4(d)" for "provided that the position is included in the order of date of hire and is not the basis for any other incentive award".

Amended by R.2018 d.122, effective June 4, 2018.

See: 49 N.J.R. 3576(a), 50 N.J.R. 1374(a).

Added definitions "College or university", "County college", "Doctoral university", "Garden State Create Zone", "Independent institution of higher education", "Public research university", and "State college"; made grammatical and technical changes in definitions "Capital investment", "Disaster recovery project", "Full-time employee", and "Mega project"; in definition "Qualified incentive area", in 2iii, inserted "a rural development area zoned for industrial use as of December 15, 2016, the effective date of P.L. 2016, c. 75," and in 2vii(4) substituted the second occurrence of "the" for "such"; and in definition "Withholdings", deleted ", and, if the full-time employee is an employee whose position has moved to New Jersey but whose income is not subject to the New Jersey gross income tax pursuant to N.J.S.A. 54A:1-1 et seq., the amount of withholding that would occur if the employee were to move to New Jersey." from the end of the first sentence.

NEW JERSEY ADMINISTRATIVE CODE

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End of Document



N.J.A.C. 19:31-18.3

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 53 No. 23,
December 6, 2021

NJ - New Jersey Administrative Code > TITLE 19. OTHER AGENCIES > NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY > CHAPTER 31. AUTHORITY ASSISTANCE PROGRAMS > SUBCHAPTER 18. GROW NEW JERSEY ASSISTANCE PROGRAM

§ 19:31-18.3 Eligibility criteria

(a) In order to be considered for a Grow New Jersey tax credit, the chief executive officer of a business shall demonstrate at the time of application that the business, expressly including its landlord or seller, will make, acquire, or lease a capital investment equal to or greater than, the applicable capital investment required in (a)1 below at which it will retain full-time jobs and/or create new full-time jobs in an amount equal to or greater than, the applicable number in (a)2 below.

1. For all projects approved after September 18, 2013, the effective date of P.L. 2013, c. 161, the minimum capital investment required shall be reduced by one-third (utilizing even numbers rounded down) for projects located in a Garden State Growth Zone or projects located within Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, or Salem counties:

- i. For the rehabilitation, improvement, fit-out, or retrofit of an existing industrial, warehousing, logistics, or research and development premises for continued similar use by the business in at least 51 percent of the gross leasable area of the premises, a minimum investment of \$ 20.00 per square feet of gross leasable area;
- ii. For the new construction of an industrial, warehousing, logistics, or research and development premises for similar use by the business in at least 51 percent of the gross leasable area of the premises, a minimum investment of \$ 60.00 per square feet of gross leasable area;
- iii. For the rehabilitation, improvement, fit-out, or retrofit of an existing premises that does not qualify pursuant to (a)1i and ii above, a minimum investment of \$ 40.00 per square feet of gross leasable area;

iv. For the new construction of a premises that does not qualify pursuant to (a)1i and ii above, a minimum investment of \$ 120.00 per square feet of gross leasable area. For purposes of this subparagraph, non-industrial premises shall include vacant industrial premises that are unleased and unoccupied; and

v. The minimum capital investment shall be aggregated only for buildings that are proximate, as determined by the Authority in its sole discretion, and have the same minimum investment per square feet of gross leasable area. Proximate buildings shall include, but not be limited to, buildings that are adjacent to each other or across a single public right-of-way from each other.

Notwithstanding that buildings in a complex of buildings may have different minimum capital investment requirements, the capital investment in a complex of buildings shall be aggregated for purposes of qualifying as a mega project or for an award pursuant to N.J.A.C. 19:31-18.8(h). The following are examples:

(1) A complex of buildings consists of building A and building B, which are both on the same block but separated by other buildings. Both buildings are existing office buildings that will be rehabilitated. The minimum capital investment for the project will be aggregated based on the total square feet of gross leasable area of the two buildings.

(2) A complex of buildings will consist of building A and building B, which will be adjacent to each other but have separate entrances. Building A is an existing office building that will be rehabilitated; building B will be a newly constructed office building. The business will have to make a minimum capital investment at building A and a separate minimum capital investment at building B.

(3) A complex of buildings consists of building A and building B, which are located in an industrial park and are separated solely by a parking lot. Both buildings are existing industrial buildings that will be rehabilitated for continued industrial use. The minimum capital investment for the project will be aggregated based on the total square feet of gross leasable area of the two buildings.

2. The minimum number of new or retained full-time jobs required shall be reduced by one-quarter (utilizing even numbers rounded down) for projects located in a Garden State Growth Zone or projects located within Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, or Salem counties.

i. For a business that is a technology startup company or a manufacturing company, a minimum of 10 new or 25 retained full-time jobs.

ii. For a business engaged primarily in a targeted industry other than a technology startup company or a manufacturing company, a minimum of 25 new or 35 retained full-time jobs.

iii. For any other business, a minimum of 35 new or 50 retained full-time jobs.

iv. The minimum number of new or retained full-time jobs may be met in the aggregate in a complex of buildings. Notwithstanding the preceding sentence, if a complex of buildings includes one or more buildings located in a Garden State Growth Zone or a county for which the minimum number of new or retained full-time jobs is reduced, the business shall meet the minimum job requirement by locating no less than the reduced minimum number of new or reduced full-time jobs at the buildings in the Garden State Growth Zone or one of the counties for which the minimum capital investment required is reduced. The following are examples:

(1) The complex of buildings for a manufacturing company consists of three buildings located in one municipality and one building located in a different municipality. The company will have three new jobs at each building. Neither municipality is a Garden State Growth Zone or in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, or Salem counties. The company has met the minimum full-time jobs required because the minimum full-time jobs, 10 new or 25 retained full-time jobs may be met in the aggregate across all four buildings. If the company meets all other program requirements, the company will be eligible to receive tax credits for all 12 new full-time jobs.

(2) The complex of buildings for a manufacturing company consists of two buildings located in municipality A and one building located in municipality B. The company will have four new jobs at each building in municipality A and two new jobs at the building in municipality B. Municipality A is a Garden State Growth Zone, but municipality B is not a Garden State Growth Zone or in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, or Salem counties. The company has met the minimum full-time jobs required because the reduced minimum full-time jobs, eight new or 19 retained full-time jobs, has been met in the aggregate at the buildings in municipality A. If the company meets all other program requirements, the company will be eligible to receive tax credits for all 10 new full-time jobs.

(3) The complex of buildings for a manufacturing company consists of two buildings located in municipality A and one building located in municipality B. The company will have three new jobs at each building in municipality A and two new jobs at the building in municipality B. Municipality A is a Garden State Growth Zone, but municipality B is not a Garden State Growth Zone or in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, or Salem counties. The company has not met the minimum full-time jobs because the number of jobs in the aggregate at the buildings in municipality A is six, which is less than the reduced minimum full-time jobs, eight new or 19 retained full-time jobs.

3. The business shall also demonstrate to the Authority that:

i. The qualified business facility shall be constructed in accordance with the minimum environmental and sustainability standards;

ii. The proposed capital investment and the resultant retention and creation of full-time jobs will yield a net positive economic benefit, equaling at least 110 percent of the requested tax credit

allocation amount, to the State, as calculated pursuant to N.J.A.C. 19:31-18.7(c) prior to taking into account the value of the requested tax credit, and shall be based on the benefits generated during the first 20 years following the completion of the project, except that:

- (1) For a mega project or a project located in a Garden State Growth Zone, the determination shall be based on the benefits generated during a period of up to 30 years following the completion of the project;
- (2) For a project located in a Garden State Growth Zone that qualified for the Municipal Rehabilitation and Economic Recovery Act, P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et seq.), the net positive economic benefit determination shall be based on the benefits generated during a period of up to 35 years following completion of the project, and shall equal at least 100 percent of the requested tax credit allocation; and
- (3) The net positive economic benefit shall be discounted to reflect the uncertainty of the business's location after the commitment period expires;

iii. The award of tax credits will be a material factor in the business's decision to create or retain the minimum number of full-time jobs for eligibility under the program, consistent with the following, as applicable:

- (1) Except as determined by the Authority in its sole discretion based on extraordinary circumstances, including, but not limited to, geographic or regulatory constraints of a project, the business shall provide a full economic analysis of the in-State and out-of-State alternatives under consideration by the business to support that it demonstrates a material factor.
- (2) Except for (a)3iii(4) below, the award of tax credits shall not be considered a material factor in the creation or retention of full-time jobs filled by employees providing professional services, as defined in N.J.S.A. 14A:17-3(1), and their direct administrative support staff, unless as of the date of the business's application, the full-time job is filled by an employee whose primary business office is located outside of the State. Direct administrative support staff shall not include employees in information technology, human resources, or employee relations positions.
- (3) If, in a Garden State Growth Zone, the site was acquired or leased prior to project application, the business shall provide additional extrinsic evidence to demonstrate that the award of tax credits is a material factor in the business's decision to create or retain the minimum number of full-time jobs for eligibility under the program, including, but not limited to, viable alternatives to the site and the business's ability to dispose of or carry the costs of the site, if the business moves to the alternate site.
- (4) In satisfaction of this requirement, with respect to a project in a Garden State Growth Zone that qualifies under the Municipal Rehabilitation and Economic Recovery Act pursuant to P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et seq.) or a project located in a Garden State Growth Zone

that contains a Tourism District as established pursuant to section 5 of P.L. 2011, c. 18 (N.J.S.A. 5:12-219) and regulated by the Casino Reinvestment Development Authority, the award of tax credits will be a material factor in the business decision to make a capital investment and locate in a Garden State Growth Zone that qualifies under the Municipal Rehabilitation and Economic Recovery Act pursuant to P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et seq.) or a Garden State Growth Zone that contains a Tourism District as established pursuant to section 5 of P.L. 2011, c. 18 (N.J.S.A. 5:12-219) and regulated by the Casino Reinvestment Development Authority; and

iv. For a non-gaming business facility within an established Tourism District to qualify as a tourism destination project, the facility will have a significant impact on the economic viability of the Tourism District within which it is located by satisfying the following:

(1) Having a capital investment in excess of \$ 50,000,000, excluding any capital investment for site acquisition, at which more than 250 full-time employees of a business are created or retained; and

(2) Demonstrating to the satisfaction of the Authority a combination of two or more of:

(A) Positive financial benefit to the District;

(B) A net increase in visitors to the District;

(C) An increase in marketing dollars spent on the District; or

(D) The addition of unique amenities or services to the existing project or District.

(b) Full-time employment for an accounting or privilege period shall be determined as the average of the monthly full-time employment for the period.

(c) A business shall be treated as owner of a qualified business facility if it holds fee simple title to the facility, whether it ground leases the land underlying the facility for at least 50 years or holds title to the land underlying the facility.

(d) Pursuant to P.L. 2013, c. 161, a business may apply for tax credits under the program for more than one project pursuant to one or more applications. Notwithstanding this subsection, the Authority may, in its sole discretion, consider two or more applications as one application based on factors including, but not limited to, the location of the qualified business facilities, the types of jobs proposed, and the business's financing and operational plans.

History

HISTORY:

Amended by R.2015 d.014, effective January 20, 2015.

See: 46 N.J.R. 1593(a), 47 N.J.R. 277(b).

Rewrote the section.

Amended by R.2015 d.132, effective August 17, 2015.

See: 47 N.J.R. 258(a), 47 N.J.R. 2178(b).

Rewrote the section.

Amended by R.2015 d.201, effective December 21, 2015.

See: 47 N.J.R. 2055(a), 47 N.J.R. 3160(a).

In (a)3iii, substituted "; and" for a period at the end, and added (a)3iv.

Amended by R.2016 d.045, effective May 16, 2016.

See: 47 N.J.R. 3104(a), 48 N.J.R. 103(a), 48 N.J.R. 858(a).

In (a)1iii, deleted "and" from the end; in (a)1iv, substituted "; and" for a period; added (a)1v and (a)2iv; in (a)2iii, substituted a period for a semicolon; and rewrote (a)3iii.

Amended by R.2017 d.010, effective January 3, 2017.

See: 48 N.J.R. 2031(a), 49 N.J.R. 134(a).

In (a)1v, inserted the second sentence; in the introductory paragraph of (a)3iii, substituted ", consistent with the following, as applicable" for a period at the end; added (a)3iii(2); recodified former (a)3iii(2) through (3) as (a)3iii(3) through (4); and in (d), inserted the second sentence.

Amended by R.2017 d.071, effective April 17, 2017.

See: 49 N.J.R. 197(a), 49 N.J.R. 776(b).

In (a)3ii(1), deleted "and" from the end; in (a)3ii(2), inserted "and" at the end; and added (a)3ii(3).

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N.J.A.C. 19:31-18.4

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 53 No. 23,
December 6, 2021

NJ - New Jersey Administrative Code > TITLE 19. OTHER AGENCIES > NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY > CHAPTER 31. AUTHORITY ASSISTANCE PROGRAMS > SUBCHAPTER 18. GROW NEW JERSEY ASSISTANCE PROGRAM

§ 19:31-18.4 Restrictions

(a) The Authority, pursuant to P.L. 2013, c. 161, shall not enter into an incentive agreement with a business that has previously received incentives pursuant to the Business Retention and Relocation Assistance Act, P.L. 1996, c. 25 (N.J.S.A. 34:1B-112 et seq.), the Business Employment Incentive Program Act, P.L. 1996, c. 26 (N.J.S.A. 34:1B-124 et seq.), or any other program administered by the Authority unless:

1. The business has satisfied all of its obligations underlying the previous award of incentives or is compliant with section 4 of P.L. 2011, c. 149 (N.J.S.A. 34:1B-245). In the instance of the business terminating an existing incentive agreement in order to participate in an incentive agreement authorized pursuant to P.L. 2013, c. 161, the Authority shall recapture all or part of any award, provided that such permitted recapture may be calculated to recognize the period of time that the business was in compliance prior to termination and such recapture amount may be paid after approval by the Authority of the business's application for a tax credit incentive award under P.L. 2013, c. 161, but the recapture amount must be paid before the Authority shall execute the incentive agreement, which shall be executed within 18 months following the date of approval of the business's application;
2. The capital investment incurred and new or retained full-time jobs pledged by the business in the new incentive agreement are separate and apart from any capital investment or jobs underlying the previous award of incentives; or
3. The incentives pursuant to the Business Retention and Relocation Assistance Grant (BRRAG) Program Sales and Use Tax Exemption, sections 19 through 22 of P.L. 2004, c. 65 (N.J.S.A. 34:1B-185 through 188) are awarded simultaneously with the Grow New Jersey Tax credit.

(b) A project that consists solely of point-of-final-purchase retail facilities, excluding catalog distribution centers, shall not be eligible for a grant of tax credits. If a project consists of both point-of-final-purchase retail facilities and non-retail facilities, only the portion of the project consisting of non-retail facilities shall be eligible for a grant of tax credits. For a qualified business facility that is a mixed-use project that includes retail facilities and that is located in a Garden State Growth Zone or the Tourism District as established pursuant to section 5 of P.L. 2011, c. 18 (N.J.S.A. 5:12-219) and regulated by the Casino Reinvestment Development Authority, retail facilities in an amount up to 7.5 percent of the mixed-use project may be included in the mixed-use project application for a grant of tax credits along with the non-retail facilities and that application may include in the aggregate the pro-rata number of full-time employees employed by any number of tenants or other occupants of the included retail facilities. If a warehouse facility is part of a point-of-final-purchase retail facility and supplies only that facility, the warehouse facility shall not be eligible for a grant of tax credits. For the purposes of this subsection, a retail facility of at least 150,000 square feet, of which at least 50 percent is occupied by a full-service supermarket or grocery store, located in a Garden State Growth Zone that qualified under the Municipal Rehabilitation and Economic Recovery Act, P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et seq.), or a tourism destination project in the Atlantic City Tourism District as established pursuant to section 5 of P.L. 2011, c. 18 (N.J.S.A. 5:12-219), or catalog distribution centers shall not be considered point-of-final-purchase retail facilities.

(c) For a qualified incubator facility, the maximum number of positions and full-time jobs employed by businesses that are not technology startup companies that are included in the calculation of the total tax credit amount shall not exceed twice the number of positions and full-time jobs employed by technology startup companies. No position or full-time job employed by the operator or a technology startup company may be included in the application as a retained position or full-time job.

(d) For the purposes of the certifications and annual reports required pursuant to the incentive agreement and set forth in N.J.A.C. 19:31-18.7(f) and 18.11(a), if a business has received an award for both new and retained full-time jobs, the business shall meet the employment requirements related to the retained full-time jobs before receiving benefits for new full-time jobs. To the extent an eligible retained full-time job that was the basis of the award no longer exists, the business shall include as a retained full-time job a new eligible position that is filled by a full-time employee, provided that the position is included in the order of date of hire and is not the basis for any other incentive award. If a qualified business facility comprises a complex of buildings with different factors affecting the tax credit calculation, the business shall meet the employment requirements related to the retained full-time jobs at each building before receiving benefits for new full-time jobs at any building. The business shall include as a retained full-time job a new eligible position that is filled by a full-time employee, regardless of the location of such position, provided that the position is included in the order of date of hire and is not the basis for any other incentive award, and shall be paid at the lower of the tax credit for the new eligible position filled by a full-time employee or the tax credit for the retained full-time job that no longer exists. The following are examples:

1. A project is approved for 38 new full-time jobs and 53 retained full-time jobs. The business submits a certification that it created 38 new full-time jobs and retained 50 full-time jobs. Because three eligible

positions that were the basis of the award no longer exist, three of the new eligible positions shall be included as retained full-time jobs. The jobs in the certification shall be considered as 35 new full-time jobs and 53 retained full-time jobs for the term of the grant. If, in an annual report, retained full-time jobs fall to 45, the jobs in the annual report shall be considered as 30 new full-time jobs and 53 retained full-time jobs.

2. A project consisting of a complex of two buildings is approved for 50 new full-time jobs and 100 retained full-time jobs. The total tax credit amount is calculated separately for jobs at each building because building A is in a transit-oriented development and building B is not. The calculation, based on 50 new full-time jobs and 50 retained full-time jobs in building A and 50 retained full-time jobs in building B, results in \$ 3,625 per retained full-time job in building A and \$ 2,219 per retained full-time job in building B. The business submits a certification that it created 50 new full-time jobs and retained 47 full-time jobs in building A and retained 45 full-time jobs in building B. Because eight eligible positions that were the basis of the award no longer exist, eight of the new eligible positions shall be included as retained full-time jobs with the retained full-time positions in building B filled first. The jobs in the certification shall be considered as 42 new full-time jobs and 50 retained full-time jobs in building A and 50 retained full-time jobs in building B. The five eligible positions that are allocated to building B will be paid at the rate of \$ 2,219 per position. The three eligible positions that are allocated to building A will be paid at the rate of \$ 3,625 per position. If in an annual report, the retained full-time jobs at building B fall to 40, the jobs in the annual report shall be considered as 45 new full-time jobs and 50 retained full-time jobs in building A and 50 retained full-time jobs in building B, and will be paid accordingly.

3. A manufacturing company's project is approved for 10 new full-time jobs and 30 retained full-time jobs. The business submits a certification that it created 10 new full-time jobs and retained 28 full-time jobs. Because two eligible positions that were the basis of the award no longer exist, two of the new eligible positions shall be included as retained full-time jobs. The jobs in the certification shall be considered as eight new full-time jobs and 30 retained full-time jobs. As the eight new full-time jobs are less than the minimum number of new jobs required for eligibility, only the 30 retained full-time jobs are eligible for the tax credit, regardless of any increase in new jobs in future years.

History

HISTORY:

Amended by R.2015 d.014, effective January 20, 2015.

See: 46 N.J.R. 1593(a), 47 N.J.R. 277(b).

Added new (a); deleted former (a) through (c) and (e) through (i); recodified former (d) as (b); and rewrote (b).

Amended by R.2015 d.132, effective August 17, 2015.

See: 47 N.J.R. 258(a), 47 N.J.R. 2178(b).

Rewrote (b).

Amended by R.2016 d.059, effective June 6, 2016.

See: 47 N.J.R. 2341(a), 48 N.J.R. 977(b).

Reserved (c); and added (d).

Amended by R.2017 d.010, effective January 3, 2017.

See: 48 N.J.R. 2031(a), 49 N.J.R. 134(a).

Deleted (c); recodified former (d) as (c) and rewrote (c); and added (d).

NEW JERSEY ADMINISTRATIVE CODE

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N.J.A.C. 19:31-18.5

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 53 No. 23,
December 6, 2021

NJ - New Jersey Administrative Code > TITLE 19. OTHER AGENCIES > NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY > CHAPTER 31. AUTHORITY ASSISTANCE PROGRAMS > SUBCHAPTER 18. GROW NEW JERSEY ASSISTANCE PROGRAM

§ 19:31-18.5 Application submission requirements

(a) Each application to the Authority made by a business shall include the following information in an application format prescribed by the Authority:

1. Business information, including information on all affiliates contributing either full-time employees or capital investment or both to the project, shall include the following:
 - i. The name of the business;
 - ii. The contact information of the business;
 - iii. The prospective future address of the business (if different);
 - iv. The type of the business;
 - v. The principal products and services and three-digit North American Industry Classification System number;
 - vi. The New Jersey tax identification number;
 - vii. The Federal tax identification number;
 - viii. The total number of full-time employees in New Jersey at the time of application and in the last tax period prior to the credit amount approval;
 - ix. The total list of New Jersey operations;
 - x. A written certification by the chief executive officer, or equivalent officer for North American operations, stating that the business applying for the program is not in default with any other

program administered by the State of New Jersey and that he or she has reviewed the application information submitted and that the representations contained therein are accurate;

xi. Disclosure of legal matters in accordance with the Authority debarment and disqualification rules at N.J.A.C. 19:30-2;

xii. Submission of a tax clearance certificate, pursuant to P.L. 2007, c. 101;

xiii. A list of all the development subsidies, as defined by P.L. 2007, c. 200, that the applicant is requesting or receiving, the name of the granting body, the value of each development subsidy, and the aggregate value of all development subsidies requested or received;

xiv. In the event that the business is a partnership and chooses to allocate the revenue realized from the sale of the tax credits other than as a proportion of the owners' distributive share of income or gain of the partnership, the business shall provide an agreement that sets forth the allocation among the owners. This agreement will be submitted to the Director of the Division of Taxation in the Department of Treasury by such time and with such information as the Director may require; and

xv. Any other necessary and relevant information as determined by the Authority for a specific application;

2. Project information shall include the following:

i. An overall description of the proposed project;

ii. A description of the capital investments planned by the business, if other than a tenant at the proposed qualified business facility, or, if the business is a tenant, represented by the leased area of the business, at the proposed qualified business facility, and financial information demonstrating ability to complete the capital investment;

iii. The estimated value of the capital investment;

iv. Supporting evidence that the State's financial support of the proposed capital investment in a qualified business facility will yield a net positive economic benefit pursuant to N.J.A.C. 19:31-18.3(a)3ii, taking into account the criteria listed at N.J.A.C. 19:31-18.7(c).

(1) In determining whether a proposed capital investment will yield a net positive benefit, the business's chief executive officer, or equivalent officer for North American operations, shall submit a certification indicating that:

(A) Any existing full-time jobs are at risk of leaving the State or being eliminated;

(B) Any projected creation or retention, as applicable, of new full-time jobs would not occur but for the provision of tax credits under the program; and

(C) The business's chief executive officer, or equivalent officer for North American operations, has reviewed the information submitted to the Authority and that the representations contained therein are accurate;

(2) In satisfaction of (a)2iv(1)(A) and (B) above, the certification with respect to a project in a Garden State Growth Zone that qualifies under the Municipal Rehabilitation and Economic Recovery Act, P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et seq.) or a project located in a Garden State Growth Zone which contains a Tourism District as established pursuant to section 5 of P.L. 2011, c. 18 (N.J.S.A. 5:12-219) and regulated by the Casino Reinvestment Development Authority, shall indicate that the provision of tax credits under the program is a material factor in the business decision to make a capital investment and locate in a Garden State Growth Zone that qualifies under the Municipal Rehabilitation and Economic Recovery Act, P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et seq.) or in a Garden State Growth Zone which contains a Tourism District as established pursuant to section 5 of P.L. 2011, c. 18 (N.J.S.A. 5:12-219) and regulated by the Casino Reinvestment Development Authority. If the site was acquired within 24 months prior to project application, the business shall provide additional extrinsic evidence to demonstrate that the award of tax credits is a material factor in the business's decision to create or retain the minimum number of full-time jobs for eligibility under the program, including, but not limited to, viable alternatives to the site and the business's ability to dispose of or carry the costs of the site, if the business moves to the alternate site;

(3) For a qualified incubator facility, the certifications in (a)2iv(1) above shall be certified by the operator's chief executive officer or equivalent officer for North American operations, provided that to include any retained full-time job or position employed by a business that is not a technology startup company, the operator shall submit with the application the certification by that business's chief executive officer or equivalent officer for North American operations. To demonstrate that such certifications and the certification in (a)2iv(1)(A) and (B) above are satisfied, the operator shall demonstrate that it would locate the qualified incubator facility at an out-of-State location, but for the tax credit award or that it has a project financing gap in its business model as determined by a fiscal analysis conducted by the Authority, taking into account the project's internal rate of return on the operator's contributed capital and net profit margin; and

(4) The applicant may be required to submit any other information required by the Authority to conduct an analysis of the economic impact of the project.

v. A description of how the minimum environmental and sustainability standards are to be incorporated into the proposed project regarding the use of renewable energy, energy-efficient technology, and non-renewable resources in order to reduce environmental degradation and encourage long-term cost reduction;

vi. Identification of the site of the proposed qualified business facility, including the block and lot of the site as indicated upon the local tax map. For purposes of determining geographical location of contiguous buildings that extend over more than one geographical location, the contiguous buildings shall be considered in the geographical location in which the contiguous buildings are located with the most beneficial total tax credit amount. For a qualified incubator facility, common areas that are shared by the entire building in which the qualified incubator facility is located and not exclusive to the qualified incubator facility shall not be counted as part of the qualified incubator facility, but the size of the space restricted for use by technology startup companies may include the pro-rata share of any common areas within the qualified business facility;

vii. A project schedule that identifies projected move dates for the proposed qualified business facility;

viii. A schedule of short-term and long-term employment projections of the business in the State taking into account the proposed project;

ix. The terms of any lease agreements (including, but not limited to, information showing net leasable area by the business if a tenant and total net leasable area; or if the business is an owner, information showing net leasable area not leased to tenants and total net leasable area) and/or details of the purchase or building of the proposed project facility; and, if an application involves intra-State job transfers, a full economic analysis of all locations under consideration by the business, as well as all lease agreements, ownership documents, or substantially similar documentation for the business's current in-State locations and all lease agreements, ownership documents, or substantially similar documentation for the potential out-of-State location alternatives, to the extent they exist;

x. The total number of anticipated new and retained full-time jobs in New Jersey and occupy the qualified business facility and the total number of full-time employees that would occupy the qualified business facility, and the distribution of such totals identified by business entity; and

xi. Any other necessary and relevant information as determined by the Authority for a specific application; and

3. Employee information shall include the following:

i. A written certification that the employees that are the subject of this application will be full-time employees at the qualified business facility;

ii. The average annual wage and benefit rates of full-time employees and new and retained full-time jobs at the qualified business facility;

iii. Evidence that the applicant has provided the application information required by the State Treasurer for a development subsidy, such as the tax credits, pursuant to P.L. 2007, c. 200;

iv. Any other necessary and relevant information as determined by the Authority for a specific application; and

4. A list of all affiliates that are directly or indirectly controlled by the business, and the total number of full-time employees in New Jersey of each affiliate at the time of application and in the last tax period prior to the credit amount approval.

(b) The business applying to the program shall submit an application fee set forth at N.J.A.C. 19:31-18.6(a).

(c) A business shall be allowed to assign their ability to apply for the tax credit for a project located in a Garden State Growth Zone under this subchapter to a non-profit organization with a mission dedicated to attracting investment and completing development and redevelopment projects in a Garden State Growth Zone, as determined by the Authority. The non-profit organization may make an application on behalf of a business which meets the requirements for the tax credit, or a group of non-qualifying businesses or positions, located at a qualified business facility, that shall be considered a unified project for the purposes of the incentives provided under this section.

(d) An organization operating a qualified incubator facility may make an application on behalf of a business which meets the requirements for the tax credit, or a group of non-qualifying businesses or positions, located at a qualified incubator facility, that shall be considered a unified project for the purposes of the incentives provided under this section.

1. For purposes of this subsection, "positions" mean full-time employees who are employed by a business at a qualified incubator facility and who spend at least 16 hours a week at the qualified incubator facility and must spend at least 80 percent of his or her time, or any other period of time generally accepted by custom or practice as determined by the Authority, in this State. A position at a qualified incubator facility shall be considered a full-time job under this program.

2. In addition to the information required pursuant to (a) above, the organization operating a qualified incubator facility shall be required to submit:

i. The names, contact information, New Jersey employer identification, and Federal employer identification number of any party on whose behalf it is making the application to the extent known at the time of application; and

ii. The organization's business model and a detailed explanation as to how the business model will ensure that the benefit from the award of tax credits will inure to the businesses and positions on whose behalf the application is made and how the businesses and full-time employees filling positions will be informed of the award and the benefits from the award.

(e) For any project located in a Garden State Growth Zone that qualifies under the Municipal Rehabilitation and Economic Recovery Act, P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et seq.), or any project located in a Garden State Growth Zone which contains a Tourism District as established pursuant to section 5 of P.L. 2011, c. 18 (N.J.S.A. 5:12-219) and regulated by the Casino Reinvestment Development Authority, and

which will include a retail facility of at least 150,000 square feet, of which at least 50 percent will be occupied by either a full-service supermarket or grocery store, a business may assign its ability to apply for the tax credit under this subsection to the developer of the facility. The developer may make an application on behalf of the business which meets the requirements for the tax credit, or a group of non-qualifying businesses located at the business facility, that shall be considered a unified project for the purposes of the incentives provided under this section, and the developer may apply for tax credits available based on the number of jobs provided by the business or businesses and the total capital investment of the business or businesses and the developer.

(f) In addition to the information required pursuant to (a) above, any applicant authorized pursuant to (c) and (e) above shall be required to submit:

1. Evidence of the assignment to apply for the tax credit from the assignee or the party on whose behalf it is making the application;
2. The name of the assignee or the party on whose behalf it is making the application;
3. The contact information of the assignee or the party on whose behalf it is making the application;
4. The New Jersey employer identification number of the assignee or the party on whose behalf it is making the application;
5. The Federal employer identification number of the assignee or the party on whose behalf it is making the application; and
6. If the applicant is a non-profit authorized under (c) above, the mission statement of the non-profit organization.

(g) A business that has already applied for a tax credit incentive award prior to September 18, 2013, the effective date of P.L. 2013, c. 161, but who has not yet been approved for such tax credits, or has not executed an agreement with the Authority, may proceed under that application or seek to amend such application or reapply for a tax credit incentive award for the same project or any part thereof for the purpose of availing itself of any more favorable provisions of the program.

History

HISTORY:

Amended by R.2015 d.014, effective January 20, 2015.

See: 46 N.J.R. 1593(a), 47 N.J.R. 277(b).

Rewrote the section.

Amended by R.2015 d.132, effective August 17, 2015.

See: 47 N.J.R. 258(a), 47 N.J.R. 2178(b).

N.J.A.C. 19:31-18.5

Rewrote (a)2iv(3), (a)2vi, and (c); added new (d) through (f); and recodified former (d) as (g).

Amended by R.2016 d.045, effective May 16, 2016.

See: 47 N.J.R. 3104(a), 48 N.J.R. 103(a), 48 N.J.R. 858(a).

Rewrote (a)1viii and (a)2vi; in (a)3iii, inserted a comma following "subsidy", and deleted "and" from the end; in (a)3iv, substituted "; and" for a period; and added (a)4.

Amended by R.2016 d.059, effective June 6, 2016.

See: 47 N.J.R. 2341(a), 48 N.J.R. 977(b).

Rewrote (a)2iv, (a)2vi, (c), and (d); and in the introductory paragraph of (f), deleted ", (d)," following "(c)".

Amended by R.2017 d.010, effective January 3, 2017.

See: 48 N.J.R. 2031(a), 49 N.J.R. 134(a).

Rewrote (a)2iv(3).

NEW JERSEY ADMINISTRATIVE CODE

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N.J.A.C. 19:31-18.6

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 53 No. 23,
December 6, 2021

NJ - New Jersey Administrative Code > TITLE 19. OTHER AGENCIES > NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY > CHAPTER 31. AUTHORITY ASSISTANCE PROGRAMS > SUBCHAPTER 18. GROW NEW JERSEY ASSISTANCE PROGRAM

§ 19:31-18.6 Fees

(a) A business applying for benefits under this program shall submit a one-time non-refundable application fee, with payment in the form of a check, payable to the "New Jersey Economic Development Authority."

The application fee shall be as follows:

1. For projects with total tax credits of \$ 10,000,000 or less and 100 or fewer new and retained full-time jobs, the fee to be charged at application shall be \$ 1,000;
2. For projects with total tax credits of \$ 10,000,000 or less and more than 100 new and retained jobs, the fee to be charged at application shall be \$ 2,500; and
3. For projects with total tax credits in excess of \$ 10,000,000, the fee to be charged at application shall be \$ 5,000.

(b) A business shall pay to the Authority the full amount of direct costs of due diligence, including, but not limited to, debarment/disqualification reviews, or other analyses by a third-party retained by the Authority, if the Authority deems such retention to be necessary.

(c) A non-refundable fee of .5 percent of the approved tax credit shall be charged prior to the approval of the tax credit by the Authority as follows:

1. For each project with tax credits of \$ 1,000,000 or less annually, the fee shall not exceed \$ 50,000;
2. For each project with tax credits of \$ 1,000,000 to \$ 4,000,000 annually, the fee shall not exceed \$ 200,000; and

3. For each project with tax credits in excess of \$ 4,000,000 annually, the fee shall not exceed \$ 500,000. The fee shall be refunded if the Authority does not approve the tax credit.

(d) For each project with tax credits of \$ 1,000,000 or less annually, a non-refundable fee of .5 percent of the tax credit, not to exceed \$ 50,000, shall be paid prior to the receipt of the tax credit certificate. For each project with tax credits in excess of \$ 1,000,000 annually, a non-refundable fee of .5 percent of the tax credit, not to exceed \$ 500,000, shall be paid prior to the receipt of the tax credit certificate.

(e) A business shall pay to the Authority an annual servicing fee, beginning the tax accounting or privilege period in which the Authority accepts the certification that the business has met the capital investment and employment qualifications, and for the duration of the eligibility period. The annual servicing fee shall be paid to the Authority by the business at the time the business submits its annual report. For each project with tax credits of \$ 1,000,000 or less annually, the annual servicing fee shall be two percent of the annual tax credit amount, not to exceed \$ 20,000 per year; and for each project with tax credits in excess of \$ 1,000,000 annually, the annual servicing fee shall be two percent of the annual tax credit amount, not to exceed \$ 75,000 per year.

(f) A business applying for a tax credit transfer certificate pursuant to N.J.A.C. 19:31-18.13 or permission to pledge a tax credit transfer certificate purchase contract as collateral shall pay to the Authority a fee of \$ 5,000 and \$ 2,500 for each additional request made annually.

(g) For each project with total tax credits of \$ 5,000,000 or less, a non-refundable fee of \$ 5,000 shall be paid for each request for any administrative changes, additions, or modifications to the tax credit; and a non-refundable fee of \$ 7,500 shall be paid for any major changes, additions, or modifications to the tax credit, such as those requiring extensive staff time and Board approval. For each project with total tax credits in excess of \$ 5,000,000, a non-refundable fee of \$ 10,000 shall be paid for each request for any administrative changes, additions, or modifications to the tax credit; and a non-refundable fee of \$ 25,000 shall be paid for any major changes, additions, or modifications to the tax credit, such as those requiring extensive staff time and Board approval.

(h) A non-refundable fee of \$ 5,000 shall be paid for each request for the first six-month extension to the date by which the business shall submit the certifications with respect to the capital investment and with respect to the employees required upon completion of the capital investment and employment requirement; and a non-refundable fee of \$ 10,000 shall be paid for the second such six-month extension.

(i) A business seeking to terminate an existing incentive agreement in order to participate in an incentive agreement authorized pursuant to P.L. 2013, c. 161, shall pay to the Authority an additional fee of \$ 5,000 for terminations that do not require extensive staff time and Board approval; and a non-refundable fee of \$ 25,000 for terminations that require extensive staff time or Board approval.

History

HISTORY:

Amended by R.2015 d.014, effective January 20, 2015.

See: 46 N.J.R. 1593(a), 47 N.J.R. 277(b).

Rewrote the section.

Amended by R.2017 d.010, effective January 3, 2017.

See: 48 N.J.R. 2031(a), 49 N.J.R. 134(a).

Rewrote (c); in (f), substituted "\$ 5,000 and \$ 2,500 for each additional request made annually" for "\$ 2,500"; in (g), substituted "\$ 5,000" for "\$ 2,500" and "\$ 10,000" for "\$ 5,000"; and in (h), substituted "\$ 5,000" for "\$ 1,000" and "\$ 10,000" for "\$ 2,500".

Amended by R.2018 d.122, effective June 4, 2018.

See: 49 N.J.R. 3576(a), 50 N.J.R. 1374(a).

In (g), inserted "or less".

Amended by R.2020 d.122, effective November 16, 2020.

See: 52 N.J.R. 1612(a), 52 N.J.R. 2064(a).

Rewrote (b).

NEW JERSEY ADMINISTRATIVE CODE

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End of Document

EXHIBIT C



Essex County
Corrections

Codification
PS.CUS.022

Page 1 of 5

Policy Title:
Protective Custody

Enabling Authority:
NJAC 10A:31-1 et. seq.

Effective Date:
February 1, 2007

Revised:
Aug 20??

Authority:
N.J.A.C. 10A:31-18.1 – 18.6

Promulgating Office:
Bureau of Planning and Strategic Initiatives

Professional Association
Standard Cited: American Correctional Association 4th Edition Standards for Adult Local Detention Facilities: 4-ALDF – 2A – 46, 2A- 48

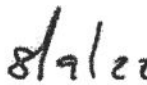
Applicability:
All Sworn Personnel

Review Schedule:
August 2023

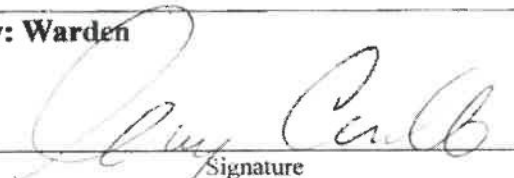
Any Order, Policy, Directive or Memoranda in conflict with this Order is hereby superseded.

Reviewed By: Associate Warden


Signature

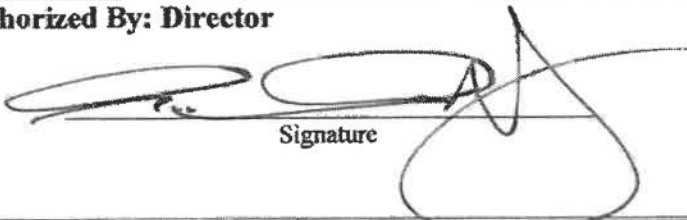

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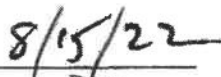
Issued By: Warden


Signature


Date

Authorized By: Director


Signature


Date

Policy Title: Protective Custody	Effective Date: February 1, 2007	PS.CUS.022 Page 2 of 5
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I. PURPOSE

The purpose of this Policy Statement is to establish guidelines and procedures regarding inmates placed in Protective Custody.

II. POLICY

It shall be the policy of the Department of Corrections to follow the guidelines set forth in this policy for all inmates placed in Protective Custody.

III. PROCEDURES

A. Admission to Protective Custody

An inmate may be placed in Protective Custody only with the approval of the Warden or designee. The facility shall keep a written record of a request by an inmate to be placed in Voluntary Protective Custody (VPC). The inmate may be placed in VPC only with informed voluntary consent and when there is reasonable cause to believe that confinement is necessary to prevent reasonably foreseeable harm. When an inmate makes an informed voluntary request for protective custody the correctional facility shall bear the burden of establishing a basis for refusing the request. The facility administrator shall place an inmate in a less restrictive intervention, including transfer to the general population of another institution or to a special purpose housing unit for inmates whom face similar threats, before placing the inmate in isolated confinement for protection unless the inmate poses a security risk so great that transferring the inmate would be insufficient to ensure the inmate's safety. An inmate placed in Protective Custody shall receive similar opportunities for activities, movements, and social interaction consistent with their safety and the safety of others, as are inmates in the general population of the facility. (see N.J.S.A. 30.4:4-82.8 (d)(4)(c)). An ECCF – P.C. 100 Form (attached) must be completed and all relevant reports attached and placed in the Inmate's Folder, and copies sent to the Office of the Warden and applicable Custody Captain.

B. Hearing Procedure for Involuntary Placement to Protective Custody

1. The Classification Committee shall conduct a hearing for all Involuntary Protective Custody placements within 72 hours of placement.
2. At the involuntary Protective Custody review the inmate shall be given the opportunity to appear personally before the Classification Committee/;
3. The Classification Committee shall provide the inmate with a written notice of the committee's decision and a summary of the evidence relied upon.

Policy Title: Protective Custody	Effective Date: February 1, 2007	PS.CUS.022 Page 3 of 5
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C. Review of Inmates In Protective Custody

Each inmate in Protective Custody shall be reviewed every seven (7) days for the first two (2) months then every thirty (30) days thereafter. All reviews shall be conducted by the Classification Committee.

D. Review of Inmates From Protective Custody

1. Provided the Classification Committee and the Office of the Warden or designee are satisfied that there is no known danger to the inmate's well-being, an inmate who has voluntarily signed himself or herself into Protective Custody may sign himself or herself out upon completion of a ECCF – P.C. 100 Form;
2. An inmate who has been placed in Protective Custody involuntarily may be released by the Office of the Warden or designee upon recommendation by the Classification Committee when they are satisfied that the conditions giving rise to the inmate's placement in Protective Custody have abated or no longer exist;
3. An ECCF – P.C. 100 Form that is signed by the Office of the Warden or designee and shall be placed in the inmate's Classification folder.
4. An inmate subject to removal from protective custody shall be provided with a timely, fair, and meaningful opportunity to contest the removal.

E. Security Procedures For Protective Custody

1. Any inmate who is not in a Protective Custody status shall be prohibited from entering the Protective Custody area at any time;
2. All Protective Custody inmates shall be escorted by the number of custody staff members established by the Warden or designee any time the inmate or inmates leave the Protective Custody area;
3. All inmates in Protective Custody shall be searched when entering and leaving the Protective Custody area.

F. Correspondence, Visits and Telephone Calls

The writing, visiting and telephone privileges of inmates shall not be suspended while the inmate(s) is confined in Protective Custody.

G. Post-Allegations Protective Custody Regarding PREA Incidents

All post-allegation protective custody regarding PREA incidents shall abide by all of the tenets set forth in policy PS.CUS.051 SEXUAL ABUSE & ASSAULT PREVENTION & INTERVENTION;

1. ECCF prohibits the placement of inmates who allege to have suffered sexual abuse in involuntary protective custody housing unless an assessment of all available alternatives has been made and a determination has been made that there is no available alternative means of separation from likely abusers. In lieu of involuntary protective custody inmates may be housed in the infirmary.
2. The facility shall develop and follow written procedures consistent with the standards in this subpart for each facility governing the management of its administrative segregation unit. These procedures must document detailed reasons

Policy Title: Protective Custody	Effective Date: February 1, 2007	PS.CUS.022
		Page 4 of 5

for placement of an individual in administrative segregation on the basis of a vulnerability to sexual abuse or assault.

3. If an involuntary protective custody housing assignment is made, ECCF affords each such inmate a review every thirty (30) days to determine whether there is a continuing need for separation from the general population.

EXHIBIT D



Essex County Corrections


Codification
PS.CUS.038

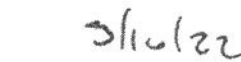
Page 1 of 30

Policy Title: Special Housing Unit (SHU)		Enabling Authority: N.J.A.C. 10A:31-1 et. seq.
Effective Date: April 24, 2012	Revised: March 2022	Authority: N.J.A.C. 10A:31-18.1 – 18.6 N.J.A.C. 10A:31-17.1 – 17.8 2016 PBNDS Rev Special Housing Units 2011 PBNDS 2.10 Search of Detainees 2011 PBNDS 2.4 Facility Access & Control
Promulgating Office: Bureau of Planning and Strategic Initiatives		Professional Association Standard Cited: American Correctional Association 4th Edition Standards for Adult Local Detention Facilities: 4-ALDF-2A-44 through 2A-66, 2C-01, 2C--04.
Applicability: All Sworn Personnel		Review Schedule: March 2023

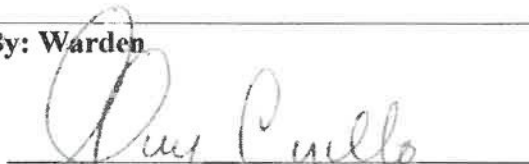
Any Order, Policy, Directive or Memoranda in conflict with this Order is hereby superseded.

Reviewed By: Associate Warden


Signature

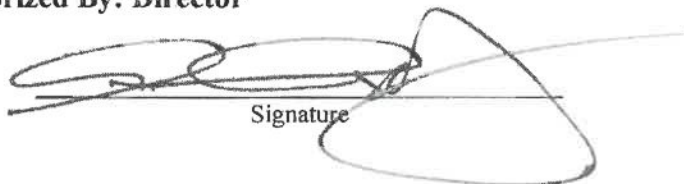

Date

Issued By: Warden


Signature


Date

Authorized By: Director


Signature


Date

Policy Title: Special Housing Unit (SHU)	Effective Date: April 24, 2012	PS.CUS.038 Page 2 of 29
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I. PURPOSE

The purpose of this policy is to protect staff, contractors, volunteers, inmates and the community from harm by segregating certain inmates/ from the general population in the Close Custody Special Housing Unit (SHU) with sections for inmates deemed in need of separation for administrative reasons to include protective custody, disciplinary detention, medical needs or other articulable needs as they may arise.

II. POLICY

It is the policy of the Essex County Correctional Facility (ECCF) to appropriately segregate certain portions of the inmate population as identified in need of close custody supervision for administrative reasons.

III. PROCEDURES

The following procedures shall apply to the operation of the Close Custody SHU. Special security and control measures will consistently be applied to Special Management Unit entrances.

Special Housing Unit (SHU)

Because Special Management Units are inherently among the most secure areas of a correctional facility, special security and control measures are required for these units.

A. General Procedures

1. For the purpose of this policy, the SHU shall typically refer to all of building two (2) and the Close Custody SHU shall be housing units 2D1 and 2D3, or; in the event of special circumstance(s) or emergency(ies) any other area designated for the housing of inmates that require close custody observation or removal from the general population as ordered by the Office of the Warden, or designee.
2. To ensure the safety and security of the ECCF, when special circumstances/constraints arise, the Office of the Director, or designee, may permit the housing of general population inmates in the Close Custody SHU. In such circumstances this shall happen for the shortest time possible but not to exceed sixty (60) days and the inmates shall be afforded the same privileges as the general population, conducive to the security and orderly operation of the SHU. In such rare circumstance, the inmates shall not be bound by the normal placement, orientation and review constraints of the Close Custody SHU.
3. Inmates housed in the general population, staff, contractors, volunteers, and the local community will be protected from harm by the removal from the general population of certain inmates.
4. Any inmate who represents an immediate, significant threat to safety, security, good order or who is found to be vulnerable to sexual abuse or assault will be immediately controlled by staff and, for cause and with supervisory approval, placed in the Close Custody SHU with documented detailed reason(s) for placement. The facility should assign inmates vulnerable to sexual abuse or assault to administrative segregation for their protection until an alternative means of separation from likely abusers can be arranged, and such an assignment shall not

- ordinarily exceed a period of 30 days. The attorney of record shall be notified of the SHU order within twenty-four (24) hours.
5. Isolated Confinement of an inmate for disciplinary, administrative, protective, investigative, medical, or other classification reasons in a cell or similarly confined space, alone with other or with other inmates, for twenty-two (22) or more per day, with severely restricted activity, movement, and social interaction shall be permitted only if the following general conditions, medical examination requirements and placement hearing are met.
 6. Health care personnel shall be immediately informed when an inmate is admitted to the Close Custody SHU and shall conduct an assessment and review of the inmates medical and mental health status and care needs. Prior to such confinement, medical shall conduct its assessment within the first twelve (12) hours of confinement. Mental Health shall conduct its clinical examination within the first forty-eight (48) hours of confinement but if staffing levels require not to take longer than seventy-two (72) hours. Health care personnel shall at a minimum conduct a daily assessment of inmates in the Close Custody SHU. Where reason for concern exists, a qualified medical, or mental health professional shall conduct a complete evaluation.
 7. Absent exigent circumstances, unavoidable delays, or reasonable postponements, inmates shall have the right to an initial hearing within 72 hours of placement, and a review 30 days thereafter; the right to appear at the hearing; the right to be represented at the hearing; an independent hearing officer; and a written statement of reasons for the decision made at the hearing.
 8. Any inmate meeting the criteria in this subsection shall not be confined as **described in (5) above** for any reason, excluding medical quarantines, facility-wide lock downs, or unit-wide lockdowns:
 - a. 21 years of age or younger.
 - b. 65 years or older.
 - c. Has a disability based on mental illness, as defined in N.J.S.A. 30:4-27.2, history of psychiatric hospitalization, or has recently exhibited conduct, including but not limited to serious self-mutilation, indicating the need for further observation or evaluation to determine the presence of mental illness.
 - d. Again, a person in disciplinary detention must receive a mental health status examination, conducted by a member of the medical staff as frequently as clinically indicated, but at least once per week. These examinations must occur in a confidential setting outside of the cell whenever possible. If it is determined that the inmate is a member of a Vulnerable Population the inmate shall be immediately removed from disciplinary detention.
 - e. Has a developmental disability, as defined at N.J.S.A. 30:4-27.2
 - f. Has a serious medical condition which cannot effectively be treated in Isolated Confinement.
 - g. Is pregnant, is in the postpartum period, or has recently suffered a miscarriage or terminated a pregnancy.
 - h. Has a significant auditory or visual impairment.
 - i. Is perceived to be lesbian, gay, bisexual, transgender, or intersex.

9. All members of a vulnerable population shall not be placed in the type of confinement described at N.J.A.C. 10A:31-16-.1 (f). As defined in the Isolated Confinement Act, people who are pregnant, postpartum, or who recently had an abortion or miscarriage are member of a Vulnerable Population.
10. An inmate shall be placed in "protective custody" status in the Close Custody SHU only when there is documentation that it is warranted and that no reasonable alternatives are available.
11. An inmate shall be placed in Disciplinary Detention only after a finding by a Disciplinary Hearing Panel that the inmate is guilty of a prohibited act or rule violation with clear and convincing evidence. The final decision to place a person in disciplinary detention must be made by the facility administrator.
12. Disciplinary Detention shall only be ordered when alternative dispositions may inadequately regulate the inmate's behavior. There is reasonable cause to believe that the inmate would create a substantial risk or serious harm to himself or another and a less restrictive intervention would be insufficient to reduce the risk. An inmate shall not be placed in disciplinary detention or in any other cell or other holding or living space, in the facility, with one (1) or more inmates if there is reasonable cause to believe that there is a risk of harm or harassment, intimidation, extortion, or other physical or emotional abuse to that inmate or another inmate in that placement.
13. The status of inmate in the Close Custody SHU shall be reviewed in accordance with required time schedules by supervisory staff and the results of those reviews will be documented.
14. An inmate shall remain in Disciplinary Detention for no more than fifteen (15) days for a single charge, except in extraordinary circumstances and no more than twenty (20) days for single incident. No more than thirty (30) days during a sixty (60) day period.
15. Inmates in the Close Custody SHU shall be afforded basic living conditions that approximate those provided to the general population, consistent with the safety and security considerations that are inherent in more controlled housing, and in consideration of the purpose for which each inmate has been removed from the general population.
16. In general, when an inmate in the Close Custody SHU is deprived of any usually authorized items or activity, a report of the action is forwarded to the Office of the Warden for notice and review.
17. Inmates in the Close Custody SHU shall have regular access to supervisory, management, program, and health care staff.
18. Each inmate in the Close Custody SHU shall be offered more than two (2) hours of recreation per day, seven (7) days a week, unless documented security or safety considerations dictate otherwise. Each inmate in Disciplinary Detention Status in the Close Custody SHU will be offered more than two (2) hours of recreation per day, seven (7) days a week, unless documented security or safety considerations dictate otherwise.
19. Inmate in the Close Custody SHU shall be able to write, send and receive mail and correspondence as they would otherwise be able to do while detained within the

- general population.
20. Inmates in the Close Custody SHU shall be provided opportunities for general visitation, including legal visitation, unless there are substantial, documented reasons for withholding those privileges. All denials for visitation are documented.
 21. Inmates in the Close Custody SHU shall have access to personal legal materials, law library materials, and legal visits.
 22. Inmates in the Close Custody SHU shall have access to telephones.
 23. Inmates in the Close Custody SHU shall have access to programs and social services such as, but not limited to, commissary, library, religious guidance, and recreation.
 24. Detailed records shall be maintained on the circumstances related to an inmate's confinement to the Close Custody SHU, through required permanent SHU logs and individual inmate records.
 25. ECCF shall provide communication assistance to inmates with disabilities and inmates who are limited in their English proficiency (LEP). ECCF will provide inmates with disabilities with effective communication, which may include the provision of auxiliary aids, such as readers, materials in Braille, audio recordings, telephone handset amplifiers, telephones compatible with hearing aids, telecommunications devices for deaf persons (TTYs), interpreters, and note-takers, as needed. ECCF will also provide inmates who are LEP with language assistance, including bilingual staff or professional interpretation and translation services, to provide them with meaningful access to its programs and activities.
 26. All written materials provided to inmates shall generally be translated into Spanish. Where practicable, provisions for written translation shall be made for other significant segments of the population with limited English proficiency.
 27. Oral interpretation or assistance shall be provided to any inmate who speaks another language in which written material has not been translated or who is illiterate.
 28. An inmate shall not be placed in emergency confinement for more than 24 hours.
 29. An inmate shall not be directly released from isolated confinement to the community during the final thirty (30) days of the inmate's term of incarceration, unless it is necessary for the safety of the inmate, staff, other inmate's, or the public.

B. Overview

At times, an inmate must be isolated from the general population for the protection of the inmate, other inmates, and facility staff. Such isolation is generically termed "segregation" and takes different forms, depending on its intended purpose:

1. **Protective Custody** (also referred to as "Administrative Segregation" by the Performance Based National Standards);
2. **Disciplinary Detention** (also referred to as "Disciplinary Segregation" by the Performance Based National Standards) and;
3. **Other Cause** (Other Cause may include, but not necessarily be limited to removal from the general population for Medical or Mental Health reasons, as ordered by the court or as approved by the Office of the Warden).

Policy Title: Special Housing Unit (SHU)	Effective Date: April 24, 2012	PS.CUS.038 Page 6 of 29
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An inmate may be placed in Disciplinary Detention only after being found guilty, through a formal disciplinary process, of a facility rule violation. Therefore, inmates in Disciplinary Detention generally have fewer privileges. In particular, they are subject to more stringent controls, for example, in regard to personal property and reading material. Additional limitations may also be imposed upon their television viewing, commissary privileges, etc. Inmates in the Close Custody SHU generally will be housed separately from those in Disciplinary Detention

Because of that basic difference, the procedures for placing an inmate in the SHU are different than those for Disciplinary Detention, as are the requirements for periodic review of each inmate, as detailed below.

C. Basic Requirements for the Close Custody SHU

Conditions of confinement are based on the amount of supervision required to control an inmate and safeguard the inmate, other inmates, and facility staff. Therefore, the standard SHU living conditions specified below may not be modified for either disciplinary or punitive purposes. Staff shall treat each inmate in the SHU in a decent and humane manner, regardless of the purpose for which the inmate has been isolated from the general population.

In every instance, any exceptions to these requirements shall be:

- Made only for the purpose of ensuring inmate and facility staff safety and security (i.e., not for purposes of punishment);
- Approved by the Office of the Warden, or designee;
- On a temporary and situational basis, continued only for as long as it is justified by threat to the safety or security of the facility, its staff, or inmate population; and
- Documented in the unit log and, under circumstances specified later in this policy, documented in a memo which shall be placed in the individual inmate’s detention file.
- Not to be used for low-level offenders and juveniles

When an inmate in the Close Custody SHU is deprived of any usual authorized items or activity, a report of the action shall be forwarded to the Office of the Warden. This report shall be made part of the inmate’s facility record or disciplinary file.

Placement in the SHU does not constitute a valid basis for the use of restraints while in the SHU or during movement around the facility. Consist with all of the tenets set forth in policy PS.CUS.003 USE OF RESTRAINTS, restraints should only be used if necessary as a precaution against escape during transfer, for medical reasons (when directed by the medical officer), or to prevent self-injury, injury to others, or serious property damage.

1. **Permanent SHU Logs.** Permanent housing logs are maintained in the Close Custody SHU to record specified data on inmates upon admission to and release from the unit. These logs shall also be used by supervisory staff and other officials to record their visits to the unit.

Policy Title: Special Housing Unit (SHU)	Effective Date: April 24, 2012	PS.CUS.038
		Page 7 of 29

2. **Cell Occupancy.** The number of inmates confined to each cell may not exceed the capacity for which it was designed.

3. **Cell Condition.** Cells will be well ventilated, adequately lit, appropriately heated/cooled and maintained in a sanitary condition at all times.
 - a. All cells must be equipped with beds that are securely fastened to the cell floor or wall. SHU cells must also be conducive to maintaining a safe and secure environment for all inmates, with particular emphasis on allowing for full visibility and appropriate observation by staff and wherever possible on eliminating potential safety hazards such as sharp edges and anchoring devices.

4. **Personal Property Retention & Storage:**
 - The following guidelines shall apply concerning the property inmates may retain while in the Close Custody SHU.
 - a. **Protective Custody** – No restrictions on property or commissary.
 - b. **Disciplinary Detention** – Permitted only authorized clothing and linen, no commissary and reasonable amount of legal materials.
 - c. **Other Cause** – No restrictions unless authorized for removal by the Office of the Warden and/or facilities medical or mental health units.

 - The following guidelines shall apply concerning the property inmates may NOT retain while in the Close Custody SHU.
 - a. All property that is deemed not authorized for an inmate to retain as a result of their classification while they are housed in the Close Custody SHU shall be:
 - Properly inventoried utilizing the Property Inventory Storage Sheet (a copy of the Property Inventory Sheet will be provided to the inmate, when feasible along with a copy placed in the inmate file);
 - Log the property in the Property Inventory Storage Logbook;
 - Ensure that the property is secured and stored in the designated Property Storage area.

5. **Privileges** - The following privileges shall apply concerning inmates in the Close Custody SHU.
 - a. **Protective Custody** – No restrictions from the general population. However, Protective Custody inmates are not permitted to commingle with other inmates. **Any inmate who is not in a Protective Custody status shall be prohibited from entering the PC recreation area during authorized recreation times.**
 - b. **Disciplinary Detention** – Full restrictions as that of the general population except authorized legal phone calls and authorized legal or special visits (with prior approval from the Office of the Warden).
 - c. **Other Cause** – No restrictions unless authorized by the Office of the

Policy Title: Special Housing Unit (SHU)	Effective Date: April 24, 2012	PS.CUS.038
		Page 8 of 29

Warden and/or facilities medical or mental health units.

6. **Protective Custody** - Generally, these inmates shall receive the same privileges as are available to inmates in the general population, depending on any safety and security considerations for inmates, facility staff and security. When authorized by the Office of the Warden, if space and resources are available, inmates in Protective Custody may be provided opportunities to spend time outside their cells (in addition to the required recreation periods), for such activities as socializing, watching TV, and playing board games and may be assigned to work details (for example, as orderlies/tier man in the SHU).
7. **Disciplinary Detention** - Generally, these inmates shall have fewer privileges than other inmates in either the general population or in Protective Custody Status. More specifically, they are subject to more stringent personal property control including, but not limited to, limitations on their reading material and restricted commissary.
8. **Close Supervision** - Inmates in the Close Custody SHU shall be personally observed at least every thirty (30) minutes on an irregular schedule. Inmates who are violent or mentally disordered or who demonstrate unusual or bizarre behavior shall receive more frequent observation; for such cases that warrant increased observation, the SHU personnel shall personally observe them accordingly or as directed by their immediate supervisor.

Suicidal inmates shall receive observation in accordance with PS.MED.005 INMATE SUICIDE PREVENTION AND INTERVENTION.

9. **Supervisory and Staff Visits** - In addition to the direct supervision performed by unit staff:
 - a. The area supervisor shall see each Close Custody SHU inmate daily, including weekends and holidays.
 - b. The facility administrator or designee shall visit the SHU daily.
 - c. Program staff may visit an inmate upon request.
 - d. The facility administrator may require other staff to visit each inmate daily.
10. **Specialized Training**
Assignments of dedicated and specially trained security staff to SHUs permit staff to have both an improved understanding of the nature of the population and a greater familiarity with particular inmates. Interactions with security staff may be the primary human contact regularly afforded to inmates, and positive communications with custody staff can reduce violence and are also important to the well-being of Close Custody SHU inmates. Adequate training and supervision can ensure that all staff assigned to SHUs live up to this principle. Custody staff assigned to SHU shall receive specialized training from appropriate professionals in relevant topics, such as:

- a. Identifying signs of mental health decompensation;
- b. Techniques for more appropriate interactions with mentally ill inmates;
- c. The impact of isolation; and
- d. De-escalation techniques.

11. Health Care –

Inmates must be evaluated by a medical professional prior to placement in an SHU (or when that is infeasible, as soon as possible and no later than within twelve (12) hours of placement). The assessment should include a review of whether the inmate has been previously diagnosed as having a mental illness.

When an inmate is transferred to the Close Custody SHU, health care personnel are informed immediately and provide assessment and review as indicated by the protocols established by the health authority. A health care provider shall visit every inmate face-to-face in the Close Custody SHU at least once daily. Where reason for concern exists, assessments shall be followed up with a complete evaluation by a qualified medical or mental health professional, and indicated treatment. Inmates shall be provided medications as prescribed for them. Inmates will have access to regularly scheduled sick call regardless of housing assignment.

Any action taken shall be documented in a separate logbook, and the medical visit shall be recorded on the SHU Close Custody Observation form. ECCF shall provide out-of-cell, confidential psychological assessments and visits for inmates whenever possible, to ensure patient privacy and to eliminate barriers to treatment. Mental Health staff shall conduct face-to-face psychological review of all inmates in the Close Custody SHU at least once every thirty (30) days.

Inmates with a medical or mental illness, or identified as being a suicide risk or on a hunger strike shall be removed from Close Custody SHU if IHSC or facility medical staff determine that the close custody placement has resulted in deterioration of the inmate's medical or mental health, and an appropriate alternative is available.

A decision to place an inmate in medical isolation shall be made by a member of the medical staff and based on a personal examination. Clinical reviews shall be conducted within seventy-two (72) hours and then as clinically indicated.

- a. **Inmates with Serious Mental Illnesses**
Inmates with a serious mental disorder or condition (SMI), as defined in policy PS.MED.004 MEDICAL DENTAL AND HEALTH SERVICES, may not be automatically placed in an SHU on the basis of such mental illness. Every effort shall be made to place inmates with an SMI in a setting in or outside of the facility in which appropriate treatment can be provided, rather than a Close Custody SHU, if separation from the general population is necessary. The facility shall coordinate with the Field Office

Policy Title: Special Housing Unit (SHU)	Effective Date: April 24, 2012	PS.CUS.038
		Page 10 of 29

Director in seeking alternatives to SHU housing for with an SMI, potentially including transfer to a hospital or to another facility.

For any inmate with an SMI placed in restrictive housing:

- Mental health staff shall conduct a mental health consultation within forty-eight (48) hours of the inmate's placement in restrictive housing but is staffing levels require the period for conducting a clinical examination may be extended to seventy-two (72) hours of confinement;
- A multi-disciplinary committee of facility staff, including facility leadership, medical and mental health professionals, and security staff, shall meet weekly to review the inmate's placement in restrictive housing;
- At least weekly, a mental health provider shall conduct face-to-face clinical contact with the detainee, to monitor the inmate's mental health status, identify signs of deterioration, and recommend additional treatment as appropriate;
- The facility shall seek to develop enhanced opportunities for in-cell and out-of-cell therapeutic activities and additional unstructured out-of-cell time for detainees with an SMI, to the extent such activities can be conducted while ensuring the safety of the inmate, staff, and other inmates.

b. Pregnant inmates

Women who are pregnant, who are post-partum, who recently had a miscarriage, or who recently had a terminated pregnancy should as a general matter not be placed in an SHU. In very rare situations, a woman who is pregnant, is postpartum, recently had a miscarriage, or recently had a terminated pregnancy may be placed in an Close Custody SHU as a response to behavior that poses a serious and immediate risk of physical harm, or if the inmate has requested to be placed in protective custody and there are no more appropriate alternatives available. Even in such cases, this decision must be approved by a representative of the detention facility administration, in consultation with a medical professional, and must be reviewed every forty-eight (48) hours.

12. **Meals** - Inmates in the Close Custody SHU shall be provided three (3) nutritionally adequate meals per day, according to the general population meal schedule and ordinarily from the same menu; however, for reasons of safety and security, inmates in the SHU shall eat with disposable utensils. If an inmate uses food or food service equipment in a manner that is hazardous to self, staff, or other inmates, alternative meal service may be provided. Alternative meal service is on an individual basis, is based upon health and safety considerations only, meets basic nutritional requirements, and can only occur with written approval of the facility administrator,

Policy Title: Special Housing Unit (SHU)	Effective Date: April 24, 2012	PS.CUS.038
		Page 11 of 29

or designee, and the responsible health authority. The substitution may not exceed seven (7) days.

13. **Clothing and Personal Hygiene** - In accordance with facility policy on Personal Hygiene, inmates in the Close Custody SHU may shave at least three (3) times weekly and shall be afforded the opportunity to shower daily. Other basic services such as laundry, hair care, barbering, clothing, bedding, and linen shall be provided equivalent to the general population and consistent with safety and security of the facility.
- a. As needed, staff shall provide toilet tissue, wash basin, tooth brush, and shaving utensils, and may issue retrievable kits of toilet articles.
 - b. An inmate may be denied such items as clothing, mattress, bedding, linens, or pillow for medical or mental health reasons if his or her possession of such items raises concerns for inmate safety and/or facility security.
 - All denials of such items shall be documented.
 - If an inmate is so disturbed that he or she is likely to destroy clothing or bedding or create a disturbance by risking harm to self or others, the medical department shall be notified immediately and a regimen of treatment and control shall be instituted by the medical staff, as necessary.
 - Extreme inmate behavior, such as destroying clothing or bedding or harmful behavior to self or others, must be documented, made part of the inmate's file with the facility to implement necessary efforts to protect and care for the individual.
14. **Correspondence** - In accordance with facility policy on Correspondence and Other Mail, inmates in the Close Custody SHU may write and receive letters and other correspondence like those housed in the facility's general population.
15. **Visitation** - In accordance with facility policy on Visitation, while in the Close Custody SHU, an inmate (In a Non-Disciplinary Detention Custody Status) ordinarily retains non-contact visiting privileges. However, ECCF may restrict or disallow visits for an inmate who violates visitation rules or whose behavior otherwise indicates the inmate would be a threat to the security or the good order of the visiting area.

Visitation may be restricted or disallowed when an inmate in Non-Disciplinary Detention Custody Status is charged with, or has been found to have committed a prohibited act related to visiting privileges, or has otherwise acted in a way that would reasonably indicate that he/she would be a threat to the orderliness or security of the visiting area.

Inmates in Protective Custody, and violent and disruptive inmates, shall not use the visitation area during normal visitation hours. In cases in which a visit would

Policy Title: Special Housing Unit (SHU)	Effective Date: April 24, 2012	PS.CUS.038
		Page 12 of 29

present an unreasonable security risk, visits may be disallowed for a particular inmate.

Inmates housed in the Close Custody SHU in Disciplinary Detention Custody Status shall not retain normal contact or non-contact visits in accordance with N.J.A.C. 10A:31-17.7.

Under no circumstances may inmates participate in general visitation while in restraints. If the inmate's behavior warrants restraints, the visit may not be granted under general population visiting conditions.

16. **Legal Visits** - In accordance with the facility policy on visitation, inmates in the Close Custody SHU may not be denied legal visitation. However, the Office of the Warden, or designee, may implement security precautions necessary to protect the inmate and visitors and maintain good order. In such cases, the SHU Staff Members shall advise legal service providers and assistants of any security concerns prior to their visit.
17. **Religious Guidance** – Inmates in the Close Custody SHU shall be permitted to participate in religious practices, consistent with the safety, security, and orderly operation of the facility which shall abide by all of the tenets set forth in PS.CUS.030 RELIGIOUS SERVICES.
 - a. Inmates in the Close Custody SHU shall be allowed visits by members of the clergy, upon request, unless the SHU Supervisor determines such a visit presents a safety or security risk, or would interfere with the orderly operation of the facility. Violent and uncooperative inmates may be temporarily denied access to religious guidance. SHU Staff Members shall advise the clergy member of the inmate's present state of behavior before he or she agrees to visit the inmates.
 - b. ECCF shall allow inmates to retain religious items within their possession (e.g., religious wearing apparel, religious headwear, prayer rugs, beads, prayer rocks, medallions) consistent with good security practices, and when doing so shall abide by all of the tenets set forth in policy PS.CUS.030 RELIGIOUS SERVICES
18. **Reading Materials (Non-Legal)** – Inmates in the Close Custody SHU shall have access to reading materials, including religious materials, in English, Spanish, and other languages frequently encountered in the facility population. The SHU Supervisor shall ensure that each inmate is offered soft-bound, reading materials of this type on a rotating basis. Disciplinary inmates may be restricted to religious non-legal reading materials only.
19. **Legal Materials** - Inmate in the Close Custody SHU shall have access to legal materials which shall abide by all of the tenets set forth in policy PS.CUS.045 INMATE - LAW LIBRARIES & LEGAL MATERIALS. Inmates may retain a

reasonable amount of personal legal material upon admittance to the SHU, provided such material does not create a safety, security or sanitation hazard.

Inmates with a large amount of legal material may be required to place a portion with their stored personal property, with access permitted during scheduled hours. Requests for access to such legal material shall be accommodated as soon as possible, but in no case more than twenty-four (24) hours after receipt of the initial inmate request to retrieve documents, except for documented security reasons.

20. **Law Library Access** - Inmates housed in the Close Custody SHU shall have the same law library access as the general population, unless compelling security concerns require limitations.

- a. Staff members shall supervise the library use by an inmate housed in the Close Custody SHU as warranted by the individual's behavior. Inmates separated for protection must be provided access to legal materials. Such inmates may be required to use the law library separately or, if that is not feasible, legal materials must be brought to them upon request
- b. Violent or uncooperative inmates may be temporarily denied access to the law library if necessary to maintain security, until such time as their behavior warrants resumed access. In some circumstances, legal material may be brought to individuals in Disciplinary Detention.
- c. Denial of access to the law library must be:
 - Supported by compelling security concerns;
 - For the shortest period required for security; and
 - Fully documented in the SHU housing logbook.

21. **Law Library and Legal Rights Group Presentations**

- In accordance with policy on law libraries & legal materials, inmates housed in the Close Custody SHU units shall have the same law library access as the general population, unless compelling security concerns require limitations.
- ECCF may supervise the library use of an inmate housed in an SHU as warranted by the individual's behavior. Violent or uncooperative inmates may be temporarily denied access to the law library if necessary to maintain security, until such time as their behavior warrants resumed access. In some circumstances, legal material may be brought to individuals in disciplinary detention.
- Inmates in Protective Custody must be provided access to legal materials. Such inmates may be required to use the law library separately or, if that is not feasible, legal materials must be brought to them, upon request.
- Denial of access to the law library must be:
 - a. Supported by compelling security concerns;
 - b. For the shortest period required for security; and
 - c. Fully documented in the SHU housing logbook.

Policy Title: Special Housing Unit (SHU)	Effective Date: April 24, 2012	PS.CUS.038 Page 14 of 29
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- In accordance with policy, PS.CUS.045 INMATE - LAW LIBRARIES & LEGAL MATERIALS, facility staff and shall notify inmates in disciplinary detention in advance of legal rights group presentations and provide these inmates an opportunity to attend. Group legal rights presentations shall be open to all inmates, including inmates in SHUs, except when a particular inmate's attendance may pose a security risk. If an inmate in the Disciplinary Detention or Protective Custody cannot attend for this reason, designated facility staff shall make alternative arrangements to offer a separate presentation and individual consultation to the inmate, if the inmate or the presenter so requests.
22. **Recreation** - Recreation for inmates housed in the Close Custody SHU shall be separate from the general population. Facilities are encouraged to maximize time out of cells for opportunities in group participation during recreation and other activities, consistent with safety and security considerations. Recreation for individuals shall occur separate from all other inmates when necessary or advisable to prevent assaults and to reduce management problems.
- a. Each inmate in the SHU shall receive (or be offered) access to exercise opportunities and equipment outside the living area and outdoors, unless documented security, safety or medical considerations dictate otherwise.
 - b. Each inmate in the Close Custody SHU shall be offered more than two (2) hours of recreation per day, seven (7) days a week, unless documented security or safety considerations dictate otherwise. Each inmate in Disciplinary Detention Status in the Close Custody SHU will be offered more than two (2) hours of recreation per day, seven (7) days a week, unless documented security or safety considerations dictate otherwise.
 - c. Where cover is not provided to mitigate inclement weather, inmates shall be provided weather-appropriate equipment and attire.
 - d. The recreation privilege shall be denied or suspended only if the inmate's recreational activity would unreasonably endanger inmate safety or security. The case of an inmate denied recreation privileges shall be reviewed at least once each week, as part of the reviews required for all inmates in SHU Status.
 - As part of this process, the reviewer shall document whether the inmate continues to pose a threat to self, others, or facility security and, if so, why.
 - Such a denial of recreation privileges (for more than seven (7) days) requires the concurrence of the Office of the Warden, or designee, and a health care professional. It is expected that such denials shall rarely occur, and only in extreme circumstances.

- e. Ordinarily, an inmate may be denied recreation privileges only with the facility administrator's, or designee's, written authorization, documenting why the inmate poses an unreasonable risk even when recreating alone. When necessary to control an immediate situation for reasons of safety and security, SHU staff may deny an instance of recreation, upon verbal approval from the SHU Supervisor, and document the reasons for that denial in the unit logbook(s). In such a case, the SHU Supervisor may also require additional written documentation from the SHU Staff for the facility administrator. When an inmate in the Close Custody SHU is deprived of recreation (or any other usually authorized items or activity), a report of the action shall be forwarded to the facility administrator. Denial of recreation must be evaluated daily by a shift supervisor. Examples of such circumstances may include, but are not limited to:
1. An inmate has been admitted to the unit and designated as Disciplinary Detention status;
 2. An inmate in Protective Custody; or
 3. An inmate whose mental and/or physical condition requires special handling and treatment by staff (for example, inmate who are drug or alcohol addicts or abusers, emotionally disturbed, mentally retarded, mentally ill, suicidal, disabled, or infirm).
- f. An inmate in disciplinary detention may temporarily lose recreation privileges upon a disciplinary panel's written determination that he/she poses an unreasonable risk to the facility, himself/herself, or others.
- g. When recreation privileges are suspended, the disciplinary panel or facility administrator shall provide the inmate written notification, including the reason(s) for the suspension, any conditions that must be met before restoration of privileges, and the duration of the suspension provided the requisite conditions are met for its restoration.
- h. The denial of recreation privileges shall be included as part of the regular reviews required for all inmates in SHU status. In accordance with SHU procedures, and using the forms required by this policy, the reviewer(s) shall state, in writing, whether the inmate continues to pose a threat to self, others, or facility security and, if so, why.
- i. Denial of recreation privileges for more than seven (7) days requires the concurrence of the facility administrator and a health care professional. It is expected that such denials shall rarely occur, and only in extreme circumstances.
23. **Other Programs and Activities-** ECCF should seek ways to increase the minimum amount of time that inmates in the Close Custody SHU spend outside their cells, and to offer enhanced in- cell opportunities. In addition to recreation, out-of- cell time might include opportunities for education, clinically appropriate treatment therapies, skill- building, and social interaction with staff and other inmates.

Policy Title: Special Housing Unit (SHU)	Effective Date: April 24, 2012	PS.CUS.038
		Page 17 of 29

be identified and checked against the inventory upon departing to ensure that no tools, hazardous objects, or materials are left in the unit.

26. **Control of Entrances** - The Close Custody SHU sally port entrance shall be operated so that the inner and outer doors cannot both be open simultaneously. Officers on the inside and outside shall independently check the identification of every person going in or out, and each officer must positively confirm a person's identity before allowing him/her through the door.

Also, in accordance with written procedures established by the facility administrator, these officers shall take precautions to ensure that the person requesting entry or exit is not doing so under duress.

27. **Control of Food Carts** - Food carts shall be securely locked before leaving the food service area for delivery to the SHU. If this is not possible, a staff escort is required.
28. **Control of Keys** - Staff assigned to the SHU shall have keys to the inner door(s) of the sally port, but not to the outside door(s). Conversely, staff outside the SHU shall have keys to the sally port's outer door(s) but not the inner door(s). Under no circumstances shall one individual hold keys to both the inner and outer doors of the sally port.
29. **Translation/Interpretation Services** - Inmate shall be provided translation or interpretation services while in the Close Custody SHU to assist with their understanding of conditions of confinement as well as their rights and responsibilities while in confinement.
30. **Special Needs** - Inmates in the Close Custody SHU shall be provided appropriate accommodations and professional assistance for disabilities and/other special needs, such as medical, therapeutic, or mental health treatment for special needs, on an equal basis as those in the general population.
31. **Review of policies-** The facility administrator or designee shall establish a standing committee, consisting of security, medical, and other staff, to regularly evaluate Close Custody SHU policies and practices, and seek to develop safe and effective alternatives to restrictive housing, as well as enhanced Close Custody SHU conditions and programs.

D. Placement into the Close Custody SHU

Close Custody SHU designation status is a non-punitive status in which restricted conditions of confinement are required only to ensure the safety of inmates or others, the protection of property, or the security or good order of the facility. For matters of safety and security, staff may have to take immediate action to control an inmate, including

Policy Title: Special Housing Unit (SHU)	Effective Date: April 24, 2012	PS.CUS.038
		Page 18 of 29

placement into the Close Custody SHU. Examples include inmates who require protective custody because they cannot be placed in the local population, inmates who have been found guilty of a facility rule violation and have been placed in Disciplinary Detention, Pre-Hearing Detention Status when an inmate constitutes a threat to other inmates, staff members, himself or herself or to the orderly operation of the adult county correctional facility or inmates who require separation for medical reasons.

Inmates on non-punitive status shall not be commingled with inmates in disciplinary detention.

Prior to the inmate's placement into the SHU, the Office of the Warden and the applicable Custody Captain, shall review the case to determine whether placement into the SHU is, in fact, warranted. The Office of the Warden may delegate to the Custody Captains the authority to place an inmate in the SHU.

1. Reasons for Placement into the Close Custody SHU.

An inmate may be placed into the Close Custody SHU when the inmate's continued presence in the general population poses a threat to life, property, self, staff, or other inmates, for the secure and orderly operation of the facility, for medical reasons, or other circumstances as set forth below. Some examples of incidents warranting an inmate's assignment to the Close Custody SHU include, but are not limited to, the following:

- a. An inmate is placed into pre-hearing disciplinary detention status awaiting an investigation or a hearing for a violation of facility rules. Pre-hearing disciplinary detention should be ordered only as necessary to protect the security and orderly operation of the facility.
 - Pre-hearing detention is not to be used as a punitive measure.
 - An inmate who demonstrates good behavior during pre-hearing detention should be considered for release to the general population while awaiting his or her disciplinary hearing.
 - Time served in pre-hearing detention shall be deducted from any time ordered by the Disciplinary Board.
 - Absent compelling circumstances, such as a pending criminal investigation, an inmate should not remain in pre-hearing detention for a longer period of time than the maximum term of disciplinary permitted for the most serious offense charged.
- b. An inmate is a threat to the security of the facility. The facility administrator may determine that an inmate's criminal record, past behavior at other institutions, or other evidence is sufficient to warrant placement of the inmate into the Close Custody SHU.
- c. As a general matter, an inmate should not be placed directly in Protective Custody as a security threat on the basis of the inmate's misconduct at that detention facility, in the absence of any disciplinary proceedings. Instead, ECCF should address the misconduct through the disciplinary processes,

be made in each case

- Use of Protective Custody to protect inmates with special vulnerabilities, including inmates vulnerable to sexual abuse or assault, shall be restricted to those instances where reasonable efforts have been made to provide appropriate housing and shall be made for the least amount of time practicable, and when no other viable housing options exist, and as a last resort.
- g. An inmate is scheduled for release, removal, or transfer within twenty-four (24) hours. Such segregation may be ordered for security reasons or for the orderly operation of the facility.
- h. The Disciplinary Board may recommend an inmate to be placed protective custody following disciplinary detention if it determines that releasing the inmate into the general population would pose a threat to the inmate or security and orderly operation of the facility. An inmate transferred from disciplinary detention to protective custody shall enjoy the same privileges as all other inmates in protective custody, provided receipt of such privileges poses no threat to the safety, security, or orderly operation of the facility. However, a subsequent placement in Protective Custody requires a Close Custody SHU Order justifying the placement after the completion of the term served in disciplinary detention, with the inmate's behavior while in disciplinary detention being taken into account.
- i. A medical professional who ordered an inmate removed from the general population shall complete and sign a Close Custody SHU Order (see below), unless the inmate is to stay in the medical department's isolation ward.

2. Close Custody Special Housing Unit Order

A written order shall be completed and approved by the Office of the Warden or Custody Captain before an inmate is placed in the SHU, except when exigent circumstances make this impracticable. In such cases, an order shall be prepared as soon as possible. A copy of the order shall be given to the inmate within twenty-four (24) hours, unless delivery would jeopardize the safety, security, or orderly operation of the facility.

- a. The Office of the Warden or Custody Captain shall review the completed Close Custody SHU Order detailing the reasons for placing an inmate in the Close Custody SHU, before his or her actual placement.
- b. A Close Custody SHU Order is not required for an inmate awaiting removal, release, or transfer within twenty-four (24) hours of its service.
- c. In an emergency, the inmate's placement in the Close Custody SHU may precede the paperwork, which the Office of the Warden or Custody Captain shall review as soon as possible after the inmate's placement.
- d. All memoranda, medical reports, and other relevant documents shall be attached to the Close Custody SHU Order.
- e. A copy of the completed Close Custody SHU Order shall be given to the inmate, in a language or manner he/she can understand, within twenty-four (24) hours of placement in the Close Custody SHU, unless delivery would jeopardize the safe, secure, or orderly operation of the facility.

Policy Title: Special Housing Unit (SHU)	Effective Date: April 24, 2012	PS.CUS.038
		Page 27 of 29

medically contraindicated. All meals are to be served by staff and inspected for contraband prior to delivery to the inmate, and any food remaining after the meal, as well as the utensils and tray, are to be thoroughly inspected before their return to food service.

- Only medications prescribed and administered directly to the inmate by medical personnel may be given the inmate. **No laxatives may be given except natural ones like coffee, prune juice, etc.**
- When the inmate needs to urinate and/or defecate, he or she shall be furnished an empty hospital bedpan, which shall afterward be closely inspected by medical staff observed by custody staff to ascertain whether any contraband is present.
- Any cell that is labeled a “dry cell” (temporary or permanent) shall receive the Supervisory and Staff Visits as required by Section C number 9 even if not actually housed in the Special Housing Unit.

5. **Post Orders**

Post Orders for closely observing an inmate in dry cell status can be found in **PS.CUS.006.33 Special Housing Unit (SHU) Post Orders.**

6. **Requirements for Close Observation**

The inmate shall be constantly observed and supervised by a staff member of the same gender.

It is the observing staff member’s responsibility to ensure the inmate does not dispose of any concealed item, or to allow an activity which would allow the inmate access to it, thereby jeopardizing the security and good order of the facility, staff, and inmates. Any questions, emergency, or other situation that arises shall immediately be brought to the attention of the Special Housing Unit and/or Area Supervisor.

The inmate shall never be allowed freedom to move around unsupervised, or be given an opportunity to dispose of any objects he or she may be concealing.

- a. When applicable, the observing staff member shall be issued a portable radio or telephone and flashlight, so that he or she does not have to interrupt constant observation to communicate with other staff.
- b. Inmates will be monitored for changes in medical and mental health status by medical staff.
- c. A daily log and Special Housing Unit record shall be maintained on each inmate in dry cell status.
- d. The Special Housing Unit Supervisor shall ensure observers have reviewed all the tenets of PS.CUS.006.33 Special Housing Unit Post Orders.
- e. The shift supervisor and/or Special Housing Unit Supervisor shall provide periodic staff relief to the observing staff and at any other time it is necessary for the observing staff to leave the area. **The inmate must not be**

left unattended.

- f. Trash may not be allowed to accumulate, and each item shall be thoroughly collected by staff and searched before disposal.
- g. Periodic searches shall be conducted:
 - A strip search of the inmate when he or she is placed in the dry cell after which the inmate
 - A strip search of the inmate shall occur at least once each shift.
 - Search of the dry cell shall occur at least once each shift.Searches should be conducted so as to not reveal to the inmate a predictable pattern. Prior to each search, the SHU Supervisor and/or shift supervisor must be notified and a second staff member provided to ensure continual close observation and supervision of the inmate. Each search must be documented on a Facility Strip Search form (Form G-1025 or contractor equivalent) along with an incident report.
- h. Staff shall notify the shift supervisor and/or Special Housing Unit Supervisor when contraband is found, secure the contraband in a properly documented evidence bag, and maintain the chain of evidence following all the tenets of **PS.CUS.046 Contraband and Search of Inmates and Facility.**

7. The length of close observation status must be determined on an individual basis. Ordinarily, the Special Housing Unit Supervisor during regular work hours or the shift supervisor at other times, in consultation with qualified health personnel, shall determine when termination is appropriate.

- a. **Three Days**
The status of an inmate under close observation for as long as three (3) days must be reviewed by the Close Custody SHU Supervisor in accordance with the above procedures on review of inmates in Special Housing Units (irrespective of whether the observation actually takes place in the SHU).
- b. **Seven Days**
Since it is unlikely that the objective of dry cell status will not be achieved within seven (7) days, maintaining an inmate under close observation beyond seven (7) days requires prior approval of the Special Housing Unit Supervisor and medical staff.

G. Handling of Pregnant Inmates

- 1. Prohibit a staff member of, or medical service provider for, a county correctional facility from restraining a woman known to be pregnant or applying restraints during any stage of labor, any pregnancy related medical distress, delivery, or post-partum.
- 2. The determination of when post-partum has commenced and has ended shall rest solely with the medical providers of the pregnant inmate.

Policy Title: Special Housing Unit (SHU)	Effective Date: April 24, 2012	PS.CUS.038
		Page 29 of 29

3. Restraints should not be used on a pregnant inmate during labor and delivery and should be avoided during the post-partum period, unless then use of restraints meet the criteria of (1) above. The determination of when post-partum has commenced and has ended shall rest solely with the medical provider of the pregnant inmate.
4. Written operating standards shall be established that include but are not limited to:
 - a. Use of restraints on a pregnant inmate during transportation
 - b. Frequency for reassessing the use of restraints when they have been deemed necessary or appropriate; and
Documentation for the use of restraints, such as type was used, what manner it was used in, and the length of time it was used.

EXHIBIT E



Essex County Corrections

Codification
PS.CUS.006.33

Page 1 of 19

Policy Title:
Special Housing Unit (SHU) - Post Order

Enabling Authority:
N.J.A.C. 10A:31-1 et. seq.

Effective Date:
June 11, 2012

Revised:
March 2022

Authority:
N.J.A.C. 10A:31-18.1 – 18.6
N.J.A.C. 10A:31-17.1 – 17.8
2011 PBNDS Special Housing Units
2011 PBNDS Search of Detainees
2016 PBNDS Rev Facility Security & Control

Promulgating Office:
Bureau of Planning and Strategic Initiatives

**Professional Association
Standard Cited:**
American Correctional
Association 4th Edition Standards for Adult
Local Detention Facilities: 4-ALDF-2A-44
through 2A-66, 2C-01, 2C--04.

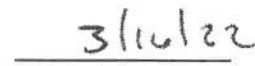
Applicability:
All Sworn Staff

Review Schedule:
March 2023


Any Order, Policy, Directive or Memoranda in conflict with this Order is hereby superseded.

Reviewed By: Associate Warden


Signature

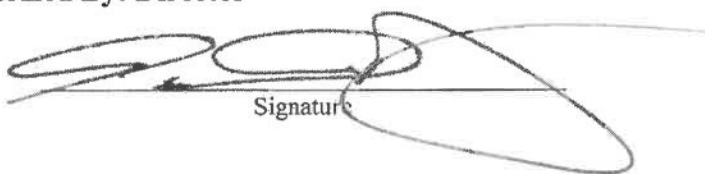

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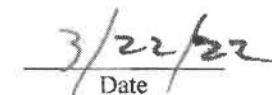
Issued By: Warden


Signature


Date

Authorized By: Director


Signature


Date

Policy Title: Close Custody Special Housing Unit (SHU) – Post Order	Effective Date: June 11, 2012	PS.CUS.006.33 Page 2 of 19
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For the purpose of this post order the following guidelines shall be adhered to. These post orders are to assist personnel assigned to this specific post. This specification is descriptive of the nature and scope of the duties and functions that may be performed by personnel assigned to this post. However, the below tasks are for illustrative purposes and are not intended to restrict or limit the performance of related tasks not specifically listed.

In any situation that should arise while in the performance of one’s duties that is not specifically covered under this order, Officers shall request clarification from their immediate supervisor or, in emergent situations, exercise prudence and sound judgment in determining an appropriate course of action.

- All ECDOC staff members shall endeavor to meet the objectives of the Mission of the Department of Corrections as set forth by the Director or his designee(s);
- All ECDOC staff members shall, at all times, exercise due diligence to maintain and ensure the integrity and security of the Department and the Essex County Correctional Facility;
- ECDOC staff members shall not respond to violent situations unless they have received prior approval from Center Control or other competent authority;
- All ECDOC staff members have the responsibility to take appropriate action during an emergency (including physical restraint) and to perform assignments as necessitated or dictated by competent authority;
- All ECDOC staff members are prohibited from leaving their assigned posts without being properly relieved or otherwise dismissed by a supervisor;
- Abide by all Department Rules, Regulations, Directives and Orders;
- Abide by all of the tenets of PS.CUS.002 Firearms Policy;
- Abide by all of the tenets of PS.CUS.001 Use Of Force Policy;
- Abide by all of the tenets of PS.CUS.003 Use Of Restraints Policy;
- Any staff member who is taken hostage is considered to be under duress; and any order issued by such a person, regardless of his or her position of authority, is to be disregarded;
- Under no circumstance shall a custody staff member be removed from his or her post to perform another function if such removal results in the post becoming unmanned.
- Any custody staff member, civilian or other official, regardless of rank or position, seized as a hostage will, from the moment of seizure, cease to exercise the authority vested in his/her rank or office, and any orders issued by them while a hostage will be disregarded by the ECCF’s administration and officers.
- Abide by all of the tenets of PS.CUS.038 Special Housing Unit (SHU) Policy.

Hours of Operation

**THIS POST IS OPERATED TWENTY-FOUR HOURS PER DAY SEVEN DAYS PER WEEK
THREE HUNDRED SIXTY FIVE DAYS PER YEAR.**

General Provisions

Policy Title: Close Custody Special Housing Unit (SHU) – Post Order	Effective Date: June 11, 2012	PS.CUS.006.33
		Page 3 of 19

- Facility safety, security and good order, including the safety, health and well-being of staff and detainees, will be enhanced through ongoing observation, supervision, and personal contact and interaction between staff and detainees.
- Facility safety, security and good order will be enhanced through frequent and documented staff inspections of detainee-occupied and unoccupied areas.
- The housing unit post order log books shall maintain the units daily operations schedule.
- Security Officer posts shall be located in or immediately adjacent to detainee housing units to permit officers to see or hear and respond to emergency situations. Personal contact and interaction between housing staff and detainees is expected and required.
- Staff shall observe, supervise and control movement of inmates from one area to another. No inmate may ever be given authority over, or be permitted to exert control over, any other inmate.

Special Housing Unit (SHU)

- Special security and control measures will consistently be applied to Special Housing Unit entrances.
- Special Housing Units are inherently among the most secure areas of the facility, special security and control measures are required.
- Items allowed to enter SHUs shall be kept to an absolute minimum. Any item allowed into the unit, including laundry, commissary, food carts and personal property, shall be thoroughly inspected and searched to prevent the introduction of contraband.
- In the event that it becomes necessary to introduce tools into the unit, special care shall be taken. Prior to entering, all tools shall be inventoried by the special housing Officer. Tools shall be identified and checked against the inventory upon departing to ensure that no tools, hazardous objects, or materials are left in the unit.
- The sally port shall be operated so that the inner and outer doors cannot both be open simultaneously. Officers on the inside and outside shall independently check the identification of every person going in or out, and each officer must positively confirm a person's identity before allowing him/her through the door. These Officers shall take precautions to ensure that the person requesting entry or exit is not doing so under duress.
- Food carts shall be securely locked before leaving the food service area for delivery to the SHU. If this is not possible, a staff escort is required.
- Staff assigned to the SHU or SHU visiting area shall have keys to the inner door(s) of the sally port, but not to the outside door(s). Conversely, staff outside the SHU or SHU visiting area shall have keys to the sally port's outer door(s) but not the inner door(s). Under no circumstances shall one individual hold keys to both the inner and outer doors of the sally port.

The Officer(s) shall:

- Inspect and test duress/panic alarms system, fire fighting equipment, two-way radio system, inmate management system and telephone system or any other relevant equipment, as appropriate for the area of assignment and report any deficiencies to the unit supervisor;
- Where applicable maintain a two-way radio on his/her person;
- Report for scheduled duty in a timely fashion;
- Present a professional demeanor at all times;

Policy Title:
Close Custody Special Housing Unit
(SHU) – Post Order

Effective Date:
June 11, 2012

PS.CUS.006.33

Page 4 of 19

- Wear the appropriate uniform of the day in accordance with PS.ADM.033 Uniform Policy;
- All sworn staff shall wear their protective vest in accordance with PS.ADM.037 Protective Vests;
- Write factual reports, including police reports, where required;
- Complete all reports before ending tour of duty;
- When applicable, maintain a PPD on his/her person;
- Report all suspicious and/or unusual activity to the SHU Supervisor and/or Center Control as appropriate;
- Enforce inmate rules and regulations;
- Perform related duties as directed by the SHU Supervisor;
- Maintain an accounting of contractor/tradesperson's tools and equipment, when applicable;
- Acceptance of the keys implies accepting responsibility for the area and that the Officer(s) of the previous tour has effectively been properly relieved of that post;
- Where applicable, account for all keys and equipment assigned to the area of assignment;
- Conduct a search of their area of assignment for weapons and contraband minimally at the beginning and end of their tour, or as directed by the SHU Supervisor;
- Maintain a current inmate census, via physical count, ensuring that all inmates are alive and not in an unsafe condition and that no imminent danger to life or safety is present;
- Make counts, when applicable and as directed by the SHU Supervisor;
- Frequent unannounced security inspections shall be conducted on day and night shifts to control the introduction of contraband; identify and deter sexual abuse of inmates; ensure facility safety, security and good order; prevent escapes; maintain sanitary standards; and eliminate fire and safety hazards. ECCF shall prohibit staff from alerting others that these security inspections are occurring, unless such announcement is related to the legitimate operational functions of the facility;
- When applicable or as ordered, pat/frisk all inmates consistent with assignment protocol(s);
- Maintain effective custody and control of inmates;
- Coordinate with center control and relevant sub-controls, all inmate movement to ensure secure, controlled movement and transfer of custody;
- Continually monitor by physical observation and inter-personal communication, all inmates, visitors, guests and staff within the jurisdictional scope of the area of assignment;
- Maintain effective communication with the SHU Supervisor and Center Control;
- Ensure all doors and locking devices within the area of assignment and its ancillary areas are secured when deemed not in use. Doors are to be secured at all times and only opened to facilitate inmate movements;
- At no time allow an inmate to open any locking device by any means;
- In the event of an emergency situation, report the conditions and /or circumstances to Center Control by the most expeditious means possible (telephone, internal 9-1-1, radio, PPD, etc.) and then take reasonable action to arrest the situation or to remove persons from harm until such time as more specific instruction from supervisory personnel/Center Control is received;
- Ensure a minimum of three (3) cells shall be sanitized/cleaned per day on the 0600-1400 and 1400-2200 shift;
- Upon receipt of their work assignment it is the officers' responsibility to ensure that all inmates assigned to their custody are received and produced for court;

Policy Title: Close Custody Special Housing Unit (SHU) – Post Order	Effective Date: June 11, 2012	PS.CUS.006.33
		Page 5 of 19

- In the event that a discrepancy occurs in the inmate census, (i.e. sick inmate(s), inmate(s) is not currently in the building or unable to locate an inmate) the officer must immediately contact the SHU Supervisor and/or Center Control;
- Officers are to immediately contact the SHU Supervisor and/or Center Control when an inmate exhibits any medical problems in order to request immediate medical assistance;
- Review all logs and/or reports that have been generated since his/her last tour of duty;
- Be responsible for maintaining the area of assignment in a safe and clean condition during the tour of duty; and
- When applicable, engage in a meaningful exchange of information with the on-duty Officer(s) and/or staff members to the activities and/or events of the day, prior to assuming responsibility for the area of assignment.

The SHU Officer, under the direction and supervision of the SHU Supervisor is responsible for the physical housing unit, housing area security, the supervision all inmate assigned to the SHU and their activities. For the purpose of this post order, the SHU shall typically refer to all of building two (2) and the Close Custody SHU shall be housing units 2D1 and 2D3, or; in the event of special circumstance(s) or emergency (ies) any other area designated for the housing of inmates that require close custody observation or removal from the general population as ordered by the Office of the Warden, or designee.

This Post Order protects staff, contractors, volunteers, inmates, and the community from harm by separating certain inmates from the general population in Special Housing Units (SHU's) as ordered by the Office of the Warden, or designee.

The SHU Officer shall:

- Ensure that all inmate are in their assigned housing unit, cell and/or bunk;
- Conduct an inspection of the housing unit including all ancillary areas to include, but not limited to, conditions and security of cells/bunks (upper and lower), dayroom, recreational area, pantry, showers/bathrooms, storage closets, shadow boards, sally-port (where applicable), laundry storage room (where applicable) and other inmate accessible and common areas;
- Report the results of all physical counts to the floor control officer or counts control officer as appropriate;
- Complete a housing report summary and document the condition and/or status of the housing unit and all requisite equipment and/or supplies issued including tablets and food port master locks thereto and forward same to the appropriate housing unit supervisor;
- During each shift a running inventory shall be maintained of all hazardous substances located within each housing unit supply closet. ANY unaccounted supplies will be reported immediately to the SHU Supervisor. Officers assigned to a post with a (janitorial supply closet/shadow board) are to maintain the aforementioned inventory utilizing the Officers' Housing Report. In the event a potentially hazardous substance is unaccounted for, the housing unit will be/remain secured and the SHU Supervisor notified;
- Within the first and last thirty (30) minutes of each shift in conjunction with the clearing of the count a complete inventory shall be conducted of all non-restricted tools and hazardous substances i.e. shadow boards. The results of the inventory shall be recorded on the Officers Housing Report and hazardous

Policy Title: Close Custody Special Housing Unit (SHU) – Post Order	Effective Date: June 11, 2012	PS.CUS.006.33 Page 6 of 19
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substances inventory binder, when appropriate, and the tallies shall be listed in “Actual Qty” column and “Missing /Damaged Qty” column;

- In the event ANY unaccounted for supplies are requisitioned an Incident Report will follow via the appropriate chain of command and replacement will only occur with the approval of the Security Operations Bureau Commander;
- Maintain adequate laundry supply of inmate uniforms for those being transferred into general population;
- Maintain a permanent log to record all activities concerning the SHU inmates to include, but not be limited to:
 - Inmate Name (when applicable);
 - Commitment number and/or A-number (when applicable);
 - Date and time admitted (when applicable);
 - Reason for admission (when applicable);
 - Tentative release date (when applicable);
 - Any special medical or psychiatric problems or needs as articulated by the medical or mental health department(s) (when applicable);
 - All officials, supervisors, medical/mental health personnel including their signatures;
 - Recreational time(s);
 - Visits;
 - Any unusual occurrences/circumstances;
 - Counts/ongoing census;
 - Condition of all SHU safety and security equipment;
 - Food cart arrival times;
 - Utensil counts;
 - Meals served;
 - Walk times;
 - Lock in times;
 - Altercations;
 - Incidents;
 - Disciplinary actions;
 - Sanitation issues;
 - Medication times;
 - Sick call times;
 - Medical emergencies;
 - Any and all persons entering or exiting the SHU;
 - Inspection of the SHU;
 - Any other relevant information.
- Maintain the assigned posts log book. Document all inmate activities, unusual occurrences, and tours conducted during your shift.
- In the event of any evacuation all of the tenets set forth in policy PS.CUS.035 FIRE PREVENTION, CONTROL AND EVACUATION shall be followed.
- In the event of any evacuation the SHU Escort Officer shall be the primary staff member responsible for the removal of any Inmate.

Policy Title: Close Custody Special Housing Unit (SHU) – Post Order	Effective Date: June 11, 2012	PS.CUS.006.33 Page 7 of 19
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Security/Safety

In order to maintain a safe and effective operational level of security within the housing unit the officer(s) shall:

- Where applicable, keep all food ports secured unless in use for purpose of inmate meals, medication or any purpose that the officer deems necessary;
- At no time shall more than one food port be opened at a time, after a port is opened to conduct feed, for a nurse to dispense medication, or to give an inmate approved materials the port must be secured before the next port is open;
- Keep cell lights on throughout the course of a shift when recreation is taking place, counts are being conducted or as directed by the SHU Supervisor;
- Familiarize themselves with any procedures pertaining to the running of the SHU;
- Upon completing a switch or lock-in, conduct a physical count of all inmates and ensure that all inmates are alive and not in an unsafe condition, that no imminent danger to life is present and that all inmates are in their assigned housing unit, cell and/or bunk;
- Ensure that all inmates are subject to search in accordance with PS.CUS.046 SEARCH OF INMATES and prior to entering or exiting the SHU for any reason;
- Schedule and supervise all inmate activities consistent with the SHU program, to afford the population an equal opportunity for participation in programs, and services, unless limited by facility policies, recreation schedules, inmate status or otherwise directed by the SHU supervisor;
- Observe each inmate personally and who have been deemed as being in need of close supervision as directed by an immediate supervisor or as requested by the medical or mental health departments. This observation shall be conducted on an irregular schedule not to exceed 30 minutes between observations. In the event that these observations exceed the 30 minute window it shall be documented in the unit log book indicating the reason.

General Supervision of SHU Inmates

In order to properly manage the SHU the Officer(s) shall:

- Provide newly admitted inmates with an orientation to the SHU and its specific programming;
- Confirm that (or arrange for) each newly admitted inmate has the following clean items (unless prohibited by medical or mental health):
 1. One towel;
 2. One fire retardant mattress;
 3. One pillow;
 4. Two sheets;
 5. One pillowcase;
 6. Sufficient clean blankets to provide comfort under existing temperature conditions; and
 7. Two inmate uniforms.
- Notify inmates, at least fifteen minutes in advance of scheduled activities, to be ready for participation in activities away from the floor.

Inmate Meal Service

SHU officers **shall not** serve inmate meals. The SHU officer(s) shall observe the meal service process noting the quantity of food being placed on each inmate’s tray and where necessary, provide additional

instruction to the inmate food service workers to ensure that favoritism, careless serving and waste are avoided by:

- Upon delivery of the food and supply carts from the main kitchen the Officer(s) shall isolate cart(s) in the housing unit pantry as soon as practicable;
- Once the cart(s) has been isolated the housing unit Officer(s) shall unlock the cart(s) and inspect the cart(s) for cleanliness, quality and quantity of food and supplies as well as for contraband (padlocks must remain locked when not in use);
- Physically count the number of food trays delivered;
- Physically count the number of drinking cups (where applicable);
- Any and all discrepancies regarding the meal content or contraband discovered shall be called to the attention of the SHU supervisor prior to beginning distribution of food;
- Ensuring that no inmate is permitted into the kitchen area except for the purpose of meal service preparation and/or clean up;
- Allowing only medically cleared workers to enter the pantry and to prepare and serve meals. The Officer provides instructions for serving proper portions for each item on the menu;
- Ensuring that inmate food handlers wear disposable aprons, gloves and hats while serving food, and at no time during the serving of meals shall more than five (5) trays of food be prepared in advance of being served;
- Utilizing compartment type trays, bowls and cups;
- Permitting only one inmate at a time to receive a tray of food;
- Providing a sanitary space for group dining commensurate to inmate classification levels. Meals shall be served in cells when it is necessary for purposes of safety or security;
- Mandating that all food and beverages provided to the inmate population at a given meal shall be consumed at meal time. Inmates shall not be permitted to return to their cells or bunks with food and/or beverages served in the dayroom, the only exception hereto shall be up to two (2) pieces of fruit per inmate permitted to be stored in his/her cell or bunk. Food hoarding is strictly prohibited;
- Ascertaining that each inmate who voluntarily remains in his/her cell/bunk is aware that a meal is being served. If the inmate declines the meal, he/she must be questioned as to why. An entry is to be made in the housing unit logbook and, where necessary, an incident report is to be filed;
- Immediately after the meal service the housing unit Officer(s) shall inspect the cart(s) in order to obtain an accurate tray count, serving spoon count (where applicable), serving pan count (where applicable) drinking cups (where applicable) and search for contraband. The counts/inspection shall be noted in the log book. In areas where supplies are on separate carts, they still must be counted and documented appropriately;
- Any discrepancies shall be reported to the SHU supervisor prior to the carts return to the main kitchen. Once the cart(s) has been inspected it shall be locked by the Officer(s) and returned to the main kitchen;
- Ensure that no cart is locked or unlocked by an inmate;
- All carts must be sent back locked unless no lock is available;
- All Officers must properly complete and return to the main kitchen housing unit pantry inventory form for each meal.

Policy Title: Close Custody Special Housing Unit (SHU) – Post Order	Effective Date: June 11, 2012	PS.CUS.006.33 Page 9 of 19
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To ensure that inmate food workers are free from disease that can be transmitted by food or utensils, and that they handle food and utensils in a clean and sanitary manner, they must adhere to the following:

- All persons working in food services or handling food must be evidence free of infectious disease or illnesses transmissible by food or utensils;
- Custody staff shall visually observe all kitchen workers for signs of infection, i.e., runny nose, cough, skin sores, etc., before working in the kitchen, and report all relevant information in the housing unit logbook;
- All food handlers must have a pre-service physical examination;
- All food handlers will be re-examined at least annually;
- The Health Care Medical Records Administrator will keep a current file of all food handler examinations;
- All food handlers will be instructed in proper hand washing and other hygienic food-handling techniques. Food handler’s hands and fingernails must be washed during and after the handling of food;
- Food service workers who become ill at work shall be relieved of duty;
- If for any reason an inmate food handler has been away from the job for thirty (30) days or more, he/she must be re-examined and cleared by the Medical Department before returning to work;
- All requests by food service staff for inmate workers will use the proper classification/medical authorization form, and await clearance by **both** the Medical Department and the Classification Unit.

Note

If for any reason inmates are to receive meals in their cells it is to be conducted by opening one food port at a time; doors should not be opened to conduct feeds unless approved by a supervisor.

Medical

In the event an inmate sustains injury during the course of their routine activities and/or during an incident, the housing unit officer shall contact the medical department to request medical attention. However, in any event where an inmate exhibits any of the following signs and/or symptoms:

1. BLEEDING, OTHER THAN MINOR CUTS OR SCRAPES;
2. SHORTNESS OF BREATH;
3. SIGNIFICANT PAIN OF ANY KIND;
4. BURNS, OTHER THAN MINOR BURNS WITHOUT COMPLAINTS;
5. EYE INJURIES, WITH ANY INMATE/ICE DETAINEE COMPLAINT;
6. SEIZURES; OR
7. IF IN THE OFFICER’S OPINION, AN INMATE HAS A MEDICAL PROBLEM THAT WARRANTS IMMEDIATE MEDICAL ATTENTION.

The Officer(s) shall immediately contact Center Control, request a response by the Medical Department, and arrange for the inmate to be seen by a health care provider immediately. Further, the Officer shall alert Center Control for assistance and where feasible, render first aid until the services of more qualified medical personnel becomes available.

Additionally, the Officer shall document the incident in the housing unit logbook AND on an Urgent/Emergent Medical Contact Log Report. Incident reports shall also be filed when deemed necessary by the SHU Supervisor or other competent authority.

- When space and resources are available, inmates in Protective Custody may be provided opportunities to spend time outside their cells (in addition to the required recreation periods), for such activities as socializing, watching TV, and playing board games and may be assigned to work details (for example, as orderlies/tierman in the SHU).
- Shall be personally observed at least every thirty (30) minutes on an irregular schedule. Inmates who are violent or mentally disordered or who demonstrate unusual or bizarre behavior shall receive more frequent observation; for such cases that warrant increased observation, the SHU personnel will personally observe them accordingly or as directed by the SHU supervisor.
- A health care provider shall visit every inmate in the SHU at least once daily. Inmates shall be provided medications as prescribed for them. Inmates will have access to regularly scheduled sick call regardless of housing assignment and the medical visit shall be recorded on the SHU Close Custody Observation form.
- Mental health status shall be reviewed and documented at least once every thirty (30) days.
- Shall be provided three (3) nutritionally adequate meals per day, according to the general population meal schedule and ordinarily from the same menu. If an inmate uses food or food service equipment in a manner that is hazardous to self, staff, or other inmates, alternative meal service may be provided. Alternative meal service is on an individual basis, is based upon health and safety considerations only, meets basic nutritional requirements, and can only occur with written approval of the facility administrator, or designee, and the responsible health authority. The substitution may not exceed seven (7) days.
- May shave at least three (3) times weekly and shall be afforded the opportunity to shower daily.
- Laundry, hair care, barbering, clothing, bedding, and linen shall be provided equivalent to the general population and consistent with safety and security of the facility.
- As needed, staff shall provide toilet tissue, tooth brush and may issue retrievable kits of toilet articles.
- An inmate may be denied such items as clothing, mattress, bedding, linens, or pillow for medical or mental health reasons if his or her possession of such items raises concerns for inmate safety and/or facility security. All denials of such items shall be documented. If a inmate is so disturbed that he or she is likely to destroy clothing or bedding or create a disturbance by risking harm to self or others, the medical department shall be notified immediately and a regimen of treatment and control shall be instituted by the medical staff, as necessary. Extreme inmate behavior, such as destroying clothing or bedding or harmful behavior to self or others, must be documented, made part of the inmate's file.
- Ordinarily retains non-contact visiting privileges.
- Under no circumstances may inmates participate in general visitation while in restraints. If the inmate's behavior warrants restraints, the visit may not be granted under general population visiting conditions.
- Shall maintain legal visits, however, the Office of the Warden, or designee, may implement security precautions necessary to protect the inmate and visitors and maintain good order. In such cases, the SHU Staff Members shall advise legal service providers and assistants of any security concerns prior to their visit.
- Shall be allowed visits by members of the clergy, upon request, unless the SHU Supervisor determines such a visit presents a safety or security risk, or would interfere with the orderly operation of the facility. Violent and uncooperative inmates may be temporarily denied access to

call regardless of housing assignment. Any action taken shall be documented in a separate logbook, and the medical visit shall be recorded on the SHU Close Custody Observation form.

- An inmate's mental health status shall be reviewed and documented at least once every thirty (30) days.
- Shall be provided three (3) nutritionally adequate meals per day, according to the general population meal schedule and ordinarily from the same menu. If an inmate uses food or food service equipment in a manner that is hazardous to self, staff, or other inmates, alternative meal service may be provided. Alternative meal service is on an individual basis, is based upon health and safety considerations only, meets basic nutritional requirements, and can only occur with written approval of the facility administrator, or designee, and the responsible health authority. The substitution may not exceed seven (7) days.
- Shall shave at least three (3) times weekly and shall be afforded the opportunity to shower daily.
- Laundry, hair care, barbering, clothing, bedding, and linen shall be provided equivalent to the general population and consistent with safety and security of the facility.
- As needed, staff shall provide toilet tissue, wash basin, tooth brush, and shaving utensils, and may issue retrievable kits of toilet articles.
- An inmate may be denied such items as clothing, mattress, bedding, linens, or pillow for medical or mental health reasons if his or her possession of such items raises concerns for inmate safety and/or facility security. All denials of such items shall be documented. If a inmate is so disturbed that he or she is likely to destroy clothing or bedding or create a disturbance by risking harm to self or others, the medical department shall be notified immediately and a regimen of treatment and control shall be instituted by the medical staff, as necessary. Extreme inmate behavior, such as destroying clothing or bedding or harmful behavior to self or others, must be documented and made part of the inmate's file.
- Shall not retain normal contact or non-contact visits in accordance with N.J.A.C. 10A:31-17.7. Special visits may only be authorized with the written consent of the Office of the Warden.
- Shall maintain legal visits, however, the Office of the Warden, or designee, may implement security precautions necessary to protect the inmate and visitors and maintain good order. In such cases, the SHU Staff Members shall advise legal service providers and assistants of any security concerns prior to their visit. However, the Office of the Warden, or designee, may implement security precautions necessary to protect the inmate and visitors and maintain good order. In such cases, the SHU Staff Members shall advise legal service providers and assistants of any security concerns prior to their visit.
- Shall not be allowed visits by members of the clergy.
- Inmates housed in the SHU shall have the same law library access as the general population, unless compelling security concerns require limitations.
 - a. Staff members shall supervise the library use by an inmate housed in the SHU as warranted by the individual's behavior. Inmates segregated for protection must be provided access to legal materials. Such inmates may be required to use the law library separately or, if that is not feasible, legal materials must be brought to them upon request
 - b. Violent or uncooperative inmates may be temporarily denied access to the law library if necessary to maintain security, until such time as their behavior warrants resumed access. In some circumstances, legal material may be brought to individuals in Disciplinary Detention.

Policy Title: Close Custody Special Housing Unit (SHU) – Post Order	Effective Date: June 11, 2012	PS.CUS.006.33 Page 15 of 19
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- As needed, staff shall provide toilet tissue, wash basin, tooth brush and may issue retrievable kits of toilet articles.
- An inmate may be denied such items as clothing, mattress, bedding, linens, or pillow for medical or mental health reasons if his or her possession of such items raises concerns for inmate safety and/or facility security. All denials of such items shall be documented. If a inmate is so disturbed that he or she is likely to destroy clothing or bedding or create a disturbance by risking harm to self or others, the medical department shall be notified immediately and a regimen of treatment and control shall be instituted by the medical staff, as necessary. Extreme inmate behavior, such as destroying clothing or bedding or harmful behavior to self or others, must be documented, made part of the inmate's file.
- Ordinarily retains non-contact visiting privileges.
- Under no circumstances may inmates participate in general visitation while in restraints. If the inmate's behavior warrants restraints, the visit may not be granted under general population visiting conditions.
- Shall maintain legal visits, however, the Office of the Warden, or designee, may implement security precautions necessary to protect the inmate and visitors and maintain good order. In such cases, the SHU Staff Members shall advise legal service providers and assistants of any security concerns prior to their visit.
- Shall be allowed visits by members of the clergy, upon request, unless the SHU Supervisor determines such a visit presents a safety or security risk, or would interfere with the orderly operation of the facility. Violent and uncooperative inmates may be temporarily denied access to religious guidance. SHU Staff Members shall advise the clergy member of the inmate's present state of behavior before he or she agrees to visit the inmates.
- Shall have access to legal materials. Inmates may retain a reasonable amount of personal legal material upon admittance to the SHU, provided such material does not create a safety, security or sanitation hazard. Inmates with a large amount of legal material may be required to place a portion with their stored personal property, with access permitted during scheduled hours. Requests for access to such legal material shall be accommodated as soon as possible, but in no case more than twenty-four (24) hours after receipt of the initial inmate request to retrieve documents, except for documented security reasons.
- Inmates housed in the SHU shall have the same law library access as the general population, unless compelling security concerns require limitations.
 - a. Officers shall supervise the library use by an inmate housed in the SHU as warranted by the individual's behavior. Inmates segregated for protection must be provided access to legal materials. Such inmates may be required to use the law library separately or, if that is not feasible, legal materials must be brought to them upon request
 - b. Violent or uncooperative inmates may be temporarily denied access to the law library if necessary to maintain security, until such time as their behavior warrants resumed access. In some circumstances, legal material may be brought to individuals in Disciplinary Detention.
 - c. Denial of access to the law library must be:
 - Supported by compelling security concerns;
 - For the shortest period required for security; and
 - Fully documented in the SHU housing logbook.

- Ordinarily, inmates shall have telephone access similar to inmates in the general population, but in a manner consistent with the special security and safety requirements of inmates in the unit.
- Inmates will be provided translation or interpretation services while in the SHU to assist with their understanding the conditions of confinement as well as their rights and responsibilities.

Dry Cells

The following procedures shall apply to dry cells:

- Housing Unit 2 D Pod Level 3 Cell 331 shall be the primary “Dry Cell”; other cells may be adapted to meet the criteria of a “Dry Cell” if needed and as ordered by the Office of the Warden, or designee.
- If equipped with a toilet and/or sink, the water to the cell should be shut off, and the toilet flushed to remove all water in it prior to the inmate’s being allowed into the room. The water should remain off for the duration of the dry cell process.
- Prior to placement of an inmate in dry cell status, the room to be used shall be completely searched and determined to be free of contraband. Potential hiding places, if any, for the contraband shall be noted in the Housing Unit Log Book.
- The room should be free of hiding places and be equipped with only a bed.
- Doors should have proper observation panels to protect staff and to allow unobstructed observation.
- The inmate will be advised of the reasons he or she is being placed in a dry cell, the purpose of this placement, the conditions he or she can expect, and the means by which he or she can request items and services including, but not limited to, food and water, medical care, hygiene products, and bedpans.
- For the inmate’s safety, he or she shall be required to provide a urine sample, to a qualified medical professional, within two hours of placement under close observation. A second urine sample shall be required prior to releasing the inmate from close observation.
- The light shall be kept on at all times.
- Staff will be provided the inmate regular access to water.
- Staff shall provide telephone access to the inmate.
- Staff shall ensure the inmate not be allowed to come in contact with another inmate.
- Ordinarily, the inmate may not be allowed personal property, except legal and personal mail and a reasonable amount of legal materials.
- Personal hygiene items shall be controlled by staff. When the inmate requests to shave, brush teeth, etc., a wash pan and container of water is to be provided for use in the cell.
- Staff shall ensure when the inmate is lying on a bed, the inmate shall be required to lay on top of the mattress) in full view, weather and room temperature permitting. When necessary for the inmate to use covers, hands must remain visible at all times so that staff can observe any attempt to move contraband.
- An inmate might attempt to remove and/or insert contraband from or into a body cavity, so it is important to constantly observe his or her hands.
- Ordinarily, the inmate shall not be permitted to leave the cell or room.
- The inmate shall be served the same meals as the general population, unless medically contraindicated. All meals are to be served by staff and inspected for contraband prior to delivery

to the inmate, and any food remaining after the meal, as well as the utensils and tray, are to be thoroughly inspected before their return to food service.

- Only medications prescribed and administered directly to the inmate by medical personnel may be given the inmate. **No laxatives may be given except natural ones like coffee, prune juice, etc.**
- When the inmate needs to urinate and/or defecate, he or she shall be furnished an empty hospital bedpan, which shall afterward be closely inspected by medical staff and observed by custody staff to ascertain whether any contraband is present.
- Any cell that is labeled a “dry cell” (temporary or permanent) shall receive the Supervisory and Staff Visits as required by PS.CUS.038 Special Housing Unit even if not actually housed in the Special Housing Unit.
- Staff of the same gender shall be constantly observe and supervise the inmate.
- It is the observing staff’s responsibility to ensure the inmate does not dispose of any concealed item, or to allow an activity which would allow the inmate access to it, thereby jeopardizing the security and good order of the facility, staff, and inmates. Any questions, emergency, or other situation that arises shall immediately be brought to the attention of the Special Housing Unit and/or Area Supervisor.
- Staff shall ensure that the inmate never be allowed freedom to move around unsupervised, or be given an opportunity to dispose of any objects he or she may be concealing.
- When applicable, the observing staff member shall be issued a portable radio or telephone and flashlight so that he or she does not have to interrupt constant observation to communicate with other staff.
- Inmate will be monitored for changes in medical and mental health status by medical staff as required by PS.CUS.038 Special Housing Unit even if not actually housed in the Special Housing Unit.
- A daily log and Special Housing Unit record shall be maintained on each inmate in dry cell status.
- The shift supervisor or Special Housing Unit Supervisor shall provide periodic staff relief to the observing staff and at any other time it is necessary for the observing staff to leave the area. **The inmate must not be left unattended.**
- Trash may not be allowed to accumulate, and each item shall be thoroughly collected by staff and searched before disposal.
- Periodic searches shall be conducted as follows:
 - A strip search of the inmate when he or she is placed in the dry cell.
 - A strip search of the inmate shall occur at least once each shift.
 - Searches of the dry cell shall occur at least once each shift. Searches should be conducted so as to not reveal to the inmate a predictable pattern. Prior to each search, the SHU Supervisor and/or shift supervisor must be notified and a second staff member provided to ensure continual close observation and supervision of the inmate. Each search must be documented on a Strip Search form (Form G-1025 or contractor equivalent) along with an incident report.
- Staff shall notify the shift supervisor or Special Housing Unit Supervisor when contraband is found, secure the contraband in a properly documented evidence bag, and maintain the chain of evidence following all the tenets of PS.CUS.046 Contraband and Search of Inmates and Facility.

NOTE: ANY INMATE IN THE SHU WITH A MEDICAL/MENTAL HEALTH OR OTHER

Policy Title: Close Custody Special Housing Unit (SHU) – Post Order	Effective Date: June 11, 2012	PS.CUS.006.33 Page 18 of 19
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CLASSIFICATION STATUS MAY HAVE ANY OF THE AFOREMENTIONED PRIVILEGES RESTRICTED WHEN ORDERED AND DOCUMENTED BY THE MEDICAL OR MENTAL HEALTH DEPARTMENTS AND/OR THE OFFICE OF THE WARDEN, OR DESIGNEE.

Inmate Tablets

Procedures for use and inspection of the tablets are as follows:

1. Tablets shall be inventoried at the beginning of the 0600-1400 and at the end of the 1400-2200 shift;
2. Results of the inventory shall be documented in both the logbook and the Officers housing post summary;
3. Tablets shall be distributed and the tablet carts locked and removed from the unit prior to the breakfast cart arrival;
4. The key to the tablet cart shall be secured in floor control;
5. Tablets are to remain with the Inmates until the end of the 1400-2200 shift;
6. The tablets are set to be live according to our Operation schedule, meaning they will “go dark” during counts and lock down times ;
7. Upon final inventory if a tablet is not returned all efforts shall be made to recover it prior to contacting your immediate supervisor;
8. If for any reason inmate tablet access is denied prior approval from a Supervisor must be granted and an incident report must be submitted;
9. Inmates in disciplinary detention or pre-hearing detention are prohibited from using tablets;
10. Any misuse or damage of tablets must be immediately reported to your supervisor. An incident report and work order must be submitted prior to the end of your shift and shall include: a) the inmates name, cell number, and commitment number. b) the serial number of the tablet. The tablet shall be secured in Master Control with a copy of the incident report attached.
 (***)Reminder(***) we must be able to document accountability should any of the tablets be damaged/destroyed(***)

Handling of Pregnant Inmates

1. Prohibit a staff member of, or medical service provider for, a county correctional facility from restraining a woman known to be pregnant or applying restraints during any stage of labor, any pregnancy related medical distress, delivery, or post-partum.
2. The determination of when post-partum has commenced and has ended shall rest solely with the medical providers of the pregnant inmate.
3. Restraints should not be used on a pregnant inmate during labor and delivery and should be avoided during the post-partum period, unless then use of restraints meet the criteria of (1) above. The determination of when post-partum has commenced and has ended shall rest solely with the medical provider of the pregnant inmate.
4. Written operating standards shall be established that include but are not limited to:

Policy Title: Close Custody Special Housing Unit (SHU) – Post Order	Effective Date: June 11, 2012	PS.CUS.006.33
		Page 19 of 19

- a. Use of restraints on a pregnant inmate during transportation
- b. Frequency for reassessing the use of restraints when they have been deemed necessary or appropriate; and
Documentation for the use of restraints, such as type was used, what manner it was used in, and the length of time it was used.

EXHIBIT F



Essex County Corrections


Codification
PS.CLS.005.01

Page 1 of 15

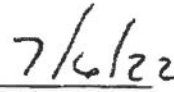
Policy Title: Classification – County Inmate		Enabling Authority: N.J.A.C. 10A:31-1 et. seq.
Effective Date: March 28, 2019	Revised: July 2022	Authority: N.J.A.C. 10A:22.1 – 22.6
Promulgating Office: Bureau of Planning and Strategic Initiatives		Professional Association Standard Cited:
Applicability: Classification Officers, County Inmates		Review Schedule: July 2023

Any Order, Policy, Directive or Memoranda in conflict with this Order is hereby superseded.

Reviewed By: Associate Warden

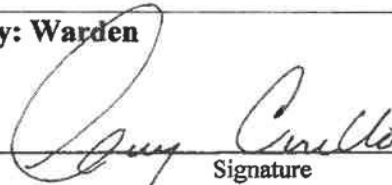


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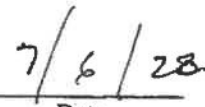


Date

Issued By: Warden

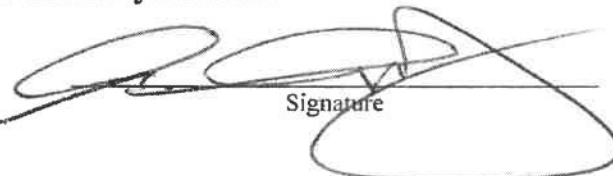


Signature



Date

Authorized By: Director



Signature



Date

Policy Title: Classification – County Inmate	Effective Date: March 28, 2019	PS.CLS.005.01
		Page 2 of 15

I. PURPOSE

It is the policy of the Essex County Department of Corrections to utilize an Objective Jail Classification system to identify and meet individual inmate needs for safety, and security assignments.

II. POLICY

It is the policy of the Essex County Department of Corrections to utilize an Objective Jail Classification system to identify and meet individual inmate needs for safety, and security assignments

III. DEFINITIONS

- A. **Objective Classification** - The standardized evaluation and assignment of an inmate based on objectively defined criteria. The criteria are weighed, scored and organized into a valid and reliable additive classification instrument accompanied by operational procedures for applying the instrument to inmate in a systematic manner.
- B. **Initial Custody Assessment Scale Classification Scoring Mechanism** - A point additive scale for the evaluation of inmate relative to an assigned custody level based on information: social, legal, medical, nature of charge, prior criminal record, present parole and probation status and prior institutional adjustment in any facility: municipal, county, state and federal.
- C. **Commitment Papers** - Legal authority for holding of the inmate completed by the committing authority.
- D. **Criminal History** - A record of warrants, detainers, previous criminal charges and/or convictions obtained from NCIC, SCIC and local computer data files.
- E. **Interview Forms** - Assessment tools completed during a personal interview with the inmate. These interviews are specifically designed to allow the classification unit access to the maximum amount of information when considering security and custody assignments which shall be used to ascertain need for services and to determine the inmate's housing placement, program eligibility, program referrals and work programs.
- F. **General Housing** - Inmate living areas designated for those that require no specialized services and/or observation.
- G. **Medical Assessment Form** - Evaluation document completed upon the inmate's initial contact with the Medical Unit.
- H. **Commitment File** - record of the arrest, processing, court status and housing information completed by the Booking Officers at the time the inmate is booked into custody.
- I. **Programs** - Those optional activities that are designed to foster self-improvement and provided by the institution to eligible inmates based on the inmate's classification.

Policy Title: Classification – County Inmate	Effective Date: March 28, 2019	PS.CLS.005.01 Page 3 of 15
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- J. **Reclassification** - A re-evaluation of an inmates security and custody status as requested by legal authorities, as necessary based upon observed behaviors, upon a change in court status, as institutional behavior requires, following 90 days of incarceration.
- K. **Services** - Care provided by the institution to the entire inmate population in an effort to maintain their physical, mental health and their personal hygiene.
- L. **Special Needs** - Those inmate’s requiring increased levels of supervision and services, such as inmate with medical and mental health problems, inmates presenting a significant threat to others and inmates who require protective custody.
- M. **Detainer** - Any hold placed on an inmate by another jurisdiction (another county state, or municipality)

IV. DISCUSSION

- A. To ensure the public safety by the evaluation of inmates for security risk, escape risk, overall risk and threat to the general public.
- B. To provide for the safety of incarcerated individuals by identifying predators and their potential victims.
- C. To identify those incarcerated that are eligible for and would benefit from program opportunities.
- D. To determine housing assignments and supervision levels consistent with the above stated objectives in order to maximize both human and physical plant resources and minimize the cost to government
- E. To identify those incarcerated requiring medical and mental health services to ensure their proper custody.
- F. The composition and responsibility of the Classification Committee.
- G. The initial classification of inmates.
- H. The reassignment or transfer of inmates from one program and/ or facility to another.

V. PROCEDURE

- A. **General Classification Information**
 - 1. Inmates known to be disturbed or suffering from communicable diseases shall be housed appropriately according to health standards. Medical/Mental health personnel shall be a primary part of decisions made in this area.
 - 2. Each individual committed to the institution shall be formally classified as soon as is practical, usually within 48 hours, but not to exceed 72 hours. The classification process shall include all information available or obtainable from legal, medical, social and self-reported history of the detained person.
 - 3. This information shall be utilized and evaluated into the Objective Jail Classification System on CCIS.
 - 4. The primary objective of classification is to place inmates in the housing unit that best meets their needs and to provide reasonable protection for the staff, the public,

the individual, and other inmates. **Segregation of inmates by race, color, creed, or national origin shall be prohibited.**

5. Classification decisions as to housing, programs and privileges shall be based upon procedures as stated in this policy. If an inmate does not agree with classification's decision as to where he should be moved to from the classification unit, he/she should move and then file a grievance with the Classification Unit or face disciplinary action
6. Prior to the Objective Jail Classification, the Classification Unit shall permit the Tour Commander or Medical/Mental Health personnel to make housing decisions, based upon age, physical infirmities, disabilities or any other condition which would affect the best interest of the individual.
7. An inmate shall be reviewed and scored by the prior to the inmates 3rd day in custody, after admission from court, or transfer from another institution. except where there are clear and convincing reasons to do otherwise.
8. Classification Committee meetings are held weekly, excluding weekends and holidays beginning at 10:30 am. The committee shall consist of (1) representative from classification, Medical and/or Mental health and Social Services and one (1) classification supervisor. The Committee shall discuss the inmate's housing and programs.
9. All sentenced inmates may be given 48 hours notice prior to their classification hearing and shall have the opportunity to appear and participate in their hearing.
10. The classification of State prisoners housed in county correctional facilities remains the responsibility of the New Jersey Department of Corrections.
11. The Classification Committee shall review every inmate in Protective Custody every 30 days.
12. The Classification Committee shall review involuntary protective custody placements within seven days.
13. At the involuntary protective custody review the inmate shall be given the opportunity to appear personally before the classification Committee.
14. The Classification Committee shall provide the inmate with written notice of the committee's decision and a summary of the evidence relied upon.
15. If an inmate should disagree with the decision of the Classification Committee, they may make their final appeal to the Warden or his/her designee.
16. Provided the Classification Committee and the adult county correctional facility Administrator or designee are satisfied that there is no known danger to the inmate's wellbeing, an inmate who has voluntarily signed himself or herself into protective custody may sign himself or herself out upon completion of a release form.
17. A personal record shall be maintained on each inmate. Such information shall not be accessible to inmates. The inmate personal record shall contain:
 - a. Face Sheet
 - b. Information contained in the booking record
 - c. Medical information

- d. Disciplinary action records
 - e. Record of any detainees or other charges
 - f. Date and condition of release
 - g. Criminal history
 - h. Classification questionnaire
 - i. Other miscellaneous paper work
18. Any department personnel releasing information on inmates to other inmates or through conversation, which can be heard by other inmates, can be subject to employee disciplinary procedures.
 19. The aforementioned classification process should follow the inmate throughout his/her incarceration as a method of assistance to their handling or treatment.
 20. In determining custody grade, special handling, housing and programs for each inmate, the classification officer shall follow the established criteria of the Objective Jail Classification System.
 21. Classification/Intake personnel duties prior to classifying inmates shall include the following:
 - a. Conduct face to face interview with the inmate at intake.
 - b. Complete and sign the classification form, Issue an inmate Handbook
 - c. Check the medical (clearance from intake record) to ensure that medical screening has been completed.
 22. The institution shall provide for the separate management of the following categories of inmates in so far as space permits:
 - a. Female and Male inmates
 - b. Other classes of detainees (witnesses, civil inmates, sentenced inmates)
 - c. Inmate workers and/ or trustees
 - d. Inmates with special problems such as (alcoholics, narcotics addicts, mentally disturbed persons, physically handicapped persons, persons with communicable diseases, etc.)
 - e. Inmates requiring disciplinary detention.
 - f. Juveniles (shall not be admitted without a court order)
 - g. Aggressive and Passive dependent inmates
 - h. Serious offenders and less serious offenders
 23. The classification of inmates in the above categories may be modified based on the direct observation and supervision of individual inmates. In such instances each classification decision shall be fully documented.
 24. A designated staff member shall enter all Institutional Disciplinary charges that are adjudicated as guilty into the CCIS system. This is to assist in the reassessment of the inmate population:
 25. The classification system which shall be based upon the following factors regarding the inmate:
 - a. Gender;
 - b. Age;

Policy Title: Classification – County Inmate	Effective Date: March 28, 2019	PS.CLS.005.01
		Page 6 of 15

- c. Size;
 - d. Offense;
 - e. Previous incarcerations;
 - f. Aggressive and passive/ dependent behavior;
 - g. Problems, such as, but not limited to, alcoholism and drug addictions(s);
 - h. Physical illness;
 - i. Mental status;
 - j. Confinement status, such as pretrial detainee or sentenced inmate; and
 - k. Security needs.
26. Male and Female inmates, depending on their custody levels, shall have equal access to all programs and activities, but integrated participation by male and female inmates and activities is not required.

B. Custody Classification Assignment/Designation

- 1. This process determines the custody level assigned to the inmate. The process is based on the extent to which an inmate is assessed to be “In-Need” thereby requiring services (Medical, Mental Health and Protective Custody) and intended to ensure the safety and welfare of the inmate and other members of the inmate population.
- 2. This process is based upon the inmate’s response to screening questions, medical and mental health assessment, age, previous classifications, applicable classification alerts and recommendations from the Classification Committee, Service Providers as a result of some administrative hearings, and/or as a result of a classification review.
- 3. Inmates shall be classified for custodial purpose as either General Population, Special Needs or Segregation (Disciplinary Detention/ Protective Custody).
 - a. Special Needs shall be based upon the individual inmate and shall include:
 - i. **Mental Health Observation** – Inmate housing and watch status as determined by the recommendations from the Mental Health Team and/or Medical Staff.
 - ii. **Medical** – Inmate housing and watch status as determined by the Medical Staff.
 - iii. **Suicide Risk** – Inmate housing and watch status determined by the recommendations from the Medical Staff, Mental Health Team or the Watch Commander
 - iv. **Segregation** - Inmates are assigned to disciplinary detention or protective custody pursuant to the findings of an approved review or hearing with approval from the Warden; **the Medical Department is to be notified immediately of the inmate segregation status and will review the inmate’s placement records.**

Policy Title: Classification – County Inmate	Effective Date: March 28, 2019	PS.CLS.005.01
		Page 7 of 15

- v. **Criminal History** - Housing and programming determined by current charges(s), previous criminal history and a High security/Escape Risk.
- vi. **General Housing** - Inmates classified as general housing have not been assessed as Special Needs and require normal levels of supervision as well as access to program opportunities.

C. Security Classification Assignment Process/Designation

1. This is a process, which assesses the inmate’s risk to the public and institutional safety. The process is based on a review of the inmate’s current charges, prior charges, prior institutional behavior, potential for escape, outstanding warrants/detainers, ties with the community and is used to ascertain program eligibility. The assessment discerns predatory potential in order to determine the security level assigned to the inmate.
2. The security classification process also takes into consideration past criminal history, previous classification, applicable classification alerts, and recommendations from the Classification Committee and/or a result of a Classification review.
3. These designations are used to denote the security considerations, type of housing and program eligibility for the classified inmate. They are used in conjunction with the Custody Classification.
 - a. **Pre-Classification Population (Intake)** - Standard supervision level.
 - b. **Maximum (Max)** - Inmates identified as high security risk, extensive criminal background and/or a history of disciplinary infractions or disruptive conduct.
 - c. **Medium (Med)** - Standard supervision levels with program eligibility established on a case by case basis.
 - d. **Minimum** - Standard supervision level, programs and internal job assignments commensurate with needs and abilities. Outside job and program eligibility established on a case by case basis.

D. Initial Custody Assessment Scale

1. The Initial custody Assessment scale is used during initial classification to establish an inmate’s recommended custody. This custody rating is based on the classification officer’s assessment of seven items, each of which is to be assigned a number score. These items have been found to be associated with future conduct and thus, help identify the type of risk likely to be presented by the inmate. The custody rating recommendation derives from these items is used, in combination with other specified information when making decisions relating to inmate housing assignment and supervision requirements. The custody rating recommendation may be altered due to management considerations that warrant special attention or intervention by staff.

Policy Title: Classification – County Inmate	Effective Date: March 28, 2019	PS.CLS.005.01 Page 8 of 15
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2. The initial custody assessment scale is to be used on all inmates remaining in confinement after completion of the inmate screening form. The scale is to be completed before an inmate is removed from the institutions intake area and given a housing assignment.
3. Identification Instructions:
 - a. **Inmates Name** - Enter the inmate’s full name, last name followed by first name and middle name
 - b. **Inmate ID Number** - Enter the inmate’s identifying number, This should be the same number entered on the Inmates Screening Form.
 - c. **Assessment Date** - Enter date of assessment, using numbers to represent month, day, and year.
 - d. **Classification Officer** - Enter the last name of the officer completing the scale.
4. Custody Evaluation:
 - a. Items intended to identify the inmate who presents a serious risk to the safety, security and orderly operation of the institution. Inmates who score seven or above on the first three items are recommended for maximum custody without consideration of the scores for the remaining items.
 - b. **Severity of Current Charges/Convictions** - Determine the most serious current charges, criminal detainer, warrants or convictions for the inmate, using the Severity of Offense Scale.. If the inmate has been booked on technical violations of Probation, Parole or Contempt for a Superior Court matter, severity of current charges/convictions is to be based on the original offense(s) for which the Probation, Parole was granted or for which the person is being held in Contempt. Enter the number of points associated with the severity category into which the inmate’s most serious offense falls. A charge of “Conspiracy To” or “Attempt To”, commit a crime shall be scored as the crime referred to in the description. Any charge found in the search of an inmate’s history that does not show a clear disposition shall be considered as a current offense. If unable to assign a score because of an unclear description or another jurisdictions non-matching codes then assign the highest available matching 2C value. If no score is available for a 2C statute then utilize the highest score available within that 2C category.
 - c. **Serious Offense History** - Excluding current offense(s). Determine the most serious prior conviction and score it on the Severity of Offense Scale. Enter the number of points associated with the severity category into the inmate’s most serious prior conviction. If the inmate has no record of prior convictions, enter 0.
 - d. **Escape History** - Consider any escapes or attempted escapes including current admissions. Do not consider escapes or attempts scored in item (1). Enter the number of points corresponding to the inmate’s most serious escape or attempt. Escapes from correctional settings or programs are to be recognized if the inmate was found guilty of the escape or attempt by an

Policy Title: Classification – County Inmate	Effective Date: March 28, 2019	PS.CLS.005.01 Page 9 of 15
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institutional disciplinary committee, regardless of court prosecution and conviction status.

- e. **Maximum Custody Score** - Add the points for items (a to c) and enter the total in the box designated “maximum custody score”. If this score is 7 or greater, the inmate is to be assigned to maximum custody.. Scores for the remaining items should be completed even though the maximum custody is already determined.
- f. Items (g) through (j) are designed to establish a custody score for the inmate who is not immediately identified as a maximum custody risk on the first three items.
- g. **Institutional Disciplinary History** - Consider the inmate’s entire disciplinary history including the current admission. If the inmate has not received any disciplinary reports or has received only minor reports with no segregation time, enter 0.
- h. **Prior Indictable Convictions** - Excluding current offense, consider the inmate’s entire history of felony convictions. Enter the number of points associated with the number of felony convictions.
- i. **Alcohol/Drug History**- The appropriate score is given based on the number of Substance Abuse related convictions and charges.
 - i. **None** = No substance related current charges or convictions
 - ii. **Moderate** = 1-5 or substance related convictions including current offense.
 - iii. **Severe** = 6 or more substance related convictions including current offense
- j. **Stability Factor** - Deduct the indicated number of points for each stability factor. This category provides the opportunity to lower the custody score based on selected stability factors. This is the only scale in which the items are subtracted. To gain a –1 for employed or attending school the inmate would have to be employed or attending school for the 6 months preceding and up to the arrest.
- k. **Comprehensive Custody Score** - Enter the total score from items 1-7 in box if maximum custody score is 6 or lower.

E. Scale Summary and Recommendations

- 1. **Custody Level Indicated by Scale** - Using the Custody Classification Chart, enter the code that indicates the custody level designated by the scale
- 2. **Special Management Concerns** - This section is designed to address management issues that warrant attention and possible intervention by staff in the form if special housing and/or supervision. The following special management considerations are to be checked on the form if they exist (check all that applies).
 - a. **Protective Custody** - The inmate requires protective custody to ensure his/her safety and well being. A wide and varied spectrum of contributing

3. **Override Recommendation** - Used if the classification officer believes there are factors that warrant a custody classification which is different from that which is indicated by the scale above. Enter “1” for yes and provide rationale. Otherwise enter “2” (No). Overrides may be recommended to higher or lower custody levels, depending upon the circumstances.
4. **Recommended Custody Level**- After reviewing the scale score and all other information which may justify an override, enter the code indicating the recommended custody level. This shall be the same as above, if no override is recommended.
5. Supervisor approval is required if the classification officer recommends a scale change. If the classification officer recommends an override of the custody level indicated by the initial custody assessment scale, enter the code for approval or disapproval of the recommended custody level. If the recommended custody level is disapproved, the classification supervisor must enter the reason and their code.
6. **Final Custody Level**- Enter the custody level approved by the classification supervisor. Written rationale must be provided if this level is different from that recommended above.

F. Housing Assignment

Housing assignment to be determined by the Administration.

G. Severity of Offense Scale

1. Highest

- a. Aggravated Assault 2nd degree 2C:12-1(b)
- b. Aggravated Manslaughter 1st degree 2C:11-4
- c. Aggravated Sexual Assault 1st degree 2C:14-2(a)
- d. Attempt Escape 2nd degree 2C:29-6
- e. Car Jacking 1st degree 2C:15-2
- f. Escape 2nd degree 2C:29-5
- g. Kidnapping 2C:13-1
- h. Leader of Narcotics Trafficking Network 2C:35-3
- i. Maintaining or Operating a Controlled Dangerous Substance Manufacturing Facility 2C:35-4
- j. Murder 1st degree 2C:11-3
- k. Persistent Offender/Professional Criminal 2C:44-3(a)(b)
- l. Robbery 1st degree 2C:15-1

2. High

- a. Aggravated Arson and Other Property Offenses 1st and 2nd degree 2C:17
- b. Aggravated Criminal Sexual Contact 3rd degree 2C:14-3(a)
- c. CDS Offenses 1st degree 2C:35
- d. Criminal Restraint 2C:13-2
- e. Escape 3rd degree 2C:29-5

- f. Kidnapping 2nd degree/Endangering the welfare of a child 2nd degree 2C:13
- g. Manslaughter 2nd degree 2C:11-4
- h. Offenses Against the Family, Children and Incompetents 2nd degree 2C:24
- i. Prostitution (Public Indecency) 2nd degree 2C:34-1(b)
- j. Racketeering 1st degree 2C:41
- k. Robbery 2nd degree 2C:15-1
- l. Sexual Assault 2nd degree 2C:14-2(b)

3. Moderate

- a. Absconding 2nd degree 2C:29-5
- b. Aggravated Assault, Reckless Endangerment, Terroristic Threats 3rd degree 2C:12-1 to 2C:12-3
- c. Bribery and Corrupt Influences 2nd degree 2C:27
- d. Burglary 2nd degree 2C:18-2
- e. CDS offenses 2nd degree 2C:35
- f. Endangering the Welfare of a Child 3rd degree 2C:24-4
- g. Firearms or weapons Offenses 2nd degree 2C:39
- h. Forgery and Fraudulent Practices 2nd degree 2C:21
- i. Interference with Custody 2nd degree 2C:13-4
- j. Misconduct in Office 2nd degree 2C:30
- k. Obstructing Governmental Operations 2nd degree 2C:29
- l. Offenses Against the Family, Children and Incompetents 3rd degree 2C:24
- m. Offenses Against Public Order, Health and Decency 3rd degree 2C:40
- n. Perjury and Other Falsification in Official Matter 2nd degree 2C:28
- o. Racketeering 2nd degree 2C:41
- p. Stalking 3rd degree 2C:12-10
- q. Theft Offense 2nd degree 2C:20

4. Low

- a. Absconding 2nd degree 2C:29-5(b)
- b. Aggravated Assault, Reckless Endangerment, Terroristic Threats 4th degree 2C:12-1 to 12-3
- c. Aiding Suicide 2nd degree 2C:11-6
- d. Arson and Other property Offenses 3rd degree 2C:17
- e. Bribery and Corrupt Influences 3rd degree 2C:27
- f. Burglary 3rd degree 2C:18-2
- g. CDS offenses 3rd degree 2C:35
- h. Criminal coercion 3rd degree 2C:13-5
- i. Criminal Restraint 3rd degree 2C:13-2
- j. Criminal Sexual Contact 4th degree 2C:14-3
- k. Death by Auto 3rd degree 2C:11-5
- l. Firearms and Weapons Offenses 3rd degree 2C:39
- m. Forgery and Fraudulent Practices 3rd degree 2C:21

- n. Gambling Offenses 3rd degree 2C:37
- o. Interference with Custody 3rd degree 2C:13-4
- p. Misconduct in Office 3rd degree 2C:30
- q. Obstructing Government Operation (eluding an officer/resisting arrest, hindering apprehension or prosecution, bail jumping, corrupting jury) 3rd degree 2C:29
- r. Offenses Against the family, Children and Incompetents 4th degree 2C:24
- s. Offenses Against Public Order, Health and Decency 4th degree 2C:40
- t. Perjury and Other Falsification in Official Matter 3rd degree 2C:28
- u. Public Indecency 3rd degree 2C:34
- v. Stalking 4th degree 2C:12-10
- w. Theft Offense 3rd degree 2C:20
- x. Aiding in Suicide 4th degree 2C:11-6
- y. Arson and Other Property Offenses 4th degree 2C:17
- z. Bribery and Corrupt Influences 4th degree 2C:27
- aa. CDS offenses 4th degree 2C:35
- bb. Criminal coercion 4th degree 2C:13-5
- cc. Criminal Trespassing 4th degree 2C:18-3
- dd. Firearms and Weapons Offenses 3rd degree 2C:39
- ee. Forgery and Fraudulent Practices 3rd degree 2C:21
- ff. Gambling Offenses 3rd degree 2C:37
- gg. Interference with Custody 3rd degree 2C:13-4
- hh. Other Offenses Relating to Public Safety
- ii. Perjury and Other Falsification in Official 4th degree 2C:28
- jj. Public Indecency 4th degree 2C:34
- kk. Theft Offenses 4th degree 2C:20
- ll. Obstructing Government Operation (eluding an officer/resisting arrest, hindering apprehension or prosecution, bail jumping, corrupting jury) 3rd degree 2C:29

NOTE: As a general policy, disorderly persons offenses are considered “**LOW**”

Attempts shall be considered as commission of the act unless covered by specific statute. Any fourth degree crime that results in probation or county time is considered a disorderly persons offense. Any fourth degree crime that results in a state prison sentence is considered a felony offense. Any pre-sentenced fourth degree crime is considered a disorderly persons offense.

H. Custody Classification and Intake Risk Questionnaire

The Intake Risk Assessment Questionnaire and their responses (see DSI – CCIS) shall be the responsibility of the Booking Intake Officer, and shall be completed for every inmate received into the institution.

Policy Title: Classification – County Inmate	Effective Date: March 28, 2019	PS.CLS.005.01
		Page 14 of 15

- I. Housing Plan**
See Attachment “A” – “Classification Flow Chart”

NOTE: As our population changes, it may be necessary to re-designate a housing unit.

Attachment "A"- OBJECTIVE CLASSIFICATION FLOW CHART

EXHIBIT G



Essex County Correctional Facility

Inmate Handbook & Disciplinary Rulebook

ALFARO ORTIZ

Director

Effective Date and First Distribution: January 2005

REVISED

November 2010	January 2017	May 2022
April 2011	January 2018	
May 2011	April 2018	
January 2013	July 2018	
March 2013	September 2018	
May 2013	December 2018	
August 2013	May 2019	
November 2013	June 2019	
April 2014	October 2020	
August 2014	November 2020	
September 2014	April 2021	
March 2015	November 2021	
April 2015	January 2022	
January 2016	February 2022	

It is your responsibility to read this handbook carefully and follow the Rules and Regulations outlined within. It is also your responsibility to ask an officer for assistance if you do not understand any rules. Failure to follow the rules outlined herein may result in disciplinary action. The Rules and Regulations contained in this handbook have been adopted by the administration of the Essex County Department of Corrections.

Table of Contents

Chapter	Topic	Chapter	Topic
29	Attorney Visits	6	Privileges
33	Bail	5	Prohibited Acts
22	Barbering Services	11	Property
10	Classification	37	Religious Services
20	Clothing	4	Responsibilities
25	Commissary	3	Rights
7	Communication with Staff	23	Sanitary Living Conditions
12	Contraband	13	Search of Person, Property, and Facility
17	Daily Routine	32	Sexual Abuse & Assault Prevention & Intervention Program
16	Disciplinary Process	8	Smoking Policy
28	General Visitation	39	Social Services
38	Grievance Procedures	15	Special Housing Unit (SHU)
9	Identification Wristbands	40	Tablet
1	Initial Admission	27	Telephone Access
19	Inmate Movement Inter-Facility	36	Televisions and Library Materials
2	Introduction	34	Voluntary Work Program
35	Law Library		APPENDIX SCHEDULES
24	Meals		APPENDIX A Non-Contact Visit & Attorney Visits
30	Medical Care		APPENDIX C Phone List Management
31	Mental Health		APPENDIX D Phone Dialing Instructions
18	Official Counts		Appendix E Civilian Task Force
26	Outgoing and Incoming Mail		
14	Personal Accounts		

NOTICE TO DEAF AND HARD OF HEARING INMATES

If you are an individual with a qualifying disability, you may be entitled to a reasonable accommodation. Please indicate your request to a member of our staff for such consideration.



To the extent provided by law, if you are deaf or hearing impaired and sign language is your primary method of communication, you may have the right to a sign language interpreter, if one is required for you to effectively communicate while at this facility.



If you have any qualifying disability and want to request an accommodation, please let us know.

This facility is equipped with a Telecommunications Device for the Deaf (TDD).



PLEASE REFER TO THE SOCIAL SERVICES SECTION TO CONTACT OUR SOCIAL SERVICES DEPARTMENT TO ARRANGE TO USE THIS DEVICE.

1.

Initial Admission

Upon your arrival at the ECCF you will undergo intake processing by a facility officer. In general, you can expect the intake processing procedures to occur as follows:

1. The processing officer will retain your clothes, personal property, valuables and money for safe-keeping. The facility will provide you with itemized receipts for all of your clothing, personal property, valuables and money. It is important that you retain these receipts to claim your property, money and valuables when you are released.
2. Facility staff will identify the type of items that you will be permitted to retain when you arrive for intake processing. For example, you will be allowed to retain legal documentation necessary for your legal case or, at a minimum, be allowed access to your case material as needed. You will be allowed to keep some personal items with you.
4. You will be provided a secure bag for storage of your valuable personal items. Your clothes shall be placed in a hanging bag for storage. The ECCF is not responsible for the loss of your personal items that you do not store.
5. You will be provided with (1) Underware, (1) Uniform, (1) pair of inmate footwear, (1) Copy of Inmate Disciplinary Handbook (English or Spanish), (2) sheets, (1) blanket, (1) towel, (1) Care package, (2) Offered Phone calls, (1) Socks, (1) Tee Shirt, and (1) Shower Shoes. Upon admission you shall sign for all issued items. Your signature shall acknowledge that you are responsible for all items issued to you during your time of detention. Upon release you are expected to return all issued items in its original condition (reasonable wear excluded).

6. You will be provided with personal hygiene items (e.g., toothbrush, comb). If you need to replace any of your personal hygiene items at a later time, you must request replacements from an indigent list or purchase them from commissary.
7. You will be able to request writing material, pen/pencils and envelopes for your personal use from commissary or an indigent list.
8. Family members and friends in a concerted effort may use <http://inmatelookup/inmatelookup> in order to obtain pertinent information regarding your incarceration.
9. An initial health screening and physical examination are given to all inmates upon admission to the facility and before placement in the general population or housing area. Medical staff will also conduct a pre-screening interview to assess your physical and mental health as part of the intake process. If you have any health conditions that require immediate attention from a medical provider, you must inform our staff during your intake processing with out hesitation. If you prefer, you may request to speak directly with medical staff about your health concerns. Any information you provide to our medical staff cannot be shared with non-medical staff and will be treated with strict confidentiality.

2.

Introduction

What Is a Jail?

Jails were initially designed as holding facilities for persons arrested and charged with committing a crime. Originally, these facilities were used to house inmates serving short sentences, 364 days or less, as well as those housed awaiting trial.

Our jail currently houses a broad variety of inmates, such as convicted offenders awaiting sentencing, pending grand jury, probation and parole violators, offenders wanted by other states or counties, state remand inmates, federal, I.C.E. detainees, non-support parents, and in some cases, juvenile offenders. Males and females housed within the Essex County Correctional Facility (ECCF) are referred to as "inmates." In Essex County, the jail is referred to as a county correctional facility. Therefore, the words "ECCF" and "jail" mean the same thing.

ECCF has a classification system which determines in what area of the jail an offender will be housed. Overall, inmates do not choose whether or not they will have cell mates or choose who their cellmates might be or where they will be housed. At any time, inmates can be moved.

ECCF

In the United States, there are about 3,150 counties or boroughs. In New Jersey, most of its 21 counties have at least one county jail. Of those 21 counties they contain 566 municipalities; Essex County alone has 22 boroughs, cities or townships with about 770,000+ residents. Our county jail is a "state of the art" Direct Supervision facility which opened for public service in 2004, currently housing thousands of inmates.

Our facility provides a safe and secure environment for the care, custody and control of many different types of inmates. We openly realize that everyone within our facility is an individual, who may be incarcerated for many different reasons. Open communication is encouraged and the **RESPECT** of all is an extreme importance and an integral part of its daily operation.

Commitment or Incarceration

Inmates are committed to the ECCF in accordance with the laws of the state of New Jersey. The officials of this facility are responsible for operating the facility in a manner that assures the control, safety, medical care, sanitary living conditions, and fair treatment to all inmates. Staff will help you if

you ask them but will report you for disciplinary actions if you commit a prohibited act. That is their job. You need not dislike them.

These rules and regulations are designed to provide the inmate population with general information along with a standard for acceptable behavior, which is required for the institution to safeguard the rights of all persons confined to and employed by the jail. Inmates who do not conduct themselves in an acceptable manner could be charged with a specific disciplinary offense. The disciplinary offenses are listed in the Prohibited Acts section. The standards for acceptable behavior by inmates listed in this handbook apply to all inmates. Inmates may have their period of confinement lengthened or shortened according to their conduct while in disciplinary detention.

Your confinement may be as pleasant as possible under these current circumstances, only if you maintain an attitude of cooperation, courtesy and respect during your stay. We encourage all inmates to participate in programs or obtain services that will strengthen social growth and make re-integration to society a success.

Distribution/Revisions of the Inmate Handbook/Disciplinary Rulebook

All inmates will receive this handbook/disciplinary rulebook upon admission to the ECCF. An acknowledgement of receipt has been filed upon your admission and you must keep this handbook available at all times in your cell or assigned bunk area. The Inmate handbook is on the Tablet.

The information in this booklet will be translated into Spanish, or any other language, upon proper request made to the housing unit officer(s) and/or social services. Correctional personnel shall verbally explain the handbook/disciplinary rulebook to inmates who are illiterate or not sufficiently conversant with the English language or otherwise unable to read due to a physical or medical inability. As these rules and regulations are subject to revision, updated procedures will be distributed, as necessary. This handbook is intended to be a beneficial guide with outlines of required behavioral expectations for all individuals within our facility.

3.

Rights

It is the policy of ECCF to treat inmates with dignity and respect, while maintaining a safe, secure, sanitary facility. To assist us in this goal, you are expected to cooperate with our staff in the following respects:

- Comply with orders/directions given by staff members.
- Respect facility staff and other inmates.
- Respect government property, county/facility property and the property of other inmates.
- Maintain yourself, your clothing and your living area in a clean condition.
- Address our staff by referring to their title and last name (i.e., Doctor Jones, Officer Smith, Nurse Clark), or by Mr., Mrs., or Ms. followed by their last name and maintain a minimum distance of at least three feet at all times.

While you are in custody, you have the following rights:

- You have the right to be informed of the rules, procedures and schedules concerning the operation of the facility where you are confined. You have the right to be treated respectfully, impartially and fairly by all personnel and to conduct yourself in a responsible manner.

- Care, custody, control and treatment services shall be provided to all inmates in compliance with applicable state and federal penal codes. There shall be no discrimination on the basis of race, sex, sexual orientation, national origin, color, religion, economic status, political belief, reverse discrimination, age, or disability. Reasonable accommodations will be made for physically and mentally handicapped inmates.
- You have the right to freedom of religious affiliation and to voluntary religious worship that does not detrimentally affect others or the order and security of the facility.
- You have the right to reasonable care. You have the right to be held in acceptable conditions of confinement, which include daily personal hygiene, nutritious meals, proper bedding and clothing, a regular laundry schedule, an opportunity to shower regularly, proper ventilation for warmth and fresh air, a regular exercise period, toilet articles and medical treatment.
- You have the right to receive visits from family members and friends, according to the facility's rules and schedules.
- You have the right to legal counsel from an attorney by means of interviews and correspondence, at no cost to the U.S. government or Essex County.
- You have the right to unrestricted and confidential access to your attorney and the courts by correspondence.
- You have the right to use law library reference materials to assist you in resolving legal problems. You also have the right to receive help, when it is available, through a legal assistance program. Documents requiring notary public services may be provided upon appropriate request. A \$.50 processing fee shall be charged for each document notarized. Indigent inmates shall be provided the service free of charge.
- You have the right to a wide range of reading materials for educational purposes and for your own enjoyment.
- You may have the right to participate in a work program, depending on your housing location and classification level.
- You have the right to a formal written grievance process.
- Inmates who state that they are foreign nationals shall be provided access to the diplomatic representative of their country of citizenship. Inmates are entitled to contact their consulate, free of charge, using any telephone system in the facility.

4.

Responsibilities

While you are in custody, you have the following responsibilities:

- You have the responsibility to have a working knowledge of these rules and regulations and to follow all orders from staff.
- It is your responsibility to follow and adhere to the institutions rules regarding clothing.
- You have the responsibility to respect ECDOC property and the property of others.
- You have the responsibility to conduct yourself in a responsible and respectful manner.
- It is your responsibility not to waste food, to follow the laundry and shower schedules, maintain clean and neat living quarters, and to seek medical care as needed.
- You have the responsibility to recognize and respect the rights of other religious groups and/or beliefs.
- It is your responsibility to obtain your own tray during meal time. The housing unit officer shall be notified if inmates are not able to retrieve their trays.
- It is your responsibility to perform housekeeping duties as directed by a housing unit officer.
- You are responsible for all uniforms, bed sheets, towels, mattress issued and for the return of these items during release.

- It is your responsibility to ensure that cells are not left open or used excessively. Limitations on the number of times you are permitted to access your cell is determined at the officer's discretion.
- You are responsible to take prescribed medication as directed by medical personnel.
- It is your responsibility to maintain high standards concerning sanitation and disposing of refuse. This facility provides regular pest and/or vermin control via a professional exterminator. You are responsible for assisting in these ongoing efforts by limiting the amount of commissary items, personal materials, etc. kept in your living area.
- You are responsible to submit to searches of your person and property at any time.
- It is your responsibility to conduct yourself properly during visits and to not accept or pass contraband.
- It is your responsibility to obtain the services of an attorney.
- Presentation of your case and consultation with your attorney is your responsibility.
- It is your responsibility to use resources according to the prescribed procedures and schedule, and to respect the rights of other inmates using those materials.
- It is your responsibility to use these materials for personal benefit, without depriving others of their equal rights to the use of those materials.
- You have a responsibility to take advantage of work opportunities and activities that may help you live more successfully within the facility and the community. You are expected to abide by the regulations governing the use of such activities.
- It is your responsibility to arrange methods of payment for your bond /bail.
- It is your responsibility to refrain from any type of sexual harassment. Sexual harassment includes but is not limited to: consensual advancement, unwanted sexual advances, gender harassment, seductive behavior, requests for sexual favors, sexual bribery, sexual coercion and other verbal or physical contact of a sexual nature. Indecent exposure, placing or showing sexually explicit pictures, cartoons or drawings where they may be visible to any person is prohibited.
- It is your responsibility to act responsibly and follow the rules of the facility and lawful instructions of the staff. The failure to follow these rules and instructions may result in disciplinary action being taken against you, as necessary, to ensure the order and security of the facility.

5.

Prohibited Acts

The following activities are prohibited and constitute major or minor violations as described in "Chapter Sixteen: Disciplinary Process."

- Inmates are prohibited from leaving their cell doors open or having them blocked in any fashion.
- Inmates are prohibited from "popping" (opening) any food-port or manipulating any ECCF locking device.
- Inmates are prohibited from passing the designated (yellow) lines beyond the officer's desk.
- Inmates are prohibited from advancing closer than 3 feet to any staff member.
- Tampering with, or taking any property from a staff member's desk will be considered a major violation of the rules and regulations.
- At no time will any inmate exert or be allowed to exert authority over any other inmate or group of inmates.
- Inmates are not allowed in any unauthorized housing unit, dorm, cell, bed or bunk.
- You must sleep in your own assigned cell/dormitory and bunk.

- Inmates are prohibited from entering, reaching or leaning into another inmates' cell for any reason.
- Inmates are not permitted to be near or to pass anything under access doors or through food-ports.
- Inmates are not permitted to have their food-ports open unless they are opened by the officer.
- Inmates are prohibiting from being loud and boisterous and will not use vulgar or abusive language.
- Inmates shall not approach within 3 feet from any window leading to floor control. Inmates shall not bang on the glass or stand near it or communicate to workers or with inmates on other housing units via "mouthing, hand signs or any other form of communication."
- Inmates shall not participate in unauthorized gatherings or house meetings.
- Sitting, leaning, standing, or loitering on stairs or behind stairs, or on the mezzanine (upper level), visiting area, behind rail, pillars or any other unauthorized area is prohibited. No objects of any type may be hung from rails or placed on stairs. The stairwell will not be blocked at anytime.
- Inmates shall not place their feet, clothing or any other item on the housing balcony railings or furniture.
- Loitering around any shower stall is strictly prohibited; it is not a meeting place or a guard post. It is an area that shall be afforded strict privacy from other inmates. Inmates found to have "bodyguards" may be subject to placement in Involuntary Protective Custody.
- All inmates shall be fully clothed upon entering and exiting the shower. Only one inmate is allowed in a shower stall at a time.
- Use of cell intercoms, where applicable, is only for urgent matters such as medical or safety concerns.
- Inmates are not permitted to cover, hang, or attach blankets, sheets, towels, clothing, or any other item to walls, windows, bunks, air vents, doors or light fixtures anywhere within the ECCF. Adequate lighting and unobstructed vision must be maintained for officers at all times throughout the facility.
- Exterior windows will not be blocked or shaded in any manner.
- Clothes lines are not permitted in the housing units.
- Drawing, writing, or otherwise defacing anything within the facility is strictly prohibited.
- Inmates are prohibited from wearing blankets or sheets outside of their bed/ bunk or cell.
- Wave caps (do-rags) may be worn only in housing unit cells or within your dormitory.
- Inmates shall not remove chairs from the dayrooms to use in cells, in the recreation areas, or on the balconies.
- Inmates shall not sit on stacked dayroom chairs or save chairs for other inmates.
- Inmates shall not take or consume food or snacks in the recreation areas nor misuse the recreation equipment.
- Storage of commissary food that can be consumed within one week is permitted with in your assigned cell or dorm, any other edible is unauthorized. You must keep your original receipts as proof of purchase for retention of all commissary items.
- During lock down time no items will be passed from cell to cell, this includes the housing unit workers.
- Books, magazines, letters in your cell will be strictly controlled and excessive materials will be confiscated.
- Inmates shall not have plastic bags or garbage bags in cells or bunk areas.
- Radios, headphones, magnets, batteries are not permitted inside the facility.

- Only medically cleared inmates assigned as kitchen workers are permitted in the unit pantry and they are the only inmates authorized to handle food. The pantry area is only used to serve precooked food and hot water; **all other forms of cooking are prohibited.**
- Inmates found to be “cooking” may have their commissary privileges suspended or subjected to other appropriate disciplinary action.
- Inmates shall not ask or harass the housing unit officer(s) for inmate worker assignments.
- Trafficking and trading services or items within ECCF is prohibited.
- Inmates shall not transfer ownership of any item.
- Gambling of any fashion will not be tolerated in ECCF.
- Alcohol and narcotics are strictly prohibited within ECCF.
- Only inmates assigned as laundry workers are permitted in the unit laundry room.
- Inmates shall not engage in sparring or martial arts and other horse-playing activities.
- Indoor exercise such as sit-ups and pushups are allowed provided they are done in the day room. The tables in the day room, the stairs, bunks, railings or other items or fixtures in the housing unit or dorm are not to be used to assist in any exercise. Under no circumstance will issued items be altered to produce homemade weights; No homemade exercise equipment will be allowed.
- Inmates will not remove ANY posted information from bulletin boards.
- Inmates are not permitted to have any housing unit tools, chemicals and hazardous substances in their cells or bunk area.
- **AT NO TIME** is anything to be flushed down the toilets except normal body waste. Using toilets as trash cans to flush garbage, food, clothing materials, commissary items and contraband is prohibited.

Destruction or the failure to return county property is prohibited. The cost of destroyed and unreturned property may be charged to personal accounts. Damage to county property may lead to disciplinary and or criminal charges. Further, all work credits and earned good time may be forfeited.

All prices are subject to change without notice to include, but not be limited to:

Uniform Jumper	\$10.75	Desk Brush Head	\$5.96
Shower Slippers	\$1.25	Push Broom Handle	\$9.56
Blanket	\$8.40	Push Broom Head	\$12.91
Towel	\$1.42	Straw Broom	\$10.41
Sheet	\$2.00	Toilet Brush	\$1.81
Pillow	\$5.50	Plunger	\$13.13
Pillow Case	\$0.67	Barber Trimmers	\$70.91
Mattress	\$38.99	Barber Clippers	\$142.58
Wristband	\$10.00	Curling Iron	\$28.40
Water Cambro	\$135.00	Flat Iron	\$49.78
Plastic Food Trays	\$12.00	Law Library Computer	\$796.00
Plastic Chair	\$67.28	Law Library Printer	\$219.88
Plastic Inmate Storage Bin	\$23.60	Food Port Lock	\$800.00
Tablet	\$236.60	Plastic Inmate Garbage Can	\$34.12
Dust Pan	\$7.51	Sprinkler Head	\$600.00
Mop Bucket/Mop Ringer	\$119.60	½” Lexan Window	\$1800.00
Mop	\$14.24	Television	\$650.00
Deck Brush Handel	\$9.56	Water Cooler	\$249.88

6.**Privileges**

A privilege is a benefit granted by the ECDOC that can be lost due to discipline, failure to obey rules and regulations, being a security risk or in emergent, special situations.

Privileges may include, but not be limited to:

1. Attendance in programs or services;
2. Access to and the use of the inmate telephone system;
3. Visits;
4. Purchase of commissary;
5. Recreational time;
6. Television (t.v.);
7. Cards and board games;
8. Worker assignments;
9. Good time credits.

7.**Communication with Staff**

You are encouraged to speak informally with staff about everyday concerns and for information about facility policies and procedures.

You may submit written questions, requests or concerns to facility staff using an Inmate Request Form. In addition you may file a written request or complaint regarding your treatment using the Inmate Request Form. You may request this form from your housing officer. These forms are collected and are forwarded to the office of the Ombudsman.

To prepare your request, you may obtain assistance from another inmate, your housing officer, or other facility staff. If you choose, you may seal the request in an envelope that is clearly addressed with the name, title and/or office to which the request is to be forwarded. Your request shall be placed in the designated box and will be promptly routed and delivered to the appropriate officials by staff (not by inmates) without reading, alteration, or delay.

Informal written requests are not intended as a substitute for the more formal process addressed in the Grievance Procedures.

8.**Smoking Policy**

The ECCF is a smoke-free environment. Smoking is prohibited in the facility and tobacco products or lighting devices will be confiscated during the intake process. Possession of tobacco or other smoking paraphernalia is a chargeable offense.

9.**Identification Wristbands**

- All inmates shall receive a photo identification wristband during the intake process.
- Wristbands must be worn on the wrist at all times as applied at intake.

- Tampered, altered or removed wristbands will be rendered useless for identification purposes; they shall be confiscated and will result in disciplinary action.
- Swapping the identification with another inmate may also result in disciplinary and/or criminal action.
- You must present your identification wristband during, but not limited to, emergency situations, dispensing of prescribed medications, distribution of commissary, meals, upon arrival at programs, visitation, during counts, upon entering/leaving a housing unit, upon release from the facility, and for all other general identification purposes or as ordered by staff.
- Should you become incapacitated, wristbands are a medical necessity for identification purposes.
- You must present your identification wristband to any officer and/or staff member upon request.
- You will be held responsible for keeping your wristband in good order.
- Wristbands will be inspected each shift during count.
- Officers and staff will randomly check wristbands to insure that bands are present and have not been tampered with.
- Damaged wristbands will be replaced.
- Inmates shall be charged with the cost of the replacement (\$10.00) when it is being replaced for any reason other than normal wear and tear. This cost is subject to change without notice.

It will minimally be considered a Major Charge (.101 Escape, .102 Attempting or planning an escape) to remove, turn the outside in, damage, and/or alter any identification wristband or information contained thereon.

10.

Classification

Upon your arrival, ECCF personnel will conduct an assessment of your records to ensure that you are placed in an appropriate setting within the facility. This assessment will provide you with a specific “classification level” based on criminal behavior, criminal convictions, disciplinary record, current custody status and any other information considered relevant to determining the most appropriate custody level. Your designated classification level will ensure that you are placed in the appropriate housing unit with other inmates of comparable classification characteristics.

A. Classification Status

1. Utilizing objective classification guidelines, the following major status categories are established:
 - a. Males: maximum, medium, and minimum
 - b. Females: maximum, medium, and minimum
 - c. Inmates with Special Needs; and
 - d. Juveniles.

2. Within the major status categories, the following degrees of classification are made:
 - a. Sentenced to state prison;
 - b. Pre-trial detainees with major charges;
 - c. Trial detainees with lesser charges;
 - d. County-sentenced prisoners;
 - e. Inmates requiring disciplinary detention;
 - f. Inmates requiring administrative segregation;
 - g. Inmates requiring protective custody; and

- h. Federal hold.
- 3. No inmate shall be segregated because of race, color, creed, or national origin.
- 4. The classification of inmates in the categories above may be modified based on the direct observation and supervision of individual inmates, and in such instances each classification decision shall be fully documented.
- 5. Female and male inmates shall have equal access to all programs and activities, according to the schedule of activities.

B. Code on Separation of inmates

The following types of inmates shall be maintained separately insofar as space permits:

- 1. Male and female inmates;
- 2. Age;
- 3. Size;
- 4. Serious offenders and less serious offenders;
- 5. Previous incarcerations;
- 6. Aggressive and passive/dependent inmates;
- 7. Inmates with special needs such as but not limited to, alcoholism and drug addictions;
- 8. Physically or mentally ill inmates and healthy inmates;
- 9. Confinement status, such as pretrial detainee or sentenced inmates and ICE detainees;
- 7. State remand inmates;
- 8. Involuntary and voluntary protective custody; and
- 9. Security needs.

C. Appeal of Classification

A classification status may be appealed by a written request for review to the classification officer. The decision of the classification officer may be appealed to the warden or his designee by presenting in writing the reason a change in classification is desired. A written response shall be given within two working days.

D. Reclassification

Failure to follow rules and regulations may result in changes to your custody classification level. If staff determines that you were engaged in misconduct the facility will initiate an immediate review of your current classification. This could result in your housing assignment being changed.

E. Reduction of Sentence (only applicable to county sentenced inmates)

All county sentenced inmates are required to work if they are not assigned to programs.

- 1. Inmates may receive up to five days good time credit per month for good behavior.
- 2. Inmates may receive one day off their sentences for each five days worked.
- 3. Reduction of sentence through the earning of work credits is cumulative. For example, an inmate may receive six days credit for working thirty days.
- 4. Violations of rules in the correctional facility or in an alternative to incarceration program may result in the loss of all or part of earned good time or work credits.

11.

Property

A. Unauthorized Property

Any item can be considered contraband when possessed by an inmate or visitor within the facility without authorization from the staff. You must obtain permission in advance to possess any item, even if

the type of item is generally allowable in your facility. Staff may limit the quantity of any items, even if the type of item is approved. Any item that is generally permissible for inmates to possess can become unauthorized if it is altered without permission or used in an inappropriate manner. Excess items, altered items or misused items may be discarded in accordance with facility policy and procedure.

B. Authorized Property/Items Permissible for Retention

Property that inmates may maintain during their incarceration is as follows:

1. Prescription eye glasses;
2. Dentures and prosthetic devices approved by medical staff;
3. Hearing aids approved by medical staff
4. Two pairs of approved footwear, or a combination there of;
5. Six pairs of socks;
6. Six sets of underwear;
7. Items purchased from the Commissary, that can be consumed within one week, maximum of 50 items or \$95 worth of purchases;
8. Toiletries, purchased from the Commissary, limited to two of each item;
9. Six books or magazines (pornographic Materials are prohibited);
10. One (shall include, but not be limited to) a Bible, Koran, Torah or other approved religious books by the Office of the Warden or Designee;
11. One folder of legal papers;
12. USB flash drive(s), (when approved);
13. Twelve unframed pictures, (no larger than 4" x 6"), which shall not be placed on the wall and NUDE PICTURES AND POLAROID PHOTOGRAPHS ARE NOT PERMITTED; and
14. The following Department of Corrections issued items:
 - a. One blanket;
 - b. Two sheets;
 - c. One pillow;
 - d. One pillow case;
 - e. One mattress;
 - f. Two sets of uniforms; and
 - g. One towel

C. Property of Released Inmates

When an inmate is released from ECCF, the inmate shall:

1. Take the personal property when leaving the facility; or
2. Arrange for a family member(s) or friend(s) to pick up the personal property from the facility within thirty (30) calendar days after the inmate's release.

D. Failure to Remove Personal Property

In circumstances where property remains at the facility or the inmate or designee fails to have the property removed within the thirty (30) calendar days of the inmates release, ECCF personnel shall forward written notification to the ex-inmate's last known address stating that:

1. The property will be held for a maximum of thirty (30) additional calendar days;
2. The property will be disposed of if not removed by the specific date; and
3. ECCF is not responsible for property held longer than sixty (60) days.

E. Written Notification

If the written notification sent to the ex-inmate's last known address is not responded to within the thirty (30) calendar days, correctional personnel may dispose of the personal property by:

1. Donating the personal property to any recognized public charitable organization;
2. Retain the personal property for use by the general inmate population, if item(s) has been approved by the facility Administrator or designee; or
3. Destroying the personal property.

The facility Administrator or designee shall approve any property that is to be donated or destroyed.

Perishable items are subject to donation or being destroyed at any time when the property is left at the facility and it creates a health hazard or pest control issue.

Copies of written notices to the ex-inmate about personal property shall become a permanent part of the ex-inmate's record file.

F. Confiscated Medication

All medication brought into the facility shall be confiscated by the Pre-Book Officer in Intake. Confiscated medication shall be stored in Main Medical for the duration of confinement. Unidentifiable Confiscated Medication shall be discarded by medical personnel.

12.	Contraband
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Items considered to be detrimental to the safe and orderly operation of the facility are prohibited and considered to be "contraband." Contraband items include, but are not limited to:

1. Any item, article or material found in the possession of or under the control of an inmate which is not authorized for retention or receipt that can effect the safe and orderly operation of the facility;
2. Any item, article, or material found within ECCF or on facility grounds which has not been issued by the facility or authorized as permissible for retention or receipt;
3. Any item, article or material found in the possession of, or under the control of visitors within the facility or on facility grounds which is not authorized for receipt, retention or importation;
4. Any item, article or material that is authorized for receipt, retention or importation by inmates but that is found in an excessive amount or that has been altered from its original form. An amount shall be considered excessive if it exceeds stated ECCF limits or exceeds reasonable safety, security, sanitary, or space considerations; and/or
5. Any article that may be harmful or presents a threat to the security and orderly operation of ECCF. Items of contraband shall include, but shall not be limited to:
 - a. Guns, firearms, ammunition, explosives or weapons of any type
 - b. Knives, tools or other implements which can be construed as an aid to escape that are not provided in accordance with ECCF regulations.
 - c. Hazardous or poisonous chemicals and gases
 - d. Unauthorized medications or suspected Controlled Dangerous Substance (CDS)
 - e. Medicines dispensed or approved by ECCF but not consumed or utilized in the manner prescribed
 - f. Intoxicants, including, but not limited to, liquor or alcoholic beverages

- g. Currency and stamps
- h. Electronic communication devices that can be used to make unauthorized photographs or audio or audio-video recording of inmates, staff or government property; (examples shall include, but not be limited to, cellular telephones, cameras, personal digital assistant, mp3 or audio device, e-mail deceive, text messaging, computers, facsimile, printers, two-way radios and pagers; or the batteries, plugs, cords or wires used to operate them)..
- i. Any item which could be used to disguise or alter the appearance of an inmate.
- j. Any article of clothing or item for personal use or consumption which has not been cleared first through the Intake process or purchased from commissary.
- k. Any information that poses or threatens the security and the orderly running of the institution.

Promoting, introducing and possessing contraband into the ECCF is a violation of the ECDOC disciplinary guidelines, the New Jersey Criminal Code 2C:29-6 Implements for Escape; Other Contraband, and N.J.S.A. 10A:31-8 Security and Control and violators may be subject to penalties pursuant to those guidelines.

You are responsible for ensuring that you are not in possession of any item that can be considered contraband and for knowing the rules regarding contraband items.

13.	Search of Persons, Property & Facility
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In order to maintain the safety of all persons and the security of the ECCF, the search of inmates and facility shall aim at controlling and deterring the introduction and concealment of contraband.

- All inmates admitted to the ECCF shall be thoroughly searched.
- All searches shall be conducted under sanitary conditions, in a professional and dignified manner, with maximum courtesy and respect for the inmate's person.
- No inmate shall be searched as punishment or discipline.
- Routine unannounced searches of the facility, inmates and property will be conducted as necessary.
- All areas to which any inmate has access shall be thoroughly searched on a routine and random continuing basis.
- Strip searches may be conducted as deemed necessary when the facility has reasonable suspicion to believe that an inmate may be concealing a weapon or other contraband.

A Frisk or pat-down search may be done on a routine basis including, but not be limited to, admission to the building, when entering a housing unit, prior to and from court ,transportation, any visit or medical appointment and when being transferred to another housing unit.

You may not refuse to be searched. It is your responsibility to follow the instructions given to you by staff. Failure to follow lawful legal direction may result in disciplinary or criminal action being taken against you. Refusal to be searched may also result in your segregation from the general population.

14.	Personal Accounts
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- 1. Inmates are not permitted to have money or jewelry in their possession. During the intake process, such items will be removed, a receipt issued, and a personal account established. The

maximum commissary account balance shall not exceed \$1,000, exceptions to the limit amount must be approved by the Warden.

2. Any money received from the outside shall be credited to the personal account. Cash and money orders are accepted at the deposit window in the visitor lobby between the hours of 8:00 A.M. and 4:00 P.M., Monday through Friday (except holidays). Money orders may also be received through the mail. The correctional facility assumes no responsibility for lost money orders. A Kiosk is available for personal account replenishment in the visitors lobby 24/7. . Third party checks are prohibited for deposit. Inmates are advised to insure that depositors have their correct name and jail identification number.
3. Upon release of inmates, the personal accounts are closed and checks issued for the balance due. An administrative fee shall be charged and all accounts with a balance of \$4.99 or less shall be closed with zero amounts due.
4. Upon request, third party checks may be drawn from the inmate personal account to pay court-imposed fines, fees and bail. Also once a month, third-party checks may be forwarded to relatives or friends for a \$1.00 processing fee.
5. Inmates must claim all property within 30 days of their release from the facility.
6. A \$50.00 processing fee shall be charged to all individuals lawfully committed to the ECCF. This fee is intended to partially defray the cost of fingerprinting, photographing and classifying individuals as they are processed into the system. All accounts with less than \$50.00 shall have their account placed in the negative for the full or partial amount outstanding. You will be charge a fee each time you are committed to the jail.
7. **Indigent Inmate** - are inmates that have a \$5 (or less) account balance with no commissary activity for three weeks or longer. You must indicate that you are indigent on a sign-up sheet. If your account receives funds on a regular monthly basis, such as the 1st of every month, you will not receive indigent items. If your account can minimally cover the cost of one stamped envelope from commissary, you will not receive indigent envelopes.

15.

Special Housing Unit (SHU)

ECCF provides the following types of SHU's to inmates who require more intensive supervision:

- Are pending investigation and/or hearings for disciplinary violations;
- Need of medical observation or quarantine;
- Are a security risk; and/or,
- Need protective custody (voluntary and involuntary).

All inmates located in SHU's shall have their cases reviewed to determine the need of continued placement in the Special Housing Unit. You may appeal the SHU order or the review decision, in writing, to the facility administrator.

16.

Disciplinary Process

1. Equitable and consistent inmate discipline shall be employed to ensure the maintenance of security and the orderly operation of the ECCF.
2. Rules, upon which inmate discipline is based, must be reasonable and evenly applied, and the action taken to determine an alleged infraction must be based on findings of fact.
3. The sanction(s) for infractions shall not be imposed in any manner that violates the civil rights of an inmate. The sanction(s) must be related to the infraction, and must be fairly applied to all inmates.

4. All persons who supervise the activities of inmates shall receive sufficient training to ensure that these staff members understand the rules of inmate conduct, the sanctions available and the rationale for the rules.
5. N.J.A.C. 10A:4 - Inmate discipline applies to state inmates incarcerated at the ECCF.

A. Disciplinary Rule Book

1. The ECCF has developed this inmate handbook/disciplinary rule book which includes
 - a. All chargeable offenses;
 - b. The schedule of sanctions;
 - c. The disciplinary procedures;
 - d. The disciplinary appeal process; and
 - e. Notice that the N.J.A.C. 10A:4, Inmate Discipline, also apply to state sentenced inmates incarcerated within the ECCF.

B. Inmate Law Library Violation and Sanctions

Punishment for any inmate law library infraction, such as damage to the law books or disruptive conduct, shall not ordinarily include denial of access to the inmate law library.

C. Minor Violations and Sanctions

Prohibited Acts – Minor

- .152 Destroying, altering or damaging government property or the property of another person.
- .206 Possession of money or currency (\$50.00 or less) unless specifically authorized.
- .208 Possession of property belonging to another person.
- .209 Loaning of property or anything of value.
- .210 Possession of anything not authorized for retention or receipt by an inmate or not issued to him or her through regular correctional facility channels.
- .211 Possessing any staff member's clothing and/or equipment.
- .212 Possessing unauthorized clothing.
- .213 Mutilating or altering clothing and bed linen issued by the county.
- .254 Refusing to work or to accept a program or housing pod assignment.
- .256 Refusing to obey an order of any staff member.
- .257 Violating a condition of any community release program.
- .301 Unexcused absence from work or any assignment; being late for work.
- .302 Malingering, feigning an illness.
- .303 Failing to perform work as instructed by a staff member.
- .304 Using abusive or obscene language to a staff member.
- .305 Lying, providing a false statement to a staff member.
- .351 Counterfeiting, forging or unauthorized reproduction or use of any document not enumerated in prohibited act *.352.
- .401 Participating in an unauthorized meeting or gathering.
- .402 Being in an unauthorized area.
- .451 Failure to follow safety or sanitation regulations.
- .452 Using any equipment or machinery which is not specifically authorized.
- .453 Using any equipment or machinery contrary to instructions or posted safety standards.
- .501 Failing to stand count.
- .502 Interfering with the taking of count.
- .601 Gambling.
- .602 Preparing or conducting a gambling pool.
- .603 Possession of gambling paraphernalia.

- .651 Being unsanitary or untidy; failing to keep one's quarters in accordance with posted standards.
- .652 Tattooing or self-mutilation.
- .701 Unauthorized use of mail or telephone.
- .702 Unauthorized contacts with the public.
- .703 Correspondence or conduct with a visitor in violation of regulations.
- .705 Commencing or operating a business or group for profits or commencing or operating a nonprofit enterprise without the approval of the director.
- .706 Soliciting funds and/or non-cash contributions from donors within or without the correctional facility except where permitted by the director.
- .707 Refusal to keep a scheduled appointment with medical, dental, or other professional staff.
- .709 Failure to comply with a written rule or regulation of the correctional facility.
- .752 Giving money or anything of value to, or accepting money or anything of value from another inmate.
- .753 Purchasing anything on credit.
- .754 Giving money or anything of value to, or accepting money or anything of value from a member of another inmate's family or another inmate's friend with an intent to circumvent any correctional facility or institutional rule, regulation or policy or with an intent to further an illegal or improper purpose.
- .802 Attempting to commit any of the above acts, aiding another person to commit any of the above acts or making plans to commit any of the above acts shall be considered the same as a commission of the act itself.

D. On-the-Spot Correction

The immediate imposition of a sanction upon an inmate for a minor violation shall be referred to as On-The-Spot Correction. Written guidelines shall specify the minor violations that may be handled informally through their imposition.

The following are authorized sanctions for On-The-Spot Corrections:

1. Verbal reprimand;
2. Loss of recreation privileges for a period of no more than five days;
3. Up to four hours of extra work duty;
4. Up to four hours confinement to tier, room or cell;
5. Loss of radio or television privileges for a period of no more than five days; and/or
6. Confiscation.

Minor violations must be reported in writing and forwarded immediately to the shift supervisor for review. The shift supervisor shall issue the inmate a copy of the report and afford the inmate the right to a conference before the imposition of any sanction.

If the shift supervisor concurs with the written minor violation report, the On-The-Spot Correction sanction shall be imposed within 24 hours of the shift supervisor's review.

The shift supervisor may also dismiss the minor rule violation or upgrade the minor violation to a major violation.

E. Major Violations and Sanctions

Prohibited Acts - Major

- *.001 Killing.
- *.002 Assaulting any person.

- *.003 Assaulting any person with a weapon.
- *.004 Fighting with another person.
- *.005 Threatening another with bodily harm or with any offenses against his or her property.
- *.006 Extortion, blackmail, and protection: demanding or receiving favors, money or anything of value in return for protection against others, to avoid bodily harm, or under threat of informing.
- *.007 Hostage taking.
- *.008 Abuse/cruelty to animals.
- *.009 Misuse of electronic equipment not authorized for use or retention by an inmate such as, but not limited to a cellular telephone(s), two-way radios(s), other communication devices(s) and/or computer(s) and/or related device(s) and peripherals(s).
- *.010 Participating in an activity(ies) related to security threat group
- *.011 Possession or exhibition of anything related security threat group
- *.012 Throwing bodily fluid at any person or otherwise purposely subjecting such person to contact with a bodily fluid.
- *.013 Unauthorized physical contact with any person, such as, but not limited to physical contact not initiated by a staff member, volunteer or visitor.
- *.014 Unauthorized physical contact with any person with an article, item or material such as anything readily capable of inflicting bodily injury.
- *.050 Sexual Assault.
- *.051 Engaging in sexual acts with others.
- *.052 Making sexual proposals or threats to another.
- *.053 Indecent exposure.
- *.054 Refusal to register as a sex offender
- *.101 Escape.
- *.102 Attempting or planning escape.
- *.103 Wearing a disguise or mask.
- *.150 Tampering with fire, alarms, fire equipment or suppressant equipment.
- *.151 Setting a fire.
- *.153 Stealing (theft).
- *.154 Tampering with or blocking any locking device.
- *.155 Adulteration of any food or drink.
- *.201 Possession or introduction of an explosive, incendiary device or any ammunition.
- *.202 Possession or introduction of a gun, firearm, weapon, sharpened instrument, knife or unauthorized tool.
- *.203 Possession or introduction of any narcotic paraphernalia, drugs or intoxicants not prescribed for the individual by the medical or dental staff.
- *.204 Use of any prohibited substances such as drugs, intoxicants or related paraphernalia not prescribed for the inmate by the medical or dental staff.
- *.205 Misuse of authorized medication.
- *.207 Possession of money or currency (in excess of \$50.00) unless specifically authorized.
- *.214 Possession of unauthorized keys or other security equipment.
- *.215 Possession with intent to distribute or sell prohibited substances such as drugs, intoxicants or related paraphernalia.
- *.216 Distribution or sale of prohibited substances such as drugs, intoxicants or related paraphernalia;
- *.251 Rioting.
- *.252 Encouraging others to riot.
- *.253 Engaging in, or encouraging, a group demonstration.
- *.255 Encouraging others to refuse to work or to participate in work stoppage.
- *.258 Refusing to submit to testing for prohibited substances.

- *.259 Refusing to submit to comply with an order to submit a specimen for prohibited substance testing (see N.J.A.C. 10A:3-5).
- *.260 Refusing to submit to mandatory medical testing.
- *.261 Tampering with a test specimen.
- *.305 Lying, providing a false statement to a staff member.
- *.306 Conduct which disrupts or interferes with the security or orderly running of the correctional facility.
- *.352 Counterfeiting, forging or unauthorized reproduction or use of any classification document, court document, psychiatric, psychological or medical report, money or any other official document.
- *.360 Unlawfully obtaining or seeking to obtain personal information pertaining to an inmate's victim or the victim's family.
- *.551 Making or possessing intoxicants or alcoholic beverages.
- *.552 Being intoxicated.
- *.553 Possession of any tobacco or lighting material/ devices.
- *.701 Unauthorized use of mail or telephone.
- *.703 Correspondence or conduct with a visitor in violation of regulations.
- *.704 Perpetrating frauds, deceptions, confidence games, riots or escape plots.
- *.708 Refusal to submit to a search.
- *.751 Giving or offering any official or staff member a bribe or anything of value.
- *.803 Attempting to commit any of the above acts, aiding another person to commit any of the above acts, or making plans to commit such acts shall be considered the same as commission of the act itself.

Sanctions for Major Violations

Major violations shall be defined as that conduct which is punishable by sanctions more stringent than those for minor violations. The following are authorized sanctions for major violations:

1. Up to 15 days disciplinary detention;
2. Loss of commutation time subject to confirmation by the administrator of the ECCF;
3. Loss of privileges up to 30 days;
4. Forfeiture/confiscation;
5. Restitution;
6. Any sanction prescribed for On-The-Spot Correction; and/or
7. Suspension of any one or more of the above sanctions at the discretion of the disciplinary board/hearing officer for 60 days.

No inmate may receive more than 15 days in disciplinary detention as a result of a single disciplinary charge.

If an inmate is found guilty of multiple disciplinary charges, he or she may receive up to 15 days disciplinary detention for each charge provided that the total time to be served does not exceed 30 days.

F. Notification of Inmate

1. As notification of the major violation charge(s), a copy of the disciplinary report shall be served upon the inmate within 48 hours of the violation unless there are exceptional circumstances, and at least 24 hours prior to the disciplinary hearing unless such notice is waived by the inmate in writing.

2. The disciplinary report shall be delivered by the reporting staff member or the investigating officer. The report shall be signed by the person delivering it and the time of delivery shall be noted.

G. Use Immunity

1. In all cases, the inmate shall be advised of his or her right to use immunity at any investigative interview and at the disciplinary hearing.
2. The use immunity warning shall consist of a statement which indicates that any statements made in connection with the disciplinary hearing or evidence derived directly or indirectly from those statements shall not be used in any subsequent criminal proceeding.
3. Failure to give the use immunity warning by the investigative officer shall not be grounds for dismissing the disciplinary report.

H. Investigation

1. An investigation of the infraction shall be conducted within 48 hours of the time the disciplinary report is served upon the inmate, unless there are exceptional circumstances for delaying the investigation.
2. The administrator of the ECCF shall appoint an investigating officer/supervisor who was not involved in the incident to conduct the investigation.
3. The inmate shall be advised of his or her right to consult with a counsel substitute prior to the disciplinary hearing.
4. The inmate shall be advised of his or her right to waive the disciplinary hearing and plead guilty to the disciplinary charges.

I. Pre-hearing Detention

1. Until the disciplinary hearing, the inmate shall remain in his or her existing status, unless the inmate constitutes a threat to other inmates, staff members, himself or herself or to the orderly operation of the ECCF.
2. If pre-hearing detention is ordered by the shift supervisor, such order shall be reviewed by the administrator of the ECCF or the designee within 24 hours. Failure to do so shall return the inmate to his or her previous status.

J. Disciplinary Board/Hearing Officer

1. All hearings for major offenses shall take place before a hearing officer or a disciplinary board composed of an impartial three-member panel which shall include one custody supervisor and two non-custody staff members.
2. Any hearing officer or disciplinary board member shall be disqualified in every case in which the hearing officer or board member:
 - a. Filed the complaint or witnessed the incident;
 - b. Participated as an investigating officer;
 - c. Will be charged with subsequent review of the decision; and/or
 - d. Has personal interest in the outcome.

K. Disciplinary Hearing

1. The inmate shall be entitled to a hearing within seven days of the alleged violation, including weekends and holidays, unless such hearing is prevented by exceptional circumstances, unavoidable delays or reasonable postponements. Should the seventh day

fall on a Saturday, Sunday or holiday, the hearing shall be held on the weekday immediately following the weekend or holiday.

2. Inmates confined in pre-hearing detention shall receive a hearing within three days of their placement in pre-hearing detention, including weekends and holidays unless there are exceptional circumstances, unavoidable delays or reasonable postponements. Should the third day fall on a Saturday, Sunday or holiday, the hearing shall be held on the weekday immediately following the weekend or holiday.
3. Inmates confined in pre-hearing detention shall be given priority in scheduling their appearance before the disciplinary board or hearing officer.
4. Time spent in pre-hearing detention shall be credited against any subsequent sentence imposed.
5. No delays in hearing a case shall be permitted for the purpose of punishment or discipline.
6. An inmate shall be provided the opportunity to be present during the disciplinary hearing except for the deliberations of the disciplinary board's/hearing officer and for reasons of security. The reasons for excluding an inmate from a disciplinary hearing shall be documented in the record of the inmate.
7. An inmate may be represented by a counsel substitute (staff or inmate) when it is determined by the disciplinary board/hearing officer that the inmate is illiterate, not sufficiently conversant with the English language, or otherwise unable to read, understand or communicate due to a physical/medical inability, or cannot adequately collect and present the evidence in his or her own behalf.
8. An inmate shall be provided an opportunity to call witnesses on his or her behalf, unless doing so would be irrelevant, repetitive or unduly effect the safe, secure or orderly operation of the ECCF. The reasons for denying the opportunity to call witnesses shall be stated in writing and filed in the record of the inmate.
9. An inmate shall be provided the opportunity to make a statement and present documentary evidence.
10. An inmate shall be provided the opportunity to confront and cross-examine his or her accuser and all adverse witnesses unless doing so would be unduly hazardous to facility safety or would endanger the physical safety of a witness. The reasons for denying the opportunity to cross-examine accusers or adverse witnesses shall be stated in writing and filed in the record of the inmate.
11. In-absentia hearings may be held if the inmate refuses to attend the disciplinary hearing. Documentation of this refusal shall be reported in writing.
12. Should further investigation be required, the disciplinary hearing may be postponed by the disciplinary board/hearing officer for up to 48 hours for pre-hearing detention cases and for seven days for all other hearings.

L. Referral to the Prosecutor

All rule violations which may constitute crimes of the first, second, third or fourth degree under the Criminal Code of the State of New Jersey (N.J.S.A. 2C:1-1 et seq.) shall be referred to the Essex County Prosecutor.

M. Decision of the Disciplinary Board/Hearing Officer

At the conclusion of the disciplinary hearing, the disciplinary board/hearing officer shall issue a written decision. This decision shall contain:

1. The finding on the question of guilt;
2. The sanction imposed;

3. A summary of the evidence upon which the finding is based with the exception of confidential information which was withheld for security reasons;
4. A list of all non-confidential witnesses;
5. The reason requested witnesses were not called or cross-examination was not permitted if applicable;
6. The reason for the sanction, which shall include such factors as the offender's past history and circumstances of the offense;
 - a. The date and time of the disciplinary hearing; and
 - b. The signatures of all board members or the hearing officer.

N. Appeal of Disciplinary Decisions

1. The inmate shall be advised of his or her right to appeal the decision of the disciplinary board/ hearing officer.
2. Appeals of disciplinary decisions shall be submitted to the administrator of the ECCF in writing, within 48 hours of the disciplinary hearing.
3. Appeals of disciplinary decisions shall be reviewed by the administrator of the ECCF who shall affirm, rescind or downgrade the decision. The administrator may reduce but may not increase the sanction imposed by the disciplinary board/hearing officer.
4. Copies of the appeal and the disposition on appeal shall be forwarded to the disciplinary board/hearing officer and Classification Unit for their records.

O. Expungement

1. If the disciplinary board/hearing officer finds the inmate innocent of the charges, all references to the offense shall be removed from the classification file of the inmate.
2. Copies of the disciplinary report, investigation and adjudication sheet shall be maintained by the ECCF, the disciplinary board/hearing officer and the classification unit in the event of judicial review, and for statistical and accounting purposes only. These records shall be maintained separately

P. Disciplinary Detention

Placement in Disciplinary Detention

A decision to place an inmate in disciplinary detention may be made only by the disciplinary board/hearing officer subject to review by the administrator of the ECCF.

Time Spent In Disciplinary Detention

1. Inmates may be placed in disciplinary detention by the disciplinary board/hearing officer for a period not to exceed 15 days as a result of a single disciplinary charge.
2. Inmates found guilty of multiple disciplinary charges may receive up to 15 days disciplinary detention for each charge provided that the total time to be served does not exceed 30 days.
3. The time an inmate spends in disciplinary detention shall be proportionate to the offense committed, taking into consideration:
 - a. The severity of the offense;
 - b. The prior conduct of the inmate;
 - c. The specific program needs of the inmate; and
 - d. Other relevant factors.

Disciplinary Problems While in Disciplinary Detention

In the event of further disciplinary infractions by the inmate while in detention, the inmates shall be charged with the appropriate violation and be given a disciplinary hearing.

Q. Correspondence, Visits and Telephone Calls

1. Inmates in disciplinary detention shall have the same correspondence opportunities that are available to inmates in the general population.
2. Inmates/ ICE Detainees in Disciplinary Detention shall not be provided with visit or telephone opportunities while in Disciplinary Detention except for:
 - a. Legal visits and legal telephone calls when authorized by the Facility Administrator or designee; and
 - b. Special visits or telephone calls when compelling reasons exist and when authorized by the Facility Administrator or designee.
3. Every effort shall be made to notify individuals of the disciplinary detention restriction on visits prior to the next regularly scheduled visiting period. If adequate time for correspondence exists, the burden of this notification shall be placed on the inmates.

R. Criminal Violations

All inmates are subject to all laws of the United States and of the State of New Jersey. Any inmates violating these laws may be charged criminally and tried for that violation in the appropriate local, state, or federal court. You will be formally notified if you are charged with a criminal violation while you are in custody.

The filing or disposition of charges in a judicial court of record for the violation of local, state, or federal law does not, in any way, prevent or affect the administrative handling of the same act as an institutional disciplinary matter, nor of taking disciplinary action against the inmate in question.

17.

Daily Routine

Wake Up - Count will be called at 0530 hrs each morning and all cell lights in the housing area will be turned on.

Count Call - may be conducted at various times. When a count call is announced all inmates are to immediately lockdown and stand in their cell, or at their assigned bunks in a dormitory, completely dressed, until dismissed by an Officer. All activities cease during count call such as phones, TV, recreation and etc. Any interference with count call is strictly forbidden.

Inspection - Inmates must be clean and ready for inspection by 07:30 hrs daily, which includes the bed made, desk orderly, shelf and the floor completely cleared and cleaned. Clothes must be on wall hooks or neatly folded on a bunk.

Activities - Housing unit or dormitory activities/privileges will **only** begin if the Unit is in a safe and sanitary condition!

Housing Unit Recreation - Leisure activities may include access to TV, movies or games and game boards. TV's are available for viewing providing this privilege is not removed due to inappropriate behavior.

Outside Recreation - You will have an opportunity participate in a minimum of one hour of physical exercise and recreation each day outside the living unit. Outdoor recreational opportunities can be limited by inclement weather or physical security concerns. Indoor recreation may not be substituted for outdoor recreation.

Use of the recreation yard may be denied at the officer's discretion during or following any emergent situation within the facility.

Inmates violating prohibited acts within the outside recreation area may lead to the suspension of outside recreation for the housing unit.

Typical recreation hours are as follows Sunday – Saturday:

- 07:00 hrs – 12:45 hrs
- 15:00 hrs – 20:45 hrs

Lockdown- you must immediately go inside your cell or to your bunk area. If you are housed in a cell you must secure your door upon entering the cell. You are to lockdown quickly and in an orderly manner at any time you are so ordered. This includes during regular population counts, population switches, medication, commissary, nightly lockdown, any unscheduled/scheduled events, and at the officer's discretion. Refusal or a delay in compliance may result in disciplinary action. **A lockdown order will be called before a designated lockdown time.** You must proceed directly to your assigned cell or bunk. This is so that an accurate count may be taken. All privileges may be ceased at the officer's discretion prior to a lockdown. This includes, but is not limited to, telephones, hot water, barbering services, group prayer, laundry service, recreation, showers, cleaning, law library and TVs.

Lights out - Lights may go out after the count officially clears during 2200 hrs shift and turned on at 0530 hrs. Silence will be observed after lights out.

You are responsible for being alert and standing count at all prescribed times and whenever ordered to do so by an Officer.

18.

Official Counts

In order to maintain proper accountability of inmates at this facility, we conduct official counts a minimum of six times each day. Counts are conducted at the beginning and end of each shift. You are required to participate and be counted in accordance with the rules.

- When any officer calls for a count you must report to your respective cell or bed and lock down.
- All activities cease during a count such as phones, TV, recreation and etc.
- Upon reporting to your cell or bed you must remain there until the completion of the count and until released by the housing unit officer.
- When the housing unit officer approach's you must make ready your identification and remove any clothing from your head and/or face.

During all official counts, no movement or talking is permitted. Any disruptions during counts may result in a disciplinary action to the individuals involved.

It is your responsibility to be present and counted during any population count and to follow the instructions of staff conducting the count. Failure to follow procedures established for the count is grounds for disciplinary action against you.

19.

Inmate Movement Inter-Facility

When outside the confines of your housing area, whether individually or during a mass movement, you will walk in an orderly, single - file fashion along the wall to your right. There will be no talking whatsoever. When any staff member, or visitor is in the hall inmates shall stop and face the wall to

their right until they pass. You are prohibited from stopping at any area other than your designated destination. You may be subjected to a search of persons and property. There will be no running, loitering, eating or drinking in any corridor. Normally, you will not be allowed to take anything with you during a movement. You will be allowed to take only necessary legal materials for court, legal visits and educational or designated classroom material. Necessary medication such as nitroglycerin or inhalers may be kept on person (K.O.P.) as authorized by the medical department.

20.

Clothing

All inmates must be fully dressed, in their distinctive county issued uniform or commissary purchased sweat outfit when outside their individual cell or bunk area; this includes a full inmate uniform, socks, underwear, and appropriate footwear. You must wear your full uniform until you enter your cell at the end of the day.

Full Uniform

A full inmate uniform consists of the appropriate area matching shirt and pants; or when permitted a full commissary sweat outfit. Mixing separate uniforms is not permitted.

All issued clothing shall be worn as specified in the following instructions and in no other manner. These requirements are essential to ensure compliance with appropriate security, hygiene and conduct.

- Inmates must be in full uniform at all times before exiting their cell or dormitory, including, travel to and from the shower area.
- Foot wear must be worn entirely covering your foot at all times including to and from the shower.
- Inmates must wear a complete uniform at all times while in medical visits, court appointments, during religious services, visitations, law library and while in the dayroom area.
- Commissary sweats can not be used as a uniform when leaving the confines of a housing unit or dormitory.
- Upon entering the recreation yard you must be in a full uniform. Before concluding exercise and upon exiting the recreation yard inmates must be in full uniform.
- All clothing must be **worn appropriately** and also **sized appropriately (pants must be on the waist and not below, underwear can't be showing, shirts can not be rolled up, clothes can not be excessively oversized, etc).**
- Undergarments may be worn without outer garments only while inside the sleeping quarters or the restrooms. **NO EXCEPTIONS!**
- Only authorized headwear shall be approved for use by the general population unless approved as religious items by the facility Chaplain. Workers will be issued the proper head cover when required, which shall be worn only while performing work-related duties.
- Wave caps (do-rag) may be worn only in housing unit cells or within your dormitory.
- No article of clothing may be worn in a manner not normally intended for that item (using a shirt as a head band or head cover, rolling up pants legs, wearing socks over arms, wearing sheets or blankets, etc.).
- No article of clothing may be altered from its original form (ex. cutting pants into shorts, stitching pockets, intentionally discolored, drawn on, torn, cut, etc.).
- Clothing must be clean and in good repair. Torn clothing is not authorized apparel.

Clothing exchanges

All exchanges will be made by request to the housing unit supervisor. All other volunteer workers may exchange outer garments according to facility policy. All issued clothing/linens will be returned upon your release. Failure to return any article will result in that dollar amount permanently deducted from your personal account.

Linen hoarding

In order to ensure an adequate supply of clean clothing and linen for all inmates, the hoarding of clothing and linen is prohibited.

Clothing for Court Appearance

Inmates shall be provided with their personal clothing for court trials only. If inmates do not have appropriate clothing, they shall be permitted to request such from family or friends. Upon delivery, the clothing shall be inspected for contraband. If inmates are not dressed in a reasonable amount of time (15 minutes) when getting ready for court, this fact shall be made known to the judge.

- Court clothes will be accepted twenty-four hours per day, seven days per week at the visit lobby, which shall afford inmates appearing for trial the unlimited opportunity to arrange clothing exchange.
- No inmate may have more than two sets of clothing stored at the ECCF at any given time. Therefore, daily exchanges of trial clothes will be permitted via the ECCF visit lobby.
- Only clip-on ties will be permitted.
- For reasons of security, footwear will be limited to slip-on or Velcro fastening, soft soled shoes. Shoes must be slip-on “loafers” or Velcro® type
 - Flip-flops, sandals and open toed shoes are not acceptable
 - No boots
 - No shoes with laces
 - Any footwear containing metal will not be accepted.
- In the case of **indigent inmates** who are ordered to be dressed for trial the ECDOC will make available grey khaki pants, a white shirt, and a white tennis-type shoe with Velcro fasteners
- Belts and suspenders will not be accepted.
- Jewelry is limited to a wedding band and one religious pendant (no brooches, pins, etc.)
- Clothing containing metal of any kind (sequins, studs, decorative stones, etc.) will not be accepted.

21.

Personal Hygiene

You will be living in a secure housing unit or dormitory with other individuals, so personal hygiene is essential for promoting a healthy and harmonious living environment. Inmates are required to keep themselves clean and to wear appropriate clothing and footwear during all activities. Any deviations from maintaining good personal hygiene and from wearing appropriate clothing could cause potential conflicts with your peers and others. Poor personal hygiene or unsanitary habits can also have a negative impact on the health and safety of yourself and others. Failure to comply with the dress code and grooming standards could ultimately become an issue that requires staff intervention, including appropriate disciplinary action.

1. All inmates are afforded the opportunity to take a shower at the time of admittance to the ECCF and are encouraged to bathe regularly. Further, security permitting, inmates may shower at least once daily and must keep themselves and their living quarters clean at all times. All inmates shall always maintain an acceptable odor free appearance, this will entail a full authorized (unaltered) and properly fit/worn uniform, neatly groomed hair, and brushed teeth.

2. Personal hygiene items such as soap, toothpaste, toothbrushes, combs, hairbrushes and other items will be issued to you upon admission. If you run out of any issued item, you must purchase it through commissary or place your name on an indigent list if applicable.
3. Inmates must keep their hair clean. For reasons of individual and public health, the medical staff may order inmates to cut their hair.
4. Fingernails and toenails will be kept clean, neat and short at all times.
5. Female inmates shall be provided sanitary napkins upon request.
6. All inmates must wash their hands frequently and any time something wet is touched. Use soap and water when washing hands and a clean towel or paper towel that can be thrown away.
7. Do not let another inmate borrow your razor, soiled linens, soap or a used towel.
8. Wash towels, linens and clothes often. Hang wet towels and wash cloths out to dry each time they are used.
9. After working out, wipe down benches and equipment with a dry towel.
10. Evidence of vermin or communicable diseases will be brought to the attention of staff immediately.
11. See the nurse for any unusual wounds, boils or pimples that do not heal. If the doctor orders antibiotics, take all the prescribed medication. Keep open wounds covered and change bandages frequently, avoid contact with other person's soiled bandages.

22.

Barbering Services

All inmates are permitted to receive haircuts from the approved Barber that is on the housing unit. All barber related activities shall be conducted in the housing unit; this facility does not have centralized barber shop. All barber equipment is secured in a storage locker next to the officer's desk. Haircuts are provided at no charge once a month. You may receive your first hair cut 30 days after your admittance and approximately every 30 days thereafter. The 30 day rule may be waived for medically or security ordered reasons and for inmates ordered to appear in court. Haircuts for inmates **appearing at a trial** will be given within 3 days of their trial date. Extreme styles that include designs, letters, gang related insignia and specialty shapes are not permitted.

Ordinarily, inmates may wear any reasonably safe and hygienic hair and facial hair styles with the following exceptions:

1. For safety and hygiene reasons, kitchen workers shall keep their hair in a neat, clean and commonly accepted style.
2. All kitchen workers shall wear a hairnet and beard net (where necessary) when working in the kitchen.
3. Inmates must keep their hair clean. For reasons of individual and public health, the medical staff may order inmates to cut their hair.

All haircuts shall be done during the approved recreation times.

- 07:00 hrs – 12:00 hrs
- 15:00 hrs – 20:00 hrs

The hours of operation and availability of barber equipment may be revoked by the housing unit officer or supervisor if it conflicts with the security or orderly running of the facility.

23.

Sanitary Living Conditions

Clean facilities help to ensure safety and inmate personal health. It is in your best interest to maintain a clean living area and to avoid health and safety problems associated with unsanitary living conditions.

1. When your bed is not in use, it must be made up to facility standards. We require that you keep your bed and immediate area clean, neat and odor free. You are also required to make your bed daily before reporting for your work assignment or when you begin your daily routine. Inmates are not permitted to cover, hang, or attach blankets, sheets, towels, clothing, or any other item to walls, windows, bunks, air vents, doors or light fixtures anywhere within the ECCF. Adequate lighting and unobstructed vision must be maintained at all times throughout the facility.
2. Storage of personal effects, including hygiene items, must be done in accordance with the policies and procedures. Do not place items at any unauthorized location, such as on windowsills, windows, bunks, lockers, under a mattress, etc. Items in violation of storage rules may be confiscated and removed from the unauthorized area. If your items are confiscated for being placed in an unauthorized area, it is your responsibility to identify and reclaim your items from the appropriate supervisor.
3. All inmates will perform housekeeping duties as directed by the housing unit officer. Cleaning supplies will be provided at the officer's discretion.
4. Inmates may use the washers and dryers, where applicable, in the housing laundry room for uniforms, bed sheets, pillowcases, towels and other personal items; see posted housing unit laundry schedule. Blankets shall not be washed in the unit laundry rooms but in the main jail laundry; see posted blanket exchange schedule.
5. You are expected to maintain **High Standards** concerning disposing of refuse.
 - **AT NO TIME** is anything to be flushed down the toilets except normal body waste.
 - Using toilets as trash cans to flush garbage, food, clothing materials and commissary items; will not be tolerated.
 - If a cell toilet is clogged, and it is determined to be due to using the toilet as a trash can, the inmate(s) responsible will face the following penalties:
 - Any inmate who is caught clogging his or her toilet will be charged a fee, to include costs of repair and hourly maintenance wages.
6. Upon release, the cell you are vacating must be properly sanitized for occupancy of new inmates. Mattresses shall be cleaned/ sanitized before reissue.
7. This facility provides regular pest and/or vermin control via a professional exterminator. You are responsible for assisting in these ongoing efforts by limiting the amount of commissary items, personal materials, etc. kept in your living area. Also, you are to report to the staff if any pest and/or vermin are found.

24.

Meals

All meals served by our facility are nutritionally balanced, dietician-approved and properly prepared. We only serve our meals in wholesome, clean, safe surroundings. We do not use food as either a disciplinary measure or reward. All inmates will be provided with meals from a standard menu unless a special diet request is approved.

Three meals shall be provided at regular meal times during each 24 hour period. Two of the three meals provided shall be hot meals unless an emergency situation precludes the serving of hot meals. No more than 14 hours shall elapse between the evening and breakfast meals.

When meals are served all inmates shall assemble in an orderly fashion and not cut line as instructed to do so by the housing unit officer(s). Inmates will not try to have more food placed on their trays by inmate workers in the pantry area. Inmate workers have been told how much food is appropriate to dole

out on trays as specified on the food-cart inventory sheet. Inmates shall retrieve their meals and proceed to the designated eating areas. Upon completion of the meal inmates shall clean their areas and return the trays to the approved collection point.

You may request a common fare diet (religious/diet menu) when appropriate. Other special diet requests for religious reasons should be referred to the chaplain for evaluation. If you have a special dietary need due to religious or medical reasons, it is your responsibility to request a special diet that meets your needs. Your request will be evaluated to ensure that you will be provided with an appropriate meal.

Special diet requests for medical reasons are referred to medical personnel for evaluation.

25.

Commissary

1. Inmates may purchase authorized food, clothing, and other personal items from an approved list of commissary items. The forms and schedules for ordering and delivery of the commissary purchases are posted on each housing unit.
2. Inmates must have sufficient money in their personal accounts to cover the purchases. If there are insufficient funds, the commissary order form will be filled to the limit of the funds available. Commissary account inquiries should be directed to housing pod officer who may forward them to the commissary clerk.
3. Inmates shall acknowledge receipt of the items on the commissary order form by signing their names and having their photos and jail identification numbers verified.
4. Pursuant to NJSA 30:4-15.1, the ECCF collects a surcharge of 10% of the sale price of every commissary item sold. These funds are forwarded to the New Jersey State Treasurer for deposit into the Victims of Crime Compensation Board account.
5. Funds can be transferred to an inmates commissary account at www.offenderConnect.com (24 hour-a-day access).
6. Commissary is a privilege that can be suspended for disciplinary reasons.
7. Commissary ordering can be done on the Tablet (NOTE: It is here where you can order minutes for paid Tablet services).

26.

Outgoing and Incoming Mail

You have the right to correspond with persons or organizations consistent with the safety, security and orderly operation of the facility. All incoming and outgoing letters are subject to inspection, for content and contraband. You are responsible for the contents of your outgoing mail.

If you choose to correspond with others, you must follow the following established procedures:

1. The mail privileges for inmates shall be as protected as those for free citizens. There shall be no restriction on the length, language, or content of letters or on the persons to whom an inmate may write, except where restrictions are necessary to serve the security interests of the ECCF.
2. The following standards shall be applied to outgoing and incoming correspondence:
Privileged correspondence shall exist between inmates and attorneys, public defenders, inmate advocates, judges, clerks of the federal, state, and local courts; the sheriff, warden, Commissioners of the County of Essex; the Governor and Attorney General, and legislators of the state of New Jersey; the President and Vice President of the United States, and members of the parole boards.
3. **Correspondence to or from other inmates**

All correspondence to or from inmates to other inmates housed in the ECCF or other correctional facilities may be read to ensure that the correspondence does not contain any content prohibited by N.J.A.C. 10A:18-2.14. Direct In-House Mail (or kites) is not permitted in ECCF. Any inter-facility correspondence must be mailed out of the facility for redirection back into the facility; all mail shall be opened, inspected for contraband and returned unread to the inmate.

4. All outgoing mail shall be sealed and given to the housing pod officers to be placed in the mailbox located in the mailroom during normal hours of operation or to be deposited in the mailbox outside the mailroom at other times. All outgoing mail returned to the correctional facility shall be opened, inspected for contraband and returned unread to the inmates. Inmates should print clearly the following return address on the front of all envelopes containing outgoing mail:

Name of Inmate
Inmate Commitment Number, Housing Unit Cell Number
Essex County Correctional Facility
354 Doremus Avenue
Newark, NJ 07105

Outgoing correspondence shall be sealed by the inmate and shall not be opened, inspected or censored unless there is evidence to suspect it contains contraband or involves a criminal activity.

5. Stamped envelopes are available for purchase through the commissary. Indigent inmates may request up to three complete sets of stationary per week and three stamped post cards. Postage and writing materials will also be provided for the legal mail of indigent inmates through the ombudsman.
6. Incoming correspondence will be delivered to the inmate/ICE Detainee within 24 hours after the correspondence has been received at the facility, excluding weekends and holidays and when precluded by an emergency incident.
7. Inmates may purchase magazines, newspapers, newsletters, and books provided the content is **not** deemed subversive, inflammatory, disruptive or a security threat. The number of items may be restricted providing exclusions are made for a reasonable amount of spiritual, sacred, and educational materials. Inmates are encouraged to donate their discarded books and magazines to the library. A list of authorized publications shall be maintained by the Office of the Warden.
8. The ECCF will only accept packages for inmates that are sent from sources of sale (publishers, distributors) or by mail.
9. Polaroid photographs shall not be accepted through the mail.
10. Inmates shall not collect outgoing mail from other inmates. Only correctional personnel shall handle incoming and outgoing mail.

Incoming mail that does not meet facility standards will be considered contraband and withheld. Correspondence that may be rejected includes, but is not limited to, items with the following content:

- Material that depicts, describes or encourages activities that could lead to physical violence or group disruptions;
- Information regarding the manufacture of explosives or weapons; information regarding escape plots, plans to commit illegal activities or to violate ECCF rules or facility guidelines;
- Information regarding the production of drugs or alcohol;
- Sexually explicit material;

- Threats, extortion, obscenity or profanity;
- Coded messages;
- Hard cover correspondence;
- Anything that affects the safety and security of the facility; or any other contraband.

All incoming mail is normally delivered to you within 24 hours of receipt by facility staff, and your outgoing mail will be routed to the proper postal office no later than the day after receipt by facility staff (excluding weekends and holidays). The sole exception is mail requiring special handling for security purposes. Mail may be delivered to the housing units already opened and inspected.

When you depart the facility, your incoming mail will be marked “Return to Sender” and returned to the post office.

Correspondence to or from other Inmates

All correspondence to or from inmates to other inmates housed in the ECCF or other correctional facilities may be read to ensure that the correspondence does not contain any prohibited content.

Pencils, paper and envelopes may be obtained from the Housing Unit Officer. They may also be purchased from the commissary. Indigent inmates will get at least three stamped envelopes per week for personal mail.

Legal Mail:

Legal correspondence may be held for a reasonable period (not to exceed twenty-four hours) to allow verification of the privileged status of the addressee or sender. Incoming legal correspondence will be opened in the presence of the inmate and inspected for contraband. Incoming legal correspondence will be treated as privileged only if the name and official status of the sender appear on the envelope. Outgoing legal correspondence similarly requires that not only the name, but also the official status of the recipient appears on the envelope. It will be your responsibility to advise the senders of legal correspondence of the labeling requirements. **Both incoming and outgoing legal mail shall be labeled “Legal Mail” on the envelope.**

Indigent inmates will be permitted to mail, at government expense, a reasonable amount of correspondence related to a legal matter, including correspondence to a legal representative, potential legal representative, and any court.

You are responsible for knowing the individual rules and regulations regarding correspondence for the ECCF. You are responsible for the contents of ALL of your outgoing mail.

27.

Telephone Access

General Telephone Access

You will be provided with access to a telephone during the admission process and within your respective housing area during your commitment. When demand for telephone use is high, the facility may regulate the amount of time you have to make and complete your call. However, it may not be less than 15 minutes per call.

Telephone Calls

1. Upon admittance to the ECCF, provisions shall be made for inmates to make one **free call** to anyone they choose within the state of New Jersey.
2. There are telephones in each housing unit so that inmates may make collect telephone calls.
3. Inmates may make as many calls as necessary to obtain counsel (attorney or lawyer) and to talk with their counsel about the status of the charges, bail, and other legal matters.

4. If inmates are not able to make collect calls to their families or significant others, a written request should be submitted to the social worker or ombudsperson stating the circumstances. Arrangements for a call may be made in emergency situations.
5. All telephone calls are subject to monitoring and recording by correctional personnel.
6. Family members may obtain information on bail and arrest charges by calling the ECCF public information number at 973-274-7500. This information may also be obtained via the internet at www.essexcountynj.org
7. Each inmate may fill out a telephone list, including the inmate's name, signature, commitment number, housing location and date. The telephone list must be filled out legibly and complete in order to be processed. Telephone lists can only be revised every **60 days**. These forms shall be provided by your housing unit representative.
8. A telephone pin number will be issued during the Intake process, it is your responsibility to keep this number secure and private.
9. Funds can be transferred to an inmates phone account at www.offenderConnect.com (24 hour-a-day access).
10. At any time that you discover a phone to be inoperable you must immediately report it to the housing unit officer(s) so that a request for repair can be made.

In case of an emergency, such as illness or death in your family, you should request assistance from your housing unit officer to make telephone calls at times that telephones are not normally available.

Routine telephone calls to attorneys are not generally considered to be emergencies.

Your telephone access may be restricted if you are found to be violating the rules of the facility or are found to be abusing the equipment. Your access may also be severely restricted if you are found using the telephone to further illegal activities.

It is your responsibility to follow the rules of the facility regarding access to telephones and to take proper care of the equipment when you are using it.

Calls made from inmate phone systems are subject to monitoring, with the exception of calls to an attorney and the Internal Affairs Bureau. Facilities may not monitor any call to an attorney.

28.

General Visitation

Visitation can be a stressful and frustrating experience not only for the inmate, but for his or her family and friends. To make visiting a pleasant experience, you are required take the time to read and understand the rules and regulations of visitation. Visitation helps everyone involved with the inmate. Visitation can boost the morale of your loved one and make his or her adjustment to incarceration and re-entry more bearable. Visits can also keep your relationship with your loved ones more stable. ECCF staff **WANTS** your visitors to have a pleasant visit. However, all aspects of the visitation program must be abided by in order to ensure the safety of all. It is your responsibility to understand the rules and to ensure that potential visitors understand the rules regarding visitation. Visit list including addition and/or deletion of visitors can be done on the Tablet.

You may notify your visitors that a bus stop is located in the visitors lobby parking lot and they should contact New Jersey Transit for route and schedule information.

Each inmate must fill out a visitation list containing 7 possible adult visitor names, addresses, and relationships, along with his/her name, signature, commitment number, housing location and date. The visitors list must be filled out legibly and complete in order for processing. Children and legal

representatives do not have to be included on the list. Visitation lists can only be revised every 60 days. These forms shall be provided by your housing unit representative.

1. Limitation on the length or frequency of visits shall be imposed only to avoid overcrowded conditions in the visiting area. The visiting schedules are posted on all housing units and available upon request from the housing unit officer or ombudsperson. The schedules are subject to change if necessary for the general safety and order of the ECCF. Appropriate notification of schedule changes shall be made to the inmate population and the general public through custody and social services staff.
2. A total of three visitors are allowed per regular visit. Children under the age of 18 years of age shall not be allowed to visit unless accompanied by a parent or legal guardian. Exceptions are made for emancipated minors possessing proof of emancipation. You are allowed to receive up to three visits from different visitors on the assigned day.
3. All visitors must provide valid credentials limited to: valid driver's license; valid Federal, State, County or Municipal government issued photo identification cards; valid Passports.
4. Inmates are not assigned to units solely for the convenience of visitation privileges. Visitation is a privilege that can be suspended or terminated upon disciplinary infractions. Inmates on disciplinary detention are not permitted visits, except for family emergencies or attorney visits and with the approval of the warden.
5. During visiting hours, inmates shall not leave their assigned areas without specific permission from a correctional officer.
6. Inmates housed outside the ECCF for medical needs shall not have visits unless approved by the warden and may only be seen by the immediate family.
7. Inmates must conduct themselves in an orderly manner during visits.
8. Visitors behaving in an unruly or inappropriate manner shall be escorted immediately from the facility, and if warranted, removed from the approved visitor list.
9. Persons wearing inappropriate attire shall not be permitted to visit.
10. Inmates are not permitted to receive or give items during visits.
11. Inmates must be in full uniform while in a visit.

Searches

The Visitation Lobby Officer (VLO) will not hold property for any visitors. Visitors who enter the facility with hand bags, bags, purses or other packages will be instructed to secure these items off site or in the lockers provided in the lobby. VLO is not responsible for the safe keeping of any property for visitors.

All visitors accessing the ECCF may be subjected to searches including, but not limited to:

- a. Metal Detector walk through
- b. Wand Scan
- c. Search of persons
- d. K-9 searches

If a visitor refuses a search or is found with contraband, their visiting privileges will be terminated. Promoting, introducing and possessing contraband in the ECCF is a violation of the New Jersey Criminal Code 2C:29-6 Implements for Escape; Other Contraband, and N.J.S.A. 10A:31-8 Security and Control and violators are subject to penalties pursuant to those guidelines.

Standards of Conduct, Entry Requirements, and Rules for Visitors:

- Visitors and inmates shall conduct themselves in manner that should not bring suspicion or discredit upon themselves nor should they be disruptive or offend the sensibilities of others.
- Visitors and inmates are required to obey all instructions of department personnel as well as all relevant regulations of the ECCF.
- The ECCF is smoke-free. No cigarettes or smoking materials are allowed.
- No food may be brought into the visiting area except baby food.
- Visitors have the responsibility to maintain control over the minor children. If a minor becomes disruptive and is not controlled by verbal instruction from the supervising parent, the visit will be terminated. Physical discipline of minors is not allowed on the premises of the ECCF.
- All visitors, including attorneys and official visitors, must be fully dressed in appropriate, conventional clothing which is not unduly provocative, suggestive or revealing.
- Visitors may not wear clothing that resembles inmate attire, wear adornments that could be used as weapons.
- Visitors may wear a wedding ring, a religious medallion and medical alert badges and bracelets.
- Visitors may not wear clothing that displays obscenities, drug or alcohol designs, controversial messages or profanity.
- Visitors may not wear gang identifiers or displays on clothing.
- Visitors may not be barefoot or wear hats or scarves.
- Visitors may not wear any garment which unduly exposes the shoulders, chest, back, stomach, midriff or underarm such as halter tops, swim wear, muscle shirts or sleep-wear.
- Visitors may not wear clothing made of sheer, transparent, net, mesh or any see-through material.
- Visitors may not wear clothing designed or intended to be tightly worn or excessively accentuate the body.
- Visitors clothing must properly fit.
- Appropriate undergarments must be worn and should not be visible.
- Dresses, skirts, jumpers, culottes and shorts may not be worn if more than four inches above the kneecap when standing.
- Visitors shall not exchange any article or property with an inmate.
- All visitors must arrive at the facility one (1) hour prior to the commencement of the scheduled visitation. All visitors shall refer to the visit schedule that is posted in the facility's public lobby and county website at <http://essexcountynj.org/corrections>

Denial, Suspension, Termination and Revocation of Visiting Privileges:

If any inmate is found in possession of or using contraband, either during or following a visit, it will be assumed that the contraband was introduced by the inmate's most recent visitor and the contraband shall constitute reasonable suspicion for terminating the visiting privileges of the visitor.

Reasons visiting privileges may be denied, revoked, suspended or terminated may include, but are not limited to:

- The inmate refuses the visit;
- The visitor and or inmate appear to be under the influence of intoxicants or displays unruly behavior;
- The visitor or inmate fails to comply with the clothing requirements;
- The visitor fails to produce valid identification;
- The visitor refuses to be searched;
- The visitor is in possession of contraband;
- The visitor is attempting to introduce contraband;

- The visitor disregards directives issued by department personnel;
- The visitor disregards any relevant rules of the ECCF;
- The visitor creates a disturbance;
- The visitor fails to control minor children;
- The visitor engages in any activity which appears to be aiding an inmate in an escape attempt;
- The inmate or visitor engages in any behavior or action which is deemed by department personnel to place at risk the security and good order of the ECCF;
- Any attempt to exchange unauthorized items;
- The inmate or visitor directs abusive or obscene language to or about department personnel;
- The inmate or visitor damage or attempt to damage government property;
- The visitor attempts to smuggle any item into or out of the ECCF.
- The inmate shall not share their visits with any other inmate;
- The inmate shall not eat or drink in the visiting area;
- The inmate or visitor shall not make any obscene actions or gestures.

Any visitor whose visiting privileges have been denied, revoked, suspended or terminated shall be advised of the reason.

Former inmates are prohibited from visiting anyone committed to ECCF for a period of 60 days beyond their previous incarceration release date.

Visiting Schedule

Non-Contact Visit Schedule:

See attached Appendix A

Contact Visit Schedule:

****SPECIAL CRITERIA****

See attached Appendix B

As scheduled by Inmate Visits Supervisor

PLEASE ADVISE YOUR FAMILY OF THE SCHEDULE

No visits on Monday, Tuesday and Friday

Attorney/Religious Advisors:

Daily

See Appendix A

Hospital Bedside Visits and Attendance to Funerals:

Bedside visits and attendance at funerals depends upon the legal status of inmates. In cases of serious illness, inmates may be permitted a hospital bedside visit and in cases of death, inmates may be permitted a private viewing of the remains or to attend the funeral. Such visits shall only be approved for members of their immediate families that are defined as father, mother, husband, wife, child, stepchild, sister or brother of the inmate.

The inmate shall at all times be in the actual custody of two or more officer(s) and shall not be permitted to go outside the state of New Jersey (30:4-8.1). The social worker or ombudsperson will assist inmates in obtaining the court orders required for such visits.

29.

Attorney Visits

Legal representatives may visit inmates from 07:00 hrs – 19:00 hours seven days a week. You may request to meet with your legal representative during meal hours. If you request this option, you will be provided a meal tray at the conclusion of your meeting.

If you have made an appointment to meet with an attorney or legal representative it is your responsibility to cancel the appointment if you do not intend to keep it. Appointment cancellations may not be accomplished on your behalf.

30.

Medical Care

During your period of incarceration, you have the right to timely and adequate medical care if you are sick, injured or otherwise in need of treatment. You have the opportunity to request medical care at any time.

1. An initial health screening and physical examination are given to all inmates upon admission to the facility and before placement in the general population or housing area. The screening includes a tuberculosis test and inquiry into current illness and past health problems.
2. If you are ill or in need of medical attention, or in need of mental health attention, you must fill out a Sick Call on your tablet. A sick call system is in place to access healthcare services. Sick call is available through the tablet system. Sick call is held daily 7 days a week. In the case where the tablet system is not working a paper form will be provided to be filled out and turned in to the unit officer or medical staff.
3. Emergency medical treatment is available at all times. Inmates should immediately inform the housing unit officer(s) that medical attention is necessary and they will be referred to a medical practitioner. Inmates having or observing another inmate with a medical emergency should immediately inform the housing unit officer on duty and they will contact the on-call medical staff member.
4. Inmates with special medical problems should bring them to the attention of the nurses or practitioners.
5. Emergency counseling and mental health services and referrals are available on site to all inmates with a history of mental illness and those who are experiencing trauma, anxiety or depression. Inmates should inform the housing officer of the need for such services.
6. Information on preventing and reporting sexual abuse and assault and securing treatment and counseling services is available from the housing officer, nurse, doctor, psychologist, social worker, ombudsperson, and other correctional personnel.
7. Inmates may access dental service through the sick call system. Emergency dental services are available 24 hours, seven days a week.
8. Inmates who are prescribed eyeglasses may purchase them through the medical services provider. Indigent inmates will be provided assistance in obtaining prescribed eyeglasses. For those who have prescription eyeglasses dropped off at the Visitors Lobby for inspection they will be forwarded to the medical department for distribution. Inmates shall sign a consent form stating receipt of prescription glasses.

9. Inmates are not permitted to have or use any medication, unless it is authorized or prescribed by the medical services provider.
10. The ECCF shall provide all medication required and prescribed by the medical services provider. "Keep-on-Person" (KOP) blister packs may be provided for certain medications. Inmates are required to sign for all KOP medications and will be instructed by the nurses in the following blister pack protocol.
 - a. The blister pack containing the medication shall be stored in the inmate's cell.
 - b. Wrongful possession of medication prescribed for another inmate shall be a chargeable offense. Inmates who abuse the KOP system will be removed from the system immediately.
 - c. Inmates transferred to the infirmary or identified as potentially suicidal shall surrender all medication to medical staff.
 - d. Inmates released from the facility may be provided with a prescription of a limited supply of medication, based on the determination of the medical services provider.
11. In accordance with N.J.S.A. 2C: 44-6, NJPL 1995 Chapter 254 and Resolution 97-0438 of the County of Essex Board of County Commissioners, inmates shall be held liable for the cost of their health care and will be subject to a co-pay system. The fees for medical care and medication will be deducted from the personal account.

If the inmate is indigent, the medical care and medication will still be provided.

All inmates are subject to the following fees:	
Sick call	\$10.00
Doctor visit	\$10.00
Dentist visit	\$10.00
X-ray/clinical laboratory service	\$ 5.00
Prescription fill/refill (each medication)	\$ 3.00
Inmate requested non-prescription medication	\$ 2.00
<ul style="list-style-type: none"> • Co-payment fees are waived when appointments or services, including follow-up appointments, are initiated by medical staff. • The co-payment fee schedule is subject to change without advance notice. 	

12. Malingering and feigning an illness is a violation and it interferes with the orderly running of the facility. (.302 Malingering, feigning an illness) The medical department will forward all erroneous medical complaints back to the officer.
13. Any inmate in the therapeutic community shall be subject to random drug testing.

31.

Mental Health

If you are feeling depressed, think you may harm yourself, or need someone to talk to, you should immediately advise your housing unit officer without delay. You will be referred to the appropriate medical professional. All potentially suicidal or severely depressed individuals are treated with sensitivity and receive the proper referrals for assistance.

Emergency counseling and mental health services and referrals are available on site to all inmates with a history of mental illness and those who are experiencing trauma, anxiety or depression. Inmates should inform the housing officer of the need for such services.

32. Sexual Abuse & Assault Prevention & Intervention Program

The ECCF has a zero-tolerance policy for all forms of sexual abuse or assault.

Prevention and intervention strategies

- ❖ All inmates shall be screened upon arrival at the ECCF for potential risk of sexual victimization or sexually abusive behavior, and shall be housed to prevent sexual abuse or assault.
- ❖ Inmates identified as having a history of sexually assaultive behavior or at risk for sexual victimization shall be assessed by a mental health or other qualified health care professional, and monitored and counseled as determined by the professional.
- ❖ Inmates considered at risk for sexual victimization shall be placed in the least restrictive housing that is available and appropriate.

Definitions and examples of Inmate-on-Inmate sexual abuse, staff-on-Inmate sexual abuse and coercive sexual activity.

❖ Inmate-on-Inmate Sexual Abuse/Assault

One or more Inmates, by force, coercion or intimidation, engaging in or attempting to engage in: contact between the penis and the vagina or anus; contact between the mouth and the penis, vagina, or anus; penetration of the anal or genital opening of another person by a hand, finger or an object; touching of the genitalia, anus, groin, breast, inner thighs or buttocks, either directly or through the clothing, with an intent to abuse, humiliate, harass, degrade or arouse or gratify the sexual desire of any person; or the use of threats, intimidation, or other actions or communications by one or more Inmates aimed at coercing or pressuring another Inmate to engage in a sexual act.

❖ Staff-on-Inmate Sexual Abuse/Assault

One or more staff member(s), volunteer(s), or contract personnel engaging in or attempting to engage in:

contact between the penis and the vagina or anus; contact between the mouth and the penis, vagina, or anus; penetration of the anal or genital opening of another person by a hand, finger or any object; touching of the genitalia, anus, groin, breast, inner thighs or buttocks, either directly or through the clothing, except in the context of proper searches and medical examinations; the use of threats, intimidation, harassment, indecent, profane or abusive language, or other actions (including unnecessary visual surveillance) or communications aimed at coercing or pressuring an Inmate to engage in a sexual act; or repeated verbal statements or comments of a sexual nature to an Inmate, including demeaning references to gender, derogatory comments about body or clothing, or profane or obscene language or gestures. Sexual conduct of any type between staff and Inmates amounts to sexual abuse, regardless of whether consent exists.

Sexual abuse/assault of Inmates by staff or other Inmates is an inappropriate use of power and is prohibited by law.

Methods for reporting sexual abuse or assault, including the investigation processes

Reporting sexual abuse or assault

If you become a victim of a sexual assault, report the incident immediately to any staff person you trust, to include housing unit officers, chaplains, medical staff or supervisors. Staff members keep the reported information confidential and only discuss it with the appropriate officials on a need-to-know basis. If you

are not comfortable reporting the assault to staff, you have other options:

1. Contact the internal SEXUAL ASSAULT Hotline at 973-274-PREA (7732).
2. Contact the ECCF PREA Coordinator, Sergeant Navarro, at 973-274-PREE (7733)
3. File an emergency Inmate grievance. If you decide your complaint is too sensitive to file with the Officer You can get the forms from your housing unit officer, or an ECCF supervisor.

Investigation Processes

- ❖ The ECCF investigates all allegations of sexual abuse, including third-party and anonymous reports, and notifies victims and/or other complainants in writing of investigation outcomes and any disciplinary or criminal sanctions, regardless of the source of the allegation. All investigations are conducted by SID carried through to completion, regardless of whether the alleged abuser or victim remains at ECCF.
- ❖ ECCF shall ensure that all allegations of sexual abuse or assault involving potentially criminal behavior are referred for investigation by SID.
- ❖ At no cost to the Inmate, the facility administrator shall arrange for the victim to undergo a forensic medical examination. All collected forensic evidence must be secured and processed according to the ECCF's established plan for maintaining the chain of custody for criminal evidence. A written summary of all medical evidence and findings shall be completed and maintained in the Inmate's medical record.

Information about self-protection and indicators of sexual abuse

Avoiding Sexual Assault

Sexual assault is never the victim's fault. Knowing the warning signs and red flags can help you stay alert and aware:

1. Carry yourself in a confident manner. Many attackers choose victims who look like they would not fight back or who they think are emotionally weak.
2. Do not accept gifts or favors from others. Most gifts or favors come with special demands or limits that the giver expects you to accept.
3. Do not accept an offer from another Inmate to be your protector.
4. Find a staff member with whom you feel comfortable discussing your fears and concerns. Report concerns.
5. Do not use drugs or alcohol; these can weaken your ability to stay alert and make good judgments.
6. Be clear, direct and firm. Do not be afraid to say "no" or "stop it now."
7. Choose your associates wisely. Look for people who are involved in positive activities like educational programs, work opportunities or counseling groups. Get yourself involved in these activities.
8. If you suspect another Inmate is being sexually abused, report it.
9. Trust your instincts. Be aware of situations that make you feel uncomfortable. If it does not feel right or safe, leave the situation or seek assistance. If you fear for your safety, report you concerns to staff.
10. Reporting an assault shall not negatively impact the Inmates your proceedings.

Indicators of Sexual Abuse

There are many reactions that survivors of rape and sexual assault can experience. For traumatic events in general, it is important to realize that there is not one "standard" pattern of reaction to the extreme stress of traumatic experiences. Some people respond immediately, while others have delayed reactions—sometimes months or even years later. Some have adverse effects for a long period of time, while others recover rather quickly. Reactions can change over time.

Some who have suffered from trauma are energized initially by the event to help them with the challenge of coping, only to later become discouraged or depressed. The impact of sexual abuse varies from person to person and can occur on several levels—physically, emotionally, and mentally.

Survivors may experience some of the following responses:

- Fear responses to reminders of the assault
 - Pervading sense of anxiety, wondering whether it is possible to ever feel safe again
 - Re-experiencing assault over and over again through flashbacks
 - Problems concentrating and staying focused on the task at hand
 - Guilty feelings
 - Developing a negative self-image, feeling “dirty” inside or out
 - Anger
 - Depression
 - Disruptions in close relationship
- Post Traumatic Stress Disorder - Survivors of sexual assault may experience severe feelings of anxiety, stress or fear, known as Post Traumatic Stress Disorder (PTSD), as a direct result of the assault.
 - Substance Abuse - Victims of rape or sexual assault may turn to alcohol or other substances in an attempt to relieve their emotional suffering.
 - Self-Harm / Self-Injury - Deliberate self-harm, or self-injury, is when a person inflicts physical harm on himself or herself.
 - Stockholm Syndrome - Described as a victim’s emotional “bonding” with their abuser, Stockholm Syndrome develops subconsciously and on an involuntary basis.
 - Sexually Transmitted Infections - Table of Sexually Transmitted Infections, their symptoms, treatment, and possible complications.
 - Dissociative Identity Disorder - Dissociative Identity Disorder (DID), previously referred to as multiple personality disorder (MPD), is a dissociative disorder in which two or more separate and distinct identities (or personalities) control an individual's behavior at different times.
 - Borderline Personality Disorder - Borderline Personality Disorder, known as BPD, is one of many possible long-term effects of childhood sexual abuse.
 - Adult Survivors of Childhood Sexual Assault - The long term effects on survivors of childhood sexual assault and/or abuse.
 - Sleep Disorders - Many survivors of sexual assault suffer from sleep disturbances and disorders.
 - Eating Disorders - Victims and survivors with eating disorders often use food and the control of food as an attempt to deal with or compensate for negative feelings and emotions.
 - Body Memories - Body memories are when the stress of the memories of the abuse experienced by an individual take the form of physical problems that cannot be explained by the usual means.
 - Suicide - If you are currently thinking about suicide, or know someone who is, please reach out for help.

Prohibition Against Retaliation

Reporting an assault shall not negatively impact your proceedings.

Victims of sexual assault or abuse have the right to receive medical and mental health treatment and counseling. Mental health staff shall conduct post-crisis counseling and arrange for psychiatric care if necessary.

For additional information refer to the PREA appendix of this handbook.

33.

Bail

Bail Procedures:

1. Inmates who are indigent or financially unable to engage counsel (attorney or lawyer) should make a written request for legal assistance by notifying the social worker or ombudsperson. A 5-A form will then be completed and forwarded to the Criminal Case Management to determine eligibility for legal assistance by a public defender.

2. The bail window of the ECCF is open 24 hours a day, seven days a week. Family members may obtain information on bail conditions by calling 973-274-7500. This information may also be obtained via the internet at www.essexcountynj.org.
3. Bail Source Form – Pursuant to N.J.S.A. 2A:162-13, “a person charged with a crime with bail restrictions must provide, under penalty of perjury, information about the obligor, indemnifier or person posting cash bail, the security offered, and the source of any money or property used to post the cash bail or secure the surety or bail bond, as the case may be. This required information shall include, but not be limited to, the defendant’s employment history, the names and addresses of any persons who contributed money or pledged security for the preferred bail or toward a surety bond, the amount, nature and timing of such contributions and the relationship to the defendant of any such persons contributing resources. Bail may not be accepted from a person subject to the requirements of this subsection until the prosecutor is provided the completed form required by this subsection.”

If you have not received a copy of these forms at intake or do not now have them, contact your housing officer for assistance.

Types of Bail

Fully secured bond - The defendant will have to post the full amount of bail with the court.

Deposit bail - The defendant or others pay a percentage (generally 10 percent) of the face value of the bond to the court. After trial, the offender will receive most of it back, minus administrative fees.

Cash bail - The offender must pay the full bail amount in cash in order to be released. If the offender makes the court appearance, the money is returned.

Surety bail - The offender is released through services of some private bail bonds person who posts bail and charges a fee. The fee usually ranges between 5-20 percent. The bonds person may also require the offender to post something as collateral.

34.

Voluntary Work Program

1. All individuals who are confined to the ECCF are eligible on a voluntary basis for available inmate worker openings. Classification concerns and disciplinary history of inmates will be reviewed and used as one of the determining factors for work eligibility. Each request will be reviewed in the order which it was received.
2. Inmates on work assignments shall not perform tasks not specifically authorized by the supervising officers, including transferring articles from one cell or area to another. When work assignments are completed, all inmates shall report immediately to the supervising officers who may permit them to return to their housing units or assign them additional work.
3. Work is a privilege that may be rescinded for not reporting for work, appearing in an unsanitary condition, or performing unsatisfactorily and for not following orders or being belligerent to an officer. Further, all inmate workers shall be subject to random and probable cause drug testing. A positive drug test shall result in the immediate termination from the job and possible criminal prosecution.
4. Regardless of the size of the tasks to be performed, all worker requests are to be submitted to the classification captain.
5. In order to participate in this program, you will be required to sign a voluntary work program statement and to complete any work-related training. You will be required to adhere to all dress, grooming and hairstyle restrictions related to your work assignment. If you are accepted into a volunteer work program, you will be expected to work according to an assigned work schedule

and to perform assigned duties at a satisfactory level. Deficiencies such as unexcused absence or unsatisfactory work performance may result in removal from the voluntary work program.

6. You are not entitled to compensation for tasks that involve maintaining your personal area or cleaning up after yourself in general use areas. You are required to perform basic cleaning tasks within your living unit, regardless of where you are held. For example, you could be disciplined if you refuse to make your bed or otherwise refuse to clean up after yourself.
7. Inmate workers shall be assigned specific cells on housing units.
8. Inmate workers do not have any authority over any other inmates.
9. Only medically cleared inmates assigned as kitchen workers are permitted in the unit pantry and they are the only inmates authorized to handle food. The pantry area is only used to serve precooked food and hot water; **all forms of cooking are prohibited.**
10. During lock down time no items will be passed from cell to cell and all workers will lock in on time when ordered to do so.
11. Inmate workers must abide by all of the rules outlined herein.

You are responsible for becoming familiar with the policies and procedures regarding voluntary work at the ECCF where you are confined.

35.

Law Library

The law library is located in every housing unit and next to the Sergeant's office for the dormitories. The law library is open seven days per week with a rotating schedule of times. The law library schedule will be posted in all housing units.

You will have access to the Law Library and may receive assistance from a housing unit legal representative knowledgeable about the legal materials as frequently as demand permits, depending on the resources available, space availability and security considerations. The Ombudsman office can provide Notary Services upon request.

The facility uses an intuitive Web-based legal research program from Lexus Nexus. This Web-based research database provides up-to-date access to legal materials in an electronic format. Hence, the system replaces legal books and publications.

Lexus Nexus is free on the Tablet and is up to date to the hour.

Computers are available in the law library for preparation of legal documents **ONLY**. **These computers are not to be used for personal correspondence.** You may request paper and pen from your housing officer for writing personal correspondence.

No inmate shall be allowed to charge a fee or accept anything of value for providing such assistance. The facility will not pay any inmate to provide legal assistance to another inmate.

You are responsible for following the rules regarding access to the law library and use of any equipment. Any deliberate violation or willful failure to follow the rules, disruption of law library operations or destruction of county property may result in disciplinary action being taken against you and a loss of your privilege to use the law library.

At any time you discover that items/equipment in the law library is damaged, out of date, or missing you must immediately report it to your housing unit officer(s).

When approved, USB Flash Drives may be issued, for retention, to inmates for the storage of legal matters only.

36.

Television and Library Materials

1. TVs are available for viewing providing this privilege is not removed due to inappropriate behavior. The warden, or his designee, may restrict TV viewing during special programs held in the day room and may approve the viewing of special events during the “lock-down” period.
 - a. The officer has total control of the TV.
 - b. The TV will be turned on only when the unit officer is satisfied that everything is safe, secure and in sanitary condition.
 - c. Channel decision shall be made by the majority of inmates or what may be deemed as appropriate by the officer. Any challenges or disruptions will result in the termination of TV privileges.
 - d. TVs shall not interfere with the normal operations of the unit.
 - e. TV volume level shall be kept at a non-disruptive level that does not extend beyond the viewing area as determined by the officer.
2. Reading materials are available from the ECCF library. The ombudsman office has a book lending sign-up program.
3. ECCF may provide additional periodicals to the housing units which shall be maintained as determined by the housing unit officer.

37.

Religious Services

1. Inmates may identify their religious affiliation during the intake process. The view of agnostics and atheists shall be respected.
2. Pre-registration for attendance at religious services may be enforced if it is determined necessary for the safe and secure operation of the facility.
3. Pastoral care service providers from all major faith traditions are available for religious and spiritual consultation or counseling. Inmates may submit requests for such services to a housing pod officer, ombudsperson, or social worker. Inmates may add their religious or spiritual leader to their lists of visitors.
4. A schedule of religious services is posted in the housing pods and available from a social worker or ombudsperson. Attendance at religious services is voluntary.
5. Inmates are permitted to purchase for delivery by mail spiritual and religious materials. Approved materials may also be distributed by the pastoral care service providers.
6. The granting or denial of privileges, or discrimination or punishment on basis of religious or spiritual beliefs is expressly forbidden.
7. All religious and spiritual groups shall have equal access to facilities and privileges based on security concerns and number of participants.
8. Religious and spiritual services are provided on a rotating schedule. Services shall only be provided for those inmates who are out for recreation activity in his/her respective housing area.

38.

Grievance Procedures

The inmates under the custody of the ECCF are offered the following mechanism whereby they may seek resolution from the facility administration and staff for perceived concerns, problems, complaints, and grievances.

A. Grievance Rights

1. The right to grieve any administrative procedure;
2. The right to receive written response, including the reason for the decision within five calendar days excluding weekends and holidays and during emergency situations;
3. The right to seek judicial or administrative redress without fear of reprisals as a consequence.
4. The right to submit grievances without fear of reprisals or punitive segregation;
5. The right to receive immediate response to emergency situations; and
6. The right to appeal decisions to the warden or the designee.

Inmates should exhaust all administrative grievances and appeal procedures before applying to outside agencies.

B. Areas Covered by Grievance Process

The following areas and procedures shall not apply to questions of the guilt or innocence of an inmate for crimes charged. Questions concerning jurisdiction or legal questions regarding justification for sentences imposed shall be directed to the court of jurisdiction. Grievance procedures shall apply to questions concerning:

- a. Medical care;
- b. Conditions of confinement;
- c. General classification procedures;
- d. General discipline procedures;
- e. Inmate program participation;
- f. Telephone, mail and visiting procedures;
- g. Food, clothing and bedding issues; and
- h. Religious preference.

Disciplinary decisions may not be grieved.

C. Grievance Process

“Inmate Request, Interview, Administrative Remedy and Grievance Process” provides the mechanism whereby inmates may seek resolution from the facility administration and staff for concerns, problems, complaints, and grievances which they may be experiencing. The grievance process is initiated through the submission of a grievance to the proper department through the tablet.

The coordinator supervises the “Inmate Grievance System,” a computerized tracking database program that insures concerns are timely and appropriately addressed. This system encourages internal and informal problem solving and establishes specific lines of direct communication, including the availability of interviews, between inmates and staff.

If the inmate cannot achieve an informal solution, the “Inmate Grievance System” provides a means for acquiring written documentation of an incident and includes an appeal process.

Inmates are expected to use the administrative remedy process before applying to courts for relief. The ECCF utilizes the “Inmate Grievance System” as a means for continuous review of its administrative actions, policies and procedures and as an indicator of inmate and staff moral.

1. **Definitions of Terms**

Grievance: A circumstance or action considered as unjust and grounds for complaint or resentment.

Grievance Folder: A folder for each inmate that contains answered grievance forms and appeals.

Grievance Coordinator: A staff member(s) appointed by the director or warden to process the “Inmate Grievance Forms.”

Complaint: A written expression of dissatisfaction or distress.

Reprisal: Any overt or covert action or threat of action against an inmate for the good faith, use of, or participation in, the grievance process or procedure.

Response: A corrective action that eliminates or makes up for conditions perceived to be unjust or the grounds for complaint or resentment.

SBI Number: A fingerprint identification number issued by the New Jersey State Police.

Staff: Any person employed by ECCF or contracted to provide services to the inmate population shall be considered staff. This category includes but is not limited to nurses, doctors, officers, sergeants, lieutenants, captains and those in civilian titles.

2. **Purpose of the Grievance Process**

If an inmate cannot achieve an informal resolution of a problem he/she is experiencing by an informal interview with his/her custody supervisor or appropriate civilian employee, he/she may file a grievance through the tablet. A grievance submitted through the tablet should be used to address questions, problems, complaints and medical issues that the inmate has not been able to address through other means.

It should be noted that a sick call submitted through the tablet should be used for routine access to the medical care system; a grievance should only be submitted if there is a disagreement with the type or timeliness of a medical treatment. Further, an inmate may not grieve a disciplinary decision.

3. **Procedures**

SUBMIT GRIEVANCES THROUGH TABLET

Tablets are available on all housing units.

Filing Grievances on Tablets

Only properly completed and submitted grievances will be processed.

The inmate should provide her/his name, SBI number, building location, housing pod and date.

“Part 1” must also include a summary of the requested information, problem or complaint. The inmate may also submit information to support his/her position.

The grievance **may not** be used to address complaints relative to disciplinary charges (court-line sanctions), to re-address a previously established complaint, to address matters currently in litigation, or to circumvent established departmental policies and procedures.

One Request per Grievance

Inmates must submit one grievance per question, complaint or problem. Grievances that list multiple questions/concerns, or do not contain enough information, will be considered incomplete, will not be processed, and shall be returned.

Types of Grievances

The inmate may suggest one of the following types of grievances: routine, interview or remedy.

Submitting Grievance

For the grievance to be processed it **must** be directed to the proper area. The grievances will be checked daily except on weekends, holidays, and during emergency situations. For inmates in detention or those confined to their cells for other reasons, will follow same procedure as all other inmates.

The inmate **shall** direct his/her request to a specific person or area.

An inmate **may not** submit multiple requests regarding the same subject and must adhere to the specified staff response timeframe of ten days excluding weekends, holidays, and during emergency situations.

Under no circumstances shall an inmate complete a grievance for another inmate. If assistance is required, the inmate must contact an ombudsperson or social worker.

Investigating of the Grievance

Upon receipt of a completed grievance, the area supervisor shall handle the investigation. After the determination of an appropriate course of action or response, the area supervisor will instruct their staff how to handle the grievance.

The response will be made as quickly as possible and within the allotted timeframe of ten days, excluding weekend, holidays and during emergency situations. Further, the response shall be based upon facts and issues specifically related to the grievance.

The supervisor will than send the response back to the inmate through the tablet.

Special Extensions of Response Time

Responses to a grievance requiring extensive research and documentation may require a longer period than ten days excluding weekend, holidays and during emergency situations. Consequently, the review may be extended for a specified period if findings

indicate that the initial period is insufficient to make an appropriate response. This extension shall be communicated through the tablet to the inmate.

Follow-up Questions to Response Received

If an inmate has a follow-up question from an answer received or he/she feels that her/his grievance has not been satisfactorily answered, a new grievance may be submitted. The inmate must supply the case number of her/his original request. The new grievance must be attached to the original thread.

If the request was not answered or returned in the established response time frame of ten days excluding weekends, holidays, and during emergency situations, and the inmate has not been advised that a special extension of time is necessary, the inmate may submit another grievance citing the date of the original request and the request number.

Tablet

You may file grievances on the Tablet.

4. Appeal Process

The inmate may appeal a response through the tablet.

Appeal Must be Filed Within Ten Days of Receipt of Response

After the grievance has been processed and returned, if an inmate is dissatisfied with the response, he/she may file an appeal through the tablet. The appeal must occur within ten days of receipt of the response.

The inmate must re-submit her/his original answered grievance to the area supervisor.

The appeal decision shall be rendered by the warden and is considered final. The warden has ten days to answer the appeal, excluding weekends, holidays and during emergency situations. Once the appeal response is decided, the decision will be sent back to the inmate through the tablet.

5. Emergency Situations

Shall follow all of the above procedures (same as non- emergency grievances) however they should be given directly to the Housing Unit Officer so that it can be submitted immediately.

D. Protection of Inmates against Reprisals

Any member of the staff or administration involved in a reprisal against an inmate who makes good faith use of or participates in the "Grievance Process" shall be prosecuted to the fullest extent of the law.

E. Abuse of the Inmate Grievance System

Inmates who abuse or misuse the "Inmate Grievance System may be subject to disciplinary action. Examples of abuse include, but are not limited to, the following actions.

1. Multiple requests submitted regarding the same subject.
2. Follow-up requests submitted prior to the expiration of the established response timeframes.
3. Requests that are, by tone or language, abusive or offensive in nature.

The social workers and ombudspersons are respond to all personal requests, such as access to religious counseling, probation and parolee consideration, employment training, educational resources, community housing, alternative to incarceration programs, family assistance, hospital visits to critically ill family members, and court orders for private viewings and funerals. Attention is also given to ensuring that inmates have access to the law library, recreation and resources, and spiritual and religious services and materials.

Inmates desiring such services should complete and sign a social services request form available from the housing officers, social workers and ombudspersons. All pertinent information should be completed and incomplete forms will be returned.

A. Rehabilitative Services

The function of the Rehabilitative Services is to provide counseling, support, and recreational services. The following programs are available.

1. Religious Services
2. Law library and library books
3. Daily Recreation

Appointments to discuss concerns and problems may be arranged by completing the social services request form.

B. Alternatives to Incarceration

1. Second Chance is a community-based program designed to earn work credits, life skills and reintegration.
 - a. Any inmate that is an active participant in the Second Chance Program may not visit any inmate housed at ECCF. Any inmate found violating this policy will be immediately placed into custody and will finish their remainder of their time at ECCF.
2. Delaney Hall is a community-based program designed to address the issues of substance abuse, criminal behavior, life skills, education, employment and reintegration.

C. Educational Services

The Essex County Jail will make available educational opportunities to the inmate population. You will have access to educational training, when it is available within the Jail. Academic education programs and services to the inmate population will include, but are not limited to:

1. Basic Skills Remediation
2. GED/English as a Second Language (ESL) – preparation and testing, GED certificates are given after testing.

Inmates must apply through the social services department. Before you are accepted into any program you will complete a placement test to determine your educational skills level. Acceptance in several of the programs is contingent on your testing at the appropriate skills level.

I. Parent/Child Visits:

P.A.T.C.H is for both male and female inmates. It is a contact visit between the parent and child. The criterion for this program is that the child must be between the ages of 4-16. Many visits are court ordered through DYFS family court.

II. Life Skills:

Life Skills is for both male and female inmates. The only criterion for this program is that the inmate can not have any write up/disciplinary actions while in the program.

III. Support/Discussion Groups:

Women Empowering Women Discussion Group: The only criterion for this program is that the inmate can not have any write up/disciplinary actions while in the program.

- Men Sharpen Men Discussion Group: The only criterion for this program is that the inmate can not have any write up/disciplinary actions while in the program.
- Book Club (for the females): The only criterion for this program is that the inmate can read and communicate in English.
- NA/AA: The only criterion for this program is that the inmate must have a drug history.

IV. Reentry Post Release Services:

Pre/post Strategies to Address Recidivism ~Inmates can apply once they have 180 days or less left on their sentence.

V. Welfare/Child Support:

Welfare supplies the county with a list of inmates who child has/had received welfare/child support at one point in time.

VII. Office of the Public Defenders:

The supervisor from the Public Defender office comes and speaks to the reps once a month. The only criterion for this program is that the inmate must be a rep.

D. Referral Services

Whenever possible, an ombudsperson or social worker shall try to put the inmate in contact with community agencies that can provide services during incarceration and after release from the facility. Following are a partial list of the participating agencies.

Apostle's House (Females), 513 Avon Ave, Newark, NJ 07106

Center for Great Expectations (Females), 1 Eastern Ave, Somerville, NJ 08876

Center for Urban Education (Females), 2 Odgen St., Newark, NJ 07104

Children's Home Society, 535 S. Clinton Ave, Trenton NJ 08611

C.U.R.A. Inc., 35 Lincoln Park, P.O. Box 180, Newark, NJ 07101

C.U.R.A., Inc. (Spanish), 51 – 75 Lincoln Park, Newark, NJ 07102

Discovery House, P.O. Box 177, Marlboro, NJ 07746

Division of Vocational Rehabilitation Services, 135 E. State St., Trenton, NJ 08625

E. Orange General Hospital In/Out Patients, 300 Central Ave, E.O., NJ 07018

Eva's Village, 393 Main Street, Paterson, NJ 07501

Goodwill Mission, 79 University Ave, Newark, NJ 07102

High Focus Centers, 16 Commerce Dr, Cranford, NJ 07016

Integrity House Inc., 103 Lincoln Park, Newark, NJ 07102

Isaiah House (Females), 238 N. Munn Ave, E. Orange, NJ 07017

Kintock I/II (Males and Females), 50 Fenwick Street, Bldg 6, Newark, NJ 07114

Mount Carmel Guild, 1160 Raymond Blvd, Newark, NJ 07102

Offender Aid and Restoration of Essex County, Inc, 755 S. Orange Ave, Newark, NJ 07106

Office of the Public Defender, 1180 Raymond Blvd, Newark, NJ 07102

One-Stop Center, 990 Broad St., Newark, NJ 07102

One Stop Center, 50 S. Clinton St., East Orange, NJ 07018

Project 1st (Females), 800 Clinton Ave, Newark, NJ 07108

Real House Inc., 95 Grove St, Montclair, NJ 07042

Salvation Army, 65 Pennington St., Newark, NJ 07105

Straight and Narrow, 396 Straight St., Paterson, NJ 07501

SWITCH (Females), 199 E. 23rd St., Paterson, NJ 07501

Summit Oaks Hospital, 19 Prospect Street, Summit, NJ 07901

Sunrise House Foundation, P.O. Box 600, Lafayette, NJ 07848

The Bridge, 54 Mt. Vernon Ave, Irvington, NJ 07111

Tremont House, 344 Summer Ave, Newark, NJ 07104

Tri-City 2nd Chance Home (Females) 55 Washington St., E. Orange, NJ 07017

Turning Point, P.O. Box 111, Verona, NJ 07044

United Community Alcoholism Network, 31 Fulton St, Newark, NJ 07102

Veteran Services, 20 Washington Pl, 4th Fl, Newark, NJ 07102-3127

40.

Tablet

1. General Procedures for Tablets:
 - a. Tablets will be issued after initial quarantine period has ended;
 - b. Each inmate will be issued one tablet which will follow them up until they are released from custody of the Essex County Correctional Facility;
 - c. When you receive your tablet you will assign yourself to the tablet and sign a lease for your specific tablet;
 - d. Signing on to the tablet is easy. Type in your J# that is on your band, then type in your 6 digit phone pin. You must then place your face inside the box and the tablet will take your picture. It will not work unless your face is in the box.
2. Free Services on Tablet:
 - a. Lexus Nexus is free on the tablet and is up to date to the hour;

- b. You may file grievances on the tablet. Make sure it is truly a grievance and not a request or general complaint giving details of the policy or right you feel has been violated;
 - c. The Inmate handbook is on the tablet;
 - d. Visit list including addition and/or deletion of visitors;
 - e. Sick call requests;
 - f. Commissary ordering (NOTE: It is here where you order minutes for paid tablet services);
 - g. You can contact the Inmate Services Supervisor, Internal Affairs, Social Services and the PREA coordinator;
 - h. Or, all other requests previously made on paper.
3. Paid Services on Tablet:
The tablets also offer entertainment options that are available at a rate of five (5) cents per minute to include, but not be limited to books, messaging, movies and music. All phone calls made on the tablets are subject to monitoring by Correctional Personnel.

DO NOT GO TO YOUR OFFICER WITH TABLET PROBLEMS OTHER THAN TO ASK HIM TO CONTACT THE INMATE PHONE TECHNICIAN TO HELP WITH BROKEN TABLETS. ANY PROBLEM CAN USUALLY BE FIXED IN LESS THAN AN HOUR BY CONTACTING "TABLET ISSUES" ON THE TABLET.

REFUSAL OF REASONABLE ACCOMMODATIONS OFFERED TO DEAF AND HARD OF HEARING INMATES

I acknowledge that I have been informed and REFUSE to accept the facility's attempt to provide reasonable accommodations for one or more of my major life activities, and hereby release the Essex County Department of Corrections from all responsibility for any ill effects from such refusal.

Inmate's Name: _____
Printed

Commitment # _____

Inmates Signature: _____

Refusal to Sign: _____

Date: _____

Date: _____

Witness: _____

Witness: _____

REQUEST BY DEAF AND HARD OF HEARING INMATES

Our Corrections Facility is committed to providing quality care to all inmates. In order to assure that the services which are provided to you are not compromised by ineffective communication, the facility has resources for obtaining sign language interpreters when necessary at no cost to you. Telecommunications devices for the deaf (TTD), amplified telephones and televisions with closed captioning are also available.

1. Will a sign language interpreter help us effectively communicate with you?

YES

NO



If you check "YES," we will get a sign language interpreter for you unless you fill out the waiver form on the back of this paper.

2. Do you want any of these services which are also available?

A Telecommunication Device for the Deaf TDD/TTY with Light Signaler

YES

NO



An Amplified Telephone Receiver

YES

NO



An Assistive Listening Device (ALD)

YES

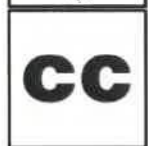
NO



Television Captioning

YES

NO



Other (please explain):

3. Inmate declined present accommodations offered. See page two of this form for release.

Witness Name: _____

Printed

Inmate's Signature / Commitment # / Date

Signature / Date

A copy of the Corrections Facility's written policy for Effective Communications Administrative Policy and Procedure is available without any charge upon request. Please check here if you want a copy of this policy _____.

- Other common reactions include loss of appetite, nausea or stomach aches, headaches, loss of memory and/or trouble concentrating and changes in sleep patterns.

RISK REDUCTION

- Position yourself in “Safe Zone” areas where you can see a staff member and the staff member can see you.
- Be aware of situations that make you feel uncomfortable. Trust your instincts. If it feels wrong, leave, get help, or call for a staff member.
- Do Not accept commissary items, offers of protection, or other gifts from other offenders. Placing yourself in debt to another offender can lead to the expectation of repaying the debt in sexual favors.

What To Do If You Are Sexually Assaulted

IF THE ATTACK HAS JUST HAPPENED.....

- Get to SAFE place
- REPORT THE ATTACK TO A STAFF MEMBER (The longer you wait, the more difficult it is to obtain evidence, necessary for a criminal and/or administrative investigation.)
- Request immediate Medical Attention
- **DO NOT** shower, smoke, drink, brush your teeth, use the restroom, or change your clothes.

SUPPORT SERVICES

- Mental Health Staff
- Social Services
- Chaplain
- Counselor
- Medical Staff

The days ahead can be traumatic and it helps to have people who care about you to support you. Seek professional help. Mental Health Staff is available for crisis care 365 days a year, to listen and offer support.

FACTS FOR THE OFFENDER:

- All cases of sexual assault are investigated by your local law enforcement/ Special Investigations Division (SID) as a criminal investigation. You may be prosecuted for a criminal offense and if found guilty, any additional prison time will be added to your current sentence.
- You will be issued a notice of charges. If you are found guilty, sanctions will be harsh. In addition, your classification level will be reviewed and likely increased, which could mean a transfer to a higher security prison or unit with significantly less freedom of movement and limited privileges. If you have family this may affect them and their ability to visit you.
- Engaging in such conduct in these institutions significantly increases your risk of HIV infection, along with exposing you to other sexually transmitted diseases.
- If you have trouble controlling your actions seek help from mental health staff and/or consider participating in programs designed to control anger or reduce stress. To reduce immediate feelings of anger or aggression try talking to or writing to a friend, meditate or do breathing exercises to relax, work on a hobby or engage in some types of exercise.

CONTACTS

ECCF SEXUAL ASSAULT HOTLINE

Report All Cases 24/7

973-274-7732 (PREA)

ECCF Office of the Director PREA Coordinator

Sergeant Navarro

973-274-7733 (PREA)

In order to contact the above number:

1. Enter your Telephone Identification (TID)
2. Select the Special Services Option
3. Then choose Option 2

NJ Coalition Against Sexual Assault

1-609-631-4450

1-800 601-7110

2333 Whitehorse Mercerville Road

Suite B

Trenton, NJ 08618

New Jersey's Crime Victim's Law Center

1-973-729-9342

6 Spring Street, Suite 4D

Newton, NJ 07860

RAINN (National Sexual Assault Hotline)

1-800-656-4673 (HOPE)

1220 L Street NW, Suite 505

Washington, DC 20005

Hotline for Rape Victims

1-866-363-7273

1-866-ENDRAPE

Suicide/Crisis/Caring Hotline

1-800-273-8255 (TALK)

APPENDIX C
Essex County Correctional Facility

Phone List Management

Phone List Deployment

Effective May 7, 2018, how you manage your phone list will change. Please read and understand the following information before this change:

- You may have up to **Fifteen (15)** telephone numbers on your phone list.
- Your phone list will be automatically created by the telephone system.
- **The first fifteen (15)** unique numbers you attempt to call (which are not blocked and able to receive calls from the inmate platform) will be automatically added to your phone list.
- You will have the ability to change your Phone list during a change period, occurring every 30 days. The phone list will be cleared on the **First Monday of each month.** You won't need to do anything. The above will apply.
- It is your responsibility to identify all attorneys you may be calling. All new Attorney numbers should be submitted through the attorney contact form you get from the ombudsman counselor. Return the form back to the housing unit officer who will get the approval.

Phone List Rules

1. Change requests.

When the limit of **15** numbers has been reached, a request to change an existing number will be denied and you will be advised of the next change period.

2. Emergency change requests.

When the limit of **15** numbers has been reached, any **EMERGENCY** telephone list change requests need to be submitted to facility administration for approval.

3. Numbers added fraudulently.

All requests to change a number, due to the number being added against your will, will be referred to Facility Staff.

4. Anyone that accesses an account that is not their own shall have their phone privileges suspended.

All requests or grievances need to be submitted through the inmate grievance form

APPENDIX D
Essex County Correctional Facility
Private Code Registration and Dialing Instructions.

You will be required to register a 4-digit private code to place phone calls on the GTL system. The purpose of this is to add protection to your inmate account so that it cannot be compromised.

Register Your Private Code:

1. From the inmate telephone, remove the handset and Press 1 for English or press 2 for Spanish.
2. This call will be monitored and recorded.
3. Press 1 for English. Marque el número dos para Español.
<default/no selection is English>
4. To make a collect call, dial 0 plus the area code and number.
To make a debit call, dial 1 plus the area code and number.
To make an International debit call, dial 011 plus country code and number.
To hear your debit balance, dial 118.
<inmate enters destination number>
5. Please enter your pin number at the tone...
<inmate enters pin number>
6. At the tone, please state your name...
<inmate records name- first time only>
You will be asked to establish a 4 digit private code.
7. On future calls, you will need to enter a 4 digit private code. Please select your 4 digit private code at the tone...
<inmate enters 4 digit private code>
8. You entered...
<system plays inmate private code number>
9. Press 1 to confirm your private code, otherwise press 2.
<inmate enters choice>
10. Your 4 digit private code is registered. It is...
<system plays inmate private code number>
11. Thank you for using Global Tel Link. Your call is being processed.

Private Code Dialing Instructions:

1. Pick up the telephone. Press 1 for English or press 2 for Spanish.
2. This call will be monitored and recorded.
3. Press 1 for English. Marque el número dos para Español.
<default/no selection is English>
4. To make a collect call, dial 0 plus the area code and number. To make a debit call, dial 1 plus the area code and number.
To make an International debit call, dial 011 plus country code and number. To hear your debit balance, dial 118.
<inmate enters destination number>
5. Please enter your pin number at the tone...
<inmate enters pin number>
6. At the tone, please state your name...
<inmate recorded name>
7. Enter your 4 digit private code after the tone...
<inmate enters private code>
8. Thank you for using Global Tel Link. Your call is being processed.

Appendix E
Essex County Jail
Civilian Task Force

The Purpose of the Task Force is to provide public oversight, transparency and accountability with respect to the policies, procedures, practices, supervision, management, and training at the Essex County Correctional Facility (“ECCF”).

If you as a detainee or inmate have a concern you
would like to share with
the Task Force

You can send them an email at

JailTaskForce@admin.essexcountynj.org

Or you can call (973) 877-8037

It’s a free call

(This call is treated as a legal call and is NOT recorded)

EXHIBIT I

**Essex County
Department Of Corrections
Incident Report Critical Data Sheet**



All incident reports must have a critical data sheet and an incident report summary.

Date: _____
IR# _____
UOF# _____
Evidence# _____

Rev. 2022

THIS ENTIRE SHEET TO BE COMPLETED BY THE SUPERVISOR

CHECK ALL THAT APPLY

Location: _____ Time: _____ Code: Blue Orange White Red Black Amber N/A

Parties Involved

EC Inmate UC Inmate US Marshal State Remand Custody Staff Civilian Staff Visitor Other

Inmate Name: _____ Inmate Commitment # _____ SBI# _____

Medical

Urgent Emergent/Med Emergency N/A
 Offender Medical Referral as a Result of Injuries Sustained Attempted Suicide by Ingestion Attempted Suicide Other
 Offender Medical Referral as a Result of Use of Force Attempted Suicide by Hanging Death Cause Unknown
 Mental Health Status Change Attempted Suicide by Slashing Hospital Return
 Medical Transfer Other

Incident

<input type="checkbox"/> *Fight	<input type="checkbox"/> PREA	<input type="checkbox"/> Passive Resistance	<input type="checkbox"/> Environmental Hazard
<input type="checkbox"/> Major Discipline/PHD	<input type="checkbox"/> Sexual Assault	<input type="checkbox"/> Meal Refusal	<input type="checkbox"/> Smoke Condition
<input type="checkbox"/> Minor Discipline	<input type="checkbox"/> Sex Assault with Weapon	<input type="checkbox"/> Hunger Strike	<input type="checkbox"/> Fire
<input type="checkbox"/> Cell Extraction	<input type="checkbox"/> Riot	<input type="checkbox"/> Adverse Weather	<input type="checkbox"/> Wellness Check
<input type="checkbox"/> Forced Psychotropic Med	<input type="checkbox"/> Attempted Escape	<input type="checkbox"/> Natural Disasters	<input type="checkbox"/> Escort
<input type="checkbox"/> **Physical Assault	<input type="checkbox"/> Escape	<input type="checkbox"/> Civil Disturbance	<input type="checkbox"/> Cell Assignment Change
<input type="checkbox"/> **Physical Assault with Weapon	<input type="checkbox"/> Area Lockdown	<input type="checkbox"/> Bomb Threat	<input type="checkbox"/> Transfer
<input type="checkbox"/> Aggravated Assault on I/O	<input type="checkbox"/> Emergency Facility Lockdown	<input type="checkbox"/> Hostage	<input type="checkbox"/> Exposure/PMA
<input type="checkbox"/> Homicide	<input type="checkbox"/> Evacuation	<input type="checkbox"/> Transportation Emergency	<input type="checkbox"/> Other

*Fight Simple assault entered into by mutual consent
 **Assault: 1 Attempts to cause or purposely, knowingly or recklessly causes bodily injury to another; or
 2 Attempts by physical menace to put another in fear of imminent serious bodily injury.

Use of Force (Refer to UOF report)

Physical Force Calculated UOF Mechanical Force Deadly Force Video Record Y N Photos Y N N/A

Restraints

Handcuffs Flex Cuffs Leg Irons Wrist Irons w/ Belly Chain Other N/A

Search

Facility Search Contraband Perimeter Inspection Strip/Body Cavity Search N/A
 Cell Search Evidence (Refer to Strip/Body Cavity Search Report) Body Scanner

Protective Custody (Refer to PC form)

Voluntary Involuntary Release from Protective Custody N/A

Training

Fire Drill Evacuation Y N Other N/A

Other

Dmg/Lost Keys Dmg/Lost Tools Broken Tablet Mattress Replacement Work Order Other N/A

Reporting Print/Sign/ID# _____

Approving Print/Sign/ID# _____

Approving Print/Sign/ID# (If Applicable) _____

Shift Commander Print/Sign/ID# _____

Essex County Department of Corrections

Close Custody SHU Placement Order

To: Close Custody SHU Location From: _____ Date: _____

Inmate/ICE Detainee: _____ Loc: _____ C# _____ A# _____
The above named inmate/ICE Detainee is to be admitted to administrative segregation for the following reason(s):

- A Is a security risk to him/herself or the security of the facility.
- B Is under medical observation (medical staff must comment and sign this Order).
- C Is pending a transfer or release within 24 hours.
- D Inmate/ICE Detainee is being placed into Involuntary Protective Custody
 - Court order.
 - Other law enforcement agencies.
 - Ex-law enforcement official.
 - Correctional Official (Warden, Custody Commander, S.I.D./I.A.B.)
- E Inmate/ICE Detainee has requested admission for Voluntary Protective Custody.
 - Fear of Bodily Harm from other inmates/ICE Detainees.
 - Co-defendant in building.
- F Pre Hearing Detention Status- Reason for Pre Hearing Detention: _____

AS A RESULT OF THE ABOVE CHARGES YOU ARE BEING PLACED IN THE SECURED HOUSING UNIT- IN PRE HEARING DETENTION STATUS

- G Disciplinary Detention (as ordered by the Disciplinary Hearing Officer)

AS A RESULT OF THE ADJUDICATED CHARGES YOU ARE BEING PLACED IN THE SECURED HOUSING UNIT- IN DISCIPLINARY DETENTION STATUS ON THE ABOVE SANCTION.

- H Medical Clearance: No medical, mental health or dental contradictions exist for placement into the Close Custody SHU. Must be completed by medical staff for all SHU placements.

Notes:

Mental Health (When Applicable) Print: _____

Sign: _____ Date: _____

Medical Print: _____

Sign: _____ Date: _____

MEDICAL MUST COMPLETE FOR ALL ENTRIES TO THE SHU

Supervisor Admitting into SHU Print: _____

Sign: _____ Date: _____

ADMITTING SUPERVISOR COMPLETE FOR ALL ADMISSIONS

Shift Commander Print: _____

Sign: _____ Date: _____ Time: _____

A copy of this order must be served to the inmate/ICE Detainee within 24 hours of placement.

Inmate ICE Detainee Sign for Copy

Released From SHU Print: _____

Sign: _____ Date: _____ Time: _____

Essex County Department of Corrections
Strip/Body Cavity Search Report

All Strip/Body Cavity Search Reports must have a complete Incident Report

Date: _____
 IR# _____
 UOF# _____

Reporting Officer: _____ Authorizing Supervisor: _____

Inmate/ICE Detainee Name: _____ C# _____ A# _____

- Type:
- Strip search of a person detained/arrested for commission of an offense other than a crime
 - Strip search of a person lawfully confined in an adult county correctional facility
 - Body cavity search of a person detained/arrested for commission of an offense other than a crime
 - Body cavity search of an inmate lawfully confined in an adult county correctional facility

- Reason for search:
- Contact Visit
 - Entry into the Close Custody SH
 - Reasonable suspicion of contraband
 - Entry into the facility after inmate/ICE Detainee was permitted to leave the facility for any reason
 - Reasonable suspicion of controlled dangerous substance(s)
 - Reasonable suspicion of a weapon
 - A search warrant or valid documented consent

Name(s) & ID# of custody staff member(s) conducting search: _____

Name(s) & ID# of custody staff member(s) present during the search and reason for presence: Safety/Security Observation

Facts Indicating Reasonable Suspicion/Probable Cause: _____

Emergent Conditions requiring the presence of a custody staff member of the opposite sex when such conditions exist: _____

If Body Cavity Search: Search conducted in medically dignified manner: yes no

If applicable, Reason for Use of Force: _____

Medical personnel who conducted the search: _____

If applicable, Reason for Isolation: _____

- Reasons for Seizure of Contraband
- | | |
|--|---|
| 1. Not authorized for retention/receipt | 4. Not acquired through proper facility channels |
| 2. Exceeds stated correctional facility limits | 5. Exceeds reasonable safety, security, sanitary or space considerations |
| 3. Altered from original form | 6. May be harmful and/or poses threat to security or orderly operations of facility |

Disposition of item seized: 1. Properly Disposed 2. Evidence 3. Placed in property 4. Questionable Ownership

Name of Item	Reason	Dispo	Name of Item	Reason	Dispo

Reporting Officer: _____ Sign _____ Authorizing Supervisor: _____ Sign _____

EXHIBIT J

Close Custody Special Housing Unit Orientation

PROTECTIVE CUSTODY, MEDICAL AND OTHER

The Close Custody SHU designation status is a non-punitive status in which restricted conditions of confinement are required only to ensure the safety of inmates or others, the protection of property, or the security or good order of the facility.

Dependant upon your Close Custody SHU Status the following restrictions and privileges shall apply and shall be further articulated to you by the SHU Supervisor.

Restrictions and Privileges

- Each inmate will be offered a minimum of two (2) hour of recreation per day, seven (7) days a week, unless documented security or safety considerations dictate otherwise.
- Will be able to write and receive mail and correspondence as they would otherwise be able to do while detained within the general population.
- Will have access to programs and services such as commissary, library, religious guidance, and recreation.
- No restrictions on property or commissary.
- A health care provider shall visit every inmate in the SHU at least once daily. Inmates shall be provided medications as prescribed for them.
- Inmates will have access to regularly scheduled sick call.
- Mental health status shall be reviewed at least once every thirty (30) days.
- Shall be provided three (3) nutritionally adequate meals per day, according to the general population meal schedule and ordinarily from the same menu. If an inmate uses food or food service equipment in a manner that is hazardous to self, staff, or other inmates, alternative meal service may be provided. Alternative meal service is on an individual basis, is based upon health and safety considerations only, meets basic nutritional requirements, and can only occur with written approval of the facility administrator, or designee, and the responsible health authority.
- May shave at least three (3) times weekly and shall be afforded the opportunity to shower daily.
- Laundry, hair care, barbering, clothing, bedding, and linen shall be provided equivalent to the general population and consistent with safety and security of the facility.
- As needed, shall be provided toilet tissue and hygiene items that may be issued via retrievable kits.
- Ordinarily retains non-contact visiting privileges.
- Under no circumstances may inmates participate in general visitation while in restraints. If the inmate's behavior warrants restraints, the visit may not be granted under general population visiting conditions.
- Shall maintain legal visits, however, the Office of the Warden, or designee, may implement security precautions.
- Shall be allowed visits by members of the clergy, upon request, unless the SHU Supervisor determines such a visit presents a safety or security risk, or would interfere with the orderly operation of the facility. Violent and uncooperative inmates may be temporarily denied access to religious guidance.
- Shall have access to legal materials. Inmates may retain a reasonable amount of personal legal material upon admittance to the SHU, provided such material does not create a safety, security or sanitation hazard. Inmates with a large amount of legal material may be required to place a portion with their stored personal property, with access permitted during scheduled hours. Requests for access to such legal material shall be accommodated as soon as possible, but in no case more than twenty-four (24) hours after receipt of the initial inmate request to retrieve documents, except for documented security reasons.
- Upon request, inmates housed in the SHU shall have the same law library access as the general population, unless compelling security concerns require limitations.
 - a. Officers shall supervise the library use by an inmate housed in the SHU as warranted by the individual's behavior. Inmates segregated for protection must be provided access to legal materials. Such inmates may be required to use the law library separately or, if that is not feasible, legal materials must be brought to them upon request.
 - b. Violent or uncooperative inmates may be temporarily denied access to the law library if necessary to maintain security, until such time as their behavior warrants resumed access.
- Ordinarily have telephone access similar to inmates in the general population, but in a manner consistent with the special security and safety requirements of inmates in the unit.
- Inmates will be provided translation or interpretation services while in the SHU to assist with their understanding the conditions of confinement as well as their rights and responsibilities.
- ANY INMATE IN THE SHU WITH A MEDICAL, MENTAL HEALTH OR OTHER CLASSIFICATION STATUS MAY HAVE ANY OF THE FOREMENTIONED PRIVILEGES RESTRICTED WHEN ORDERED AND DOCUMENTED BY THE MEDICAL OR MENTAL HEALTH DEPARTMENTS AND/OR THE OFFICE OF THE WARDEN, OR DESIGNEE.
- After seven (7) consecutive days in the SHU, the inmate may exercise the right to appeal the conclusions and recommendations of any review conducted to the Office of the Warden. The inmate may use any standard form of written communication, for example, inmate request, to file the appeal.
- If an inmate has been in the SHU for more than thirty (30) days and objects to that status, the Office of the Warden shall review the case to determine whether that status should continue. This review shall take into account the inmate's views and shall result in a written record of the decision and its justification. A similar review shall take place every thirty (30) days and each thirty (30) days thereafter.

Issued to: _____

Commitment# _____

Signature _____

Date _____

Issued by: Print/Sign/ID # _____

Date _____

By signing above you acknowledge that you received a copy of this orientation and the Close Custody SHU Placement Order.

Orientación de la Unidad de Vivienda Especial de Estrecha Vigilancia

CUSTODIA DE PROTECCIÓN MÉDICA Y OTROS SERVICIOS

(Close Custody Special Housing Unit Orientation - PROTECTIVE CUSTODY, MEDICAL AND OTHER)

La condición asignada de Estrecha Vigilancia en la Unidad de Vivienda Especial (SHU) no es una condición punitiva o de castigo, sino más bien una situación en la que se limita las condiciones de encierro para asegurar a los reclusos (Detenidos por RT) su seguridad, protección a la propiedad y seguridad, o el buen orden de la institución.

Dependiendo de su condición de Estrecha Vigilancia asignada por la Unidad de Vivienda Especial, las siguientes restricciones y privilegios se aplicarán y serán posteriormente por el Supervisor de la Unidad de Vivienda Especial (SHU).

Restricciones y Privilegios

- Se ofrecerá a cada recluso un mínimo de dos (2) hora de recreación diaria, siete (7) días a la semana, a menos que documentos de medidas de seguridad y resguardo dictaminen lo contrario.
- Podrá recibir y enviar correspondencia a través del correo postal de la misma forma que cualquier otro recluso de la población reclusa general.
- Tendrá acceso a los programas y servicios del comisario, biblioteca, guía religiosa y recreación.
- No se impondrá restricciones en la propiedad o comisaría.
- Un proveedor del servicio de salud visitará cada recluso en la Unidad de Vivienda Especial (SHU) por lo menos una vez día. Reclusos recibirán su medicamento según la receta. Reclusos tendrán acceso al calendario regular de llamada para enfermos.
- El estado mental de salud será revisado cada treinta (30) días.
- Recibirán tres (3) comidas nutricionales adecuadas por día, de acuerdo al plan de alimentación de la población general y ordinariamente del mismo menú. Si un recluso usa la comida o el equipo de servicio de comida de una forma que representa un peligro para sí mismo, para el personal u otros reclusos, se le proveerá servicios alternativos de comida. El servicio alternativo de alimentación se ofrece individualmente y se fundamenta en las condiciones de salud y seguridad solamente y se impartirá con la aprobación escrita del administrador de la institución correccional, del designado, y de la autoridad responsable de salud.
- Podrán afeitarse por lo menos tres (3) veces a la semana y bañarse diariamente.
- Tendrán disponibilidad a los servicios de lavandería, cuidado del cabello, barbería, ropa de cama, ropa interior, etc. de manera semejante al de la población general y consistente con las reglas y regulaciones de la institución.
- Obtendrán papel higiénico y artículos relacionados, según sea necesario, que podrán recogerse a través de un botiquín.
- Ordinariamente retiene privilegios de visita sin contacto.
- Bajo ninguna circunstancia, los reclusos podrán participar de la visita general mientras estén bajo vigilancia. Si la conducta del recluso justifica la satición, no se puede conceder los privilegios de visita bajo las condiciones normales establecidas para la población reclusa en general.
- Mantendrán asesoramiento legal; sin embargo, la Oficina del encargado o designado, podrá implementar medidas de precaución.
- Tendrán visitas de miembros del clérigo, a solicitud, a menos que el supervisor de SHU determine que tal visita represente un peligro para la seguridad o que interfiera con el orden de la la instit. la institución penitenciaria. Reclusos violentos o uncooperativos pueden ser denegados temporalmente a un asesoramiento y guía religiosa.
- Tendrán acceso a material legal. Reclusos pueden retener una cantidad razonable de material legal personal al ser admitidos a la SHU, siempre y cuando dicho material no constituya un peligro para la seguridad, e higiene. A reclusos con grandes cantidades de material legal se les pedirá guardar una parte conjuntamente con su propiedad personal, con acceso permitido durante horas establecidas. Solicitudes de acceso a estos materiales legales serán cumplidas tan pronto como sea posible pero en todo caso, en no más de veinticuatro (24) horas después del recibo de la solicitud inicial del Recluso para retirar estos documentos, excepto por razones documentadas de seguridad.
- A solicitud, reclusos encerrados en la Unidad de Vivienda Especial (SHU), tendrán el mismo acceso a la biblioteca jurídica legal, como cualquier miembro de la población general, a menos que razones de seguridad apremiantes requieran ciertas limitaciones.
- a. Oficiales correccionales supervisarán el uso de la biblioteca por los Reclusos encerrados en la Unidad Especial de Vivienda SHU según justifique la conducta individual. Reclusos segregados por protección deben tener acceso a materiales legales. A dichos Reclusos se les puede requerir de usar la biblioteca de leyes separadamente o, si eso no es posible, los materiales legales deben ser llevados a ellos a su solicitud.
- b. Reclusos, violentos o uncooperativos pueden ser denegados temporalmente el acceso a la biblioteca de leyes si es necesario, para mantener la seguridad, hasta el momento que su conducta justifique que se reanude su acceso. Ordinariamente tienen un acceso similar al teléfono como los reclusos en la población general, pero de una manera consistente con los requisitos especiales de seguridad y protección de los reclusos en la unidad. Reclusos tendrán servicios de un interprete mientras estén en la SHU para asistir con su entendimiento de las condiciones de confinamiento así como también, de sus derechos y responsabilidades.

CUALQUIER RECLUSO EN LA UNIDAD DE VIVIENDA ESPECIAL CON UNA CONDICIÓN DE SALUD MEDICA MENTAL U OTRA CLASIFICACION PUEDE TENER CUALQUIERA DE LOS PRIVILEGIOS MENCIONADOS ANTERIORMENTE RESTRINGIDOS CUANDO SEA ORDENADO Y DOCUMENTADO POR EL DEPARTAMENTO DE SALUD MEDICO OR MENTAL Y O LA OFICINA DEL WARDEN, O DESIGNADO. Despues de siete (7) dias consecutivos en SHU, el recluso puede ejercer su derecho de apelar las conclusiones y recomendaciones de cualquier revision dirigida a la Oficina del Warden. El recluso puede usar cualquier forma de comunicacion escrita estándar, como por ejemplo, completar la Petición disponible para el Recluso para presentar una Apelación.

Si el recluso ha estado en la SHU por mas de treinta (30) días y se opone a esa condición, la Oficina del Warden revisará el caso para determinar si dicha condición debiera continuar o no. Esta revisión tomara en cuenta las consideraciones del recluso y resultara en un registro escrito de la decisión y su justificación. Una revisión similar se llevara a cabo cada treinta (30) días y cada treinta (30) días después.

Issued to:	Commitment #	Firma	Fecha
Issued by: Print/Sign/ID #	Date	A través de mi firma, admito haber recibido una copia de esta orientación de la Orden de Colocación en Estrecha Vigilancia.	

EXHIBIT K



Property Inventory Storage List Detention, Pre-Hearing Detention or Medical Deprivation (i.e. Forensic, Medical, Suicide Watch)



Inmate/ICE Detainee: _____

Commitment #: _____

(Last)

Alien #: _____

(First)

Bin #: _____

(MT)

Admittance Date: _____

Building: _____

Pod: _____

Cell #: _____

Inmates/ICE Detainees who have personal items placed in storage shall have those items inventoried. Personal items shall include, but not be limited to, clothing, shoes, linens, hygiene products, commissary (listed individually), books, pictures, mail, etc. This inventory sheet must be maintained in the inmate/ICE Detainee file.

	ITEM	QTY
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Officer (Print Last, First)

Sergeant (Print Last, First)

Officer (Signature & ID #) Date

Sergeant (Signature & ID #) Date

Inmate/ICE Detainee (Signature)

Commitment # (Last, F)

Date

EXHIBIT L

EXHIBIT M



ESSEX COUNTY CORRECTIONAL FACILITY

MEDICAL/MENTAL HEALTH TRANSFER FORM

973-274-6816 973-274-6996



To: Processing/Counts Control

Date: _____

From: Mental Health Department

IR #: _____

Time: _____

Inmate Name: _____ DOB: _____

Commitment #: _____ Cell #: _____

Inmate/ICE Detainee to be Transferred to: General Population Infirmary Forensic
 Dry Cell Isolation
 Other: _____

Constant Observation	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Adhere to the Following Restrictions:			
Medical Isolation	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Shower Only (No Bathtub)	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Regular Clothing	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Finger Food Diet	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Underwear	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Recreation Authorized	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Suicide Safety Smock	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Linens	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Cleared for Court	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Suicide Safety Blanket	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
			Other:	_____		

Close Observation	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Adhere to the Following Restrictions:			
Medical Isolation	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Shower Only (No Bathtub)	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Regular Clothing	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Finger Food Diet	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Underwear	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Recreation Authorized	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Suicide Safety Smock	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Linens	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Cleared for Court	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Suicide Safety Blanket	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
			Other:	_____		

Reason for Transfer: Psychiatric Clearance Medical Clearance Psychiatric
 Other: _____

Authorized Medical/Mental Health Staff Member

(Print Name)

(Signature)

(Date)

EXHIBIT N



Property Inventory Storage List Detention, Pre-Hearing Detention or Medical Deprivation (i.e. Forensic, Medical, Suicide Watch)



Inmate/ ICE Detainee: _____ (Last) _____ (First) _____ (M.I.)
 Commitment #: _____ Alien #: _____ Bin #: _____

Admittance Date: _____ Building: _____ Pod: _____ Cell #: _____

Inmates/ICE Detainees who have personal items placed in storage shall have those items inventoried. Personal items shall include, but not be limited to, clothing, shoes, linens, hygiene products, commissary (listed individually), books, pictures, mail, etc. This inventory sheet must be maintained in the inmate/ ICE Detainee file.

	ITEM	QTY
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Officer (Print Last, First)

Sergeant (Print Last, First)

Officer (Signature & I.D. #) Date

Sergeant (Signature & I.D. #) Date

Inmate/ ICE Detainee (Signature)

Commitment #/ Alien #

Date

EXHIBIT O

EXHIBIT P

**ESSEX COUNTY
DEPARTMENT OF CORRECTIONS**

A. DISCIPLINARY REPORT - INSTITUTION'S COPY

NAME OF INMATE (Last, First) _____

DOCKET No. _____ TIER _____ JOB ASSIGNMENT _____

PROHIBITED ACT _____

REPORTING OFFICER'S NAME _____ TITLE _____

DATE _____ SIGNATURE _____

PLACE OF ALLEGED INFRACTION _____ DATE _____ TIME _____ AM/PM

ANY IMMEDIATE SPECIAL ACTION TAKEN _____

AUTHORIZED BY _____ DATE _____ TIME _____ AM/PM

WITNESS(ES), NAME(S) AND NUMBER(S) _____

PHYSICAL EVIDENCE-DESCRIPTION AND DISPOSITION _____

DESCRIPTION OF ALLEGED INFRACTION _____

COPY OF THIS REPORT DELIVERED TO ABOVE INMATE BY: _____
PRINTED NAME

SIGNATURE _____ DATE _____ TIME _____ AM/PM

INMATE READ "USE IMMUNITY" RIGHTS () YES () NO

INMATE'S SIGNATURE _____ DATE _____ TIME _____ AM/PM

B. INVESTIGATION (reverse side of this sheet)

ESSEX COUNTY
DEPARTMENT OF CORRECTIONS
B. INVESTIGATION OF ALLEGED INFRACTION

INMATE PLEADS GUILTY

INMATE PLEADS NOT GUILTY

STATEMENT OF INMATE CONCERNING CHARGE _____

STATEMENT(S) OF WITNESS(ES) _____

NAME OF WITNESS _____ DOCKET NO. _____ TIER _____

STATEMENT _____

NAME OF WITNESS _____ DOCKET NO. _____ TIER _____

STATEMENT _____

OTHER FACTS CONCERNING THE CHARGE _____

INVESTIGATOR'S COMMENTS AND CONCLUSIONS _____

IS A COUNSEL SUBSTITUTE REQUESTED IN THIS CASE? YES NO

NAME OF COUNSEL SUBSTITUTE REQUESTED _____

COMMENTS ON INMATE'S REQUEST FOR COUNSEL SUBSTITUTE, WITNESS(ES) OR CONFRONTATION
AND CROSS EXAMINATION _____

INVESTIGATOR'S NAME _____
(PRINT) (SIGNATURE)

DATE _____ TIME _____ SIGNATURE _____

**ESSEX COUNTY
DEPARTMENT OF CORRECTIONS**

C. DISCIPLINARY REPORT - INMATE'S COPY

NAME OF INMATE (Last, First) _____

DOCKET No. _____ TIER _____ JOB ASSIGNMENT _____

PROHIBITED ACT _____

REPORTING OFFICER'S NAME _____ TITLE _____

DATE _____ SIGNATURE _____

PLACE OF ALLEGED INFRACTION _____ DATE _____ TIME _____ AM/PM

ANY IMMEDIATE SPECIAL ACTION TAKEN _____

AUTHORIZED BY _____ DATE _____ TIME _____ AM/PM

WITNESS(ES), NAME(S) AND NUMBER(S) _____

PHYSICAL EVIDENCE-DESCRIPTION AND DISPOSITION _____

DESCRIPTION OF ALLEGED INFRACTION _____

COPY OF THIS REPORT DELIVERED TO ABOVE INMATE BY: _____

PRINTED NAME

SIGNATURE _____ DATE _____ TIME _____ AM/PM

INMATE READ "USE IMMUNITY" RIGHTS () YES () NO

INMATE'S SIGNATURE _____ DATE _____ TIME _____ AM/PM

C. DISCIPLINARY REPORT - INMATE'S COPY
D. NOTICE TO INMATE OF RIGHTS

ESSEX COUNTY
DEPARTMENT OF CORRECTIONS

D. NOTICE TO INMATE OF RIGHTS

You are being charged with a violation of a Prohibited Act within this institution. Because of the possibility that you may be criminally prosecuted above and beyond the discipline imposed by this institution, you are entitled to be advised of the following rights:

1. You have the right to remain silent and you cannot be further interrogated should you choose not to speak. Your silence may not be used against you at the disciplinary hearing or in future criminal proceedings. However, if you choose not to speak, the case will be decided on the basis of all other evidence presented at the hearing. The Hearing Officer may consider your silence together with all the evidence.
2. You have the right to make a statement concerning the charge. This statement or any evidence derived directly or indirectly from your statement may be used against you at the disciplinary hearing but cannot be used against you in any future criminal proceedings.

YOU WILL BE GIVEN A HEARING BEFORE A DISCIPLINARY ADJUSTMENT COMMITTEE IN CONNECTION WITH THIS CHARGE. AT THE HEARING YOU WILL BE ENTITLED TO THE FOLLOWING.

1. TWENTY-FOUR (24) HOUR NOTICE OF THE ALLEGED VIOLATION.
2. AN INMATE REPRESENTATIVE IF YOU ARE UNABLE TO COLLECT AND GATHER EVIDENCE OR UNABLE TO ADEQUATELY PRESENT YOUR CASE.
3. THE RIGHT TO REQUEST WITNESSES AND PRESENT DOCUMENTARY EVIDENCE.
4. THE RIGHT TO REQUEST CONFRONTATION AND CROSS-EXAMINATION OF ADVERSE WITNESSES.
5. THE RIGHT TO A WRITTEN DECISION BY THE ADJUSTMENT COMMITTEE STATING THE EVIDENCE RELIED UPON AND THE REASON FOR THE SANCTION.
6. THE RIGHT TO APPEAL THE DECISION OF THE HEARING OFFICER OR ADJUSTMENT COMMITTEE TO THE CHIEF OF OPERATIONS

**ESSEX COUNTY
DEPARTMENT OF CORRECTIONS**

E. DISCIPLINARY REPORT - TIER'S COPY

NAME OF INMATE (Last, First) _____

DOCKET No. _____ TIER _____ JOB ASSIGNMENT _____

PROHIBITED ACT _____

REPORTING OFFICER'S NAME _____ TITLE _____

DATE _____ SIGNATURE _____

PLACE OF ALLEGED INFRACTION _____ DATE _____ TIME _____ AM/PM

ANY IMMEDIATE SPECIAL ACTION TAKEN _____

AUTHORIZED BY _____ DATE _____ TIME _____ AM/PM

WITNESS(ES), NAME(S) AND NUMBER(S) _____

PHYSICAL EVIDENCE-DESCRIPTION AND DISPOSITION _____

DESCRIPTION OF ALLEGED INFRACTION _____

COPY OF THIS REPORT DELIVERED TO ABOVE INMATE BY: _____

PRINTED NAME

SIGNATURE _____ DATE _____ TIME _____ AM/PM

INMATE READ "USE IMMUNITY" RIGHTS () YES () NO

INMATE'S SIGNATURE _____ DATE _____ TIME _____ AM/PM

EXHIBIT Q



COUNTY OF ESSEX
DEPARTMENT OF CORRECTIONS

To: Office of the Warden

Date:

From:

IR#

Re: Inmate

Booking# J

Charges:

Sir:

The above named inmate charged with the listed infraction(s) is believed to be

- A threat to other inmates
- A threat to staff members
- A threat to himself/herself: or
- A threat to the orderly running of the facility

Therefore said inmate is being placed in Pre-Hearing detention pending your review

Shift Supervisor Signature & ID#

Date

Time

Return to previous status

Continue Pre-Hearing Detention

Warden or Designee

Date

Time

EXHIBIT R

PHD/DISCIPLINARY CHECKLIST

ALL MUST BE COMPLETED, LOGGED, SCANNED AND DELIVERED TO FOLDER ON TIER:

Critical Data Sheet (Must Accompany all Reports)

- Must specify what & who the report will be about (Check all appropriate boxes on form)
- Must have a date, incident report number and Use of Force Log number ONLY IF NECESSARY
- Must be signed by person submitting, Sergeant, Lieutenant & SHIFT COMMANDER w/ emp. ID#

Incident Report

- Must have a date, incident report number and Use of Force Log number ONLY IF NECESSARY
- One report for same incident irregardless of number of offenders – just list all names on report
- Must be signed by person submitting, Sergeant, building Lieutenant & SHIFT COMMANDER

Blue Sheet (GIVE INMATE WHITE COPY AFTER THEY GET SERVED)

- Pink copy stays on unit where inmate/detainee is housed.

Use Of Force Form (ONLY COMPLETE IF FORCE WAS USED BY STAFF)

- If used, must have separate “use of force log number” that goes on same report under incident number.

PHD Form(USE IF INMATE/DETAINEE WAS REMOVED FROM THEIR UNIT)

- Shift commander must sign with prior approval from Warden or designee

SHU Placement Order (USE NEW UPDATED FORM)

- If a detainee, must put commitment number as well as “A” number in required field
- Must check off “Pre-Hearing detention” and **sign/date in the middle AND bottom of form**
- **GIVE A COPY TO INMATE!!** They must sign & date in middle and sign on bottom of form.
- Shift Commander/Approving supervisor must sign where it specifies and check the “approved” box
- “Admitted by” with “Signature”, “Date and Time” must be filled out
- Officer to notify medical to assess inmate upon entering SHU& escort detainees to main medical first per Ortiz

SHU Orientation for PHD/Disciplinary

- Inmate **MUST** sign this form or **NOTE refusal** if they refuse along with name & ID# of staff
- **GIVE INMATE/DETAINEE A COPY**

Strip Search Form

Unit Observation Report (Must have admit date & reason) Officers Only

- Sergeant’s, Officer’s, Medical and Mental Health signatures must be legible on this form or name must be printed below signature if not legible. Codes must reflect that inmate/detainee **showered, used the law library, ate and recreated** as per policy along with any other activity for the shift. A report must be logged if “recreation” is denied. Sgt. must sign bottom of observation form denoting this refusal along with incident report number.

EXHIBIT S



**ESSEX COUNTY DEPARTMENT OF CORRECTIONS
PROTECTIVE CUSTODY
ADMITTANCE & RELEASE**

INMATE NAME _____

COMMITMENT # _____ **IR#** _____

1. The above referenced inmate is being placed into *Protective Custody* because:

- a. **VOLUNTARY REASONS**
 - fear of bodily harm from other inmates
 - co-defendant in building

- b. **INVOLUNTARY REASONS**
 - court order
 - other law enforcement agencies
 - ex-law enforcement official
 - correctional official (warden, custody commander, I.A.B.)

2. I hereby request placement into *Protective Custody* for my own protection. I will respect and obey all rules and regulations, policies and procedures concerning *Protective Custody*, which have been explained to me prior to my being placed into *Protective Custody*.

INMATE SIGNATURE _____ **DATE** _____

AUTHORIZED SIGNATURE _____ **DATE** _____

3. I hereby request to be removed from *Protective Custody*. I understand that if my request is granted I will be placed into general population and will be treated and protected as all other inmates in general population.

4. This removal request is of my own free will; at no time did any correctional personnel threaten or promise me anything in anyway to cause me to make this request.

INMATE SIGNATURE _____ **DATE** _____

AUTHORIZED SIGNATURE _____ **DATE** _____

WARDEN OR DESIGNEE NOTIFIED: TIME _____ **DATE** _____

SIGNATURE

EXHIBIT T



COUNTY OF ESSEX
DEPARTMENT OF CORRECTIONS
ESSEX COUNTY CORRECTIONAL FACILITY
354 Doremus Avenue – Newark, New Jersey 07105
973-274-7800 --- 973-274-6193 (Fax)

Joseph N. DiVincenzo, Jr.
Essex County Executive

Alfaro Ortiz, Jr.
Director

April 5, 2022

Chairman Gov. James McGreevey

Executive Director Hon. Jose Linares

Essex County Civilian Oversight Task Force
McCarter & English, LLP
Four Gateway Center
100 Mulberry Street
Newark, NJ 07102

Re: ECCF Response To - Jan 29 Public Meeting – Follow-up Information Requests

Dear Chairman McGreevey and Executive Director Linares:

Please find our response to your follow-up questions from our Jan 29th Public Meeting below.

If you have any questions please don't hesitate to contact me.

Regards,

Alfaro Ortiz, Jr. Director

ECCF Responses to Follow-Up Information Requests

I. General Questions

1. What are the current percentages of those who are fully vaccinated and boosted at ECCF? Please provide a breakdown including inmates and staff through the month of January 2022.

RESPONSE:

Inmates: Partially vaccinated = 1585 (68%), Fully Vaccinated = 767 (33%), Boosted = 94 (4%). This is an ongoing process.

Staff: Partially vaccinated = 444 (58%), Fully Vaccinated = 451 (59%), Boosted = No data on boosted staff in January, 2022

2. How many of these inmates and staff are partially vaccinated, i.e. have received only the first does of a two-dose series vaccine?

RESPONSE:

See response to question 1.

3. Please provide the procedure for inmates requesting the vaccine and expected time interval from request to administration of the vaccine dose.

RESPONSE:

Inmates can make a sick call request and will receive a vaccination within one week of request.

4. How many requests has ECCF received from both inmates and staff soliciting vaccination or a booster? Please include the length of time between request and vaccination, or note any unresolved requests.

RESPONSE:

The answer to question 1 above provides the numbers of staff who wanted to get vaccinated. ECCF conducted 6 monthly vaccination sessions for staff at the facility from January 2021 thru May 2021. All inmates who requested a vaccination have received one.

II. SHU

1. How many people in Calendar Year 2021 have been confined in special housing units? Please provide a breakdown based on the classifications of SHU custody and inmate general custody status (i.e. pretrial detainee, etc.).

RESPONSE:

We don't capture this data.

2. Who serves on the SHU classification board at ECCF?

RESPONSE:

All department heads including ATI (central classification), Internal Affairs, Social Services, Inmate Advocate, SHU Classification Supv. They meet weekly.

3. Please provide the individual reasoning for those inmates currently in SHU custody.

RESPONSE:

Inmates are housed in the SHU for mental health, protective custody and detention (disciplinary) reasons.

4. Please indicate the average length of time of SHU custody for all classifications of SHU custody.

RESPONSE:

Detention is the only classification with a specific time limit of no more than 20 days. All others remain based upon classification, medical and or mental health evaluation, or protective custody needs.

5. Please provide a map and schematic of the SHU area.

RESPONSE:

This cannot be released due to security issues.

6. Please provide the number of individual mental health services solicited in response to inmates in SHU custody over the course of Calendar Year 2021. Please note repeated or follow-up visits, as well as the original categories of SHU custody for each inmate.

RESPONSE:

Response by Psychology Director Dr. Jason Fleming>

At the present time in general more research is necessary to answer the question. Additionally, we don't have an efficient mechanic for gathering that type of data. We as a mental health department could purposefully going forward begin logging all of our contacts with inmates who end up in the SHU. Right now the documentation of MH contacts with inmates in the SHU is contained in individual inmate charts in the EMR.

7. Please provide a copy of the inmate handbook and ECCF personnel policies for public distribution.

RESPONSE:

See attached

8. Please provide the legal citation allowing 4 consecutive hours of SHU custody per individual.

RESPONSE:

ECDOC – 2 HRS, NJDOC – 4 HRS. We adhere to the Isolated Confinement Restriction Act and N.J.A.C. 10A:31.

III. General policies

1. What criteria do ECCF use to place people in the SHU?

RESPONSE:

Inmates are placed in the SHU based upon disciplinary, protective custody or mental health determinations and requirements.

Does ECCF use other close custody units? Are people in the SHU placed in “administrative segregation,” “disciplinary detention,” or other classification status?

RESPONSE:

No, there is no other close custody units. There is no administrative segregation at ECCF.

As of January 15, how many people are in the SHU? For what reasons?

RESPONSE:

150 Voluntary PC, 35 Involuntary PC, 19 Detention, 69 mental health, Total: 273

On average, how long are people confined in the SHU?

RESPONSE:

Detention is a maximum of 20 days. Other classifications are based upon medical, mental health or custody evaluations. For example, an inmate under court ordered PC may remain in the SHU under Involuntary PC status for the entirety of their stay.

2. Please describe the process that occurs before someone is placed in the SHU.

RESPONSE:

Detention is based upon a received institutional disciplinary charge for a conduct violation. Then a disciplinary hearing is conducted, if found guilty the inmate serves his imposed sanction. Prior to any placement in close custody, a Mental/Medical health is determined by the medical staff. PC status is based upon custody information and determinations that subject inmate is in jeopardy.

3. Please describe the medical evaluations that occur before someone is placed in the SHU.

RESPONSE:

All inmates being transferred to the SHU are medically evaluated before placement regardless of classification. This includes a chart review and physical examination by the medical provider to include a mental assessment.

4. Has ECCF taken steps to ensure the SHU is compliant with the Isolated Confinement Restriction Act and N.J.A.C. 10A:31?

RESPONSE:

Yes.

5. During testimony, ECCF personnel mentioned the "classification board." Please describe this board in detail, including the members which comprise the board, its function, and how often it meets.

RESPONSE:

Please see answer above under II SHU, Q#2.

6. Who can make the decision to place an inmate in isolated confinement? In the past 3 months has there been an example of this decision not being approved by the facility administrator?

RESPONSE:

We do NOT have isolated confinement. Again, inmates are placed in the SHU for disciplinary reasons and acquired disciplinary sanctions. Protective Custody needs and Mental Health Observation.

7. When a person requests to be placed under voluntary protective custody, how readily are they able to request to be removed from that custody, i.e., what is the length of time to be placed back in general population on average?

RESPONSE:

Inmate can request to be released from PC at any time, however When an inmate is requesting to be released from voluntary PC their request is reviewed by the Classification unit to determine if it is appropriate (safe) for that inmate to be housed in general population.

8. Does the facility stack charges for disciplinary action? How many charges may be stacked? What are the criteria to determine whether a single incident is classified as minor or major? And can incidents be changed in how they were initially classified?

RESPONSE:

We do not stack charges. Generally, multiple charges related to a single incident will result in concurrent detention. A charge is determined a major or minor based on definitions provided in the Inmate Handbook (included with this submission) in conjunction with custody determination.

IV. Conditions while confined within the SHU

1. How much out-of-cell time are people in the SHU provided each day? During the hearing, it was not clearly delineated the difference between the 2 hrs. vs. 4 hrs. out of confinement that I believe may have initially come up during public comment online.

RESPONSE:

Inmates will get a minimum of two hours and up to four hours, more when appropriate.

2. How often are people in the SHU evaluated by medical professionals, including mental health providers? Are they evaluated if they do not explicitly request an evaluation?

RESPONSE:

Response by Psychology Director Jason Fleming: MH contacts with inmates in the SHU depends on their status:

If they are on MH Observation status they are assessed every day.

If on a disciplinary status they are seen upon request of the inmate (we don't see all inmates who end up in the SHU. We are not required to do so and we don't have the staff to support responding to every inmate who lands in the SHU for disciplinary reasons.

Similar, for inmates who are on a Protective Custody status, they are assessed upon their request.

Inmates who are on MH Forensic status in the SHU are assessed at least every other week or more if it is clinically indicated and also whenever they request to be seen. Inmates are also assessed by psychiatry once a month or more if it is clinically indicated. In some of the smaller jails that CFG services, inmate on their version of Forensic status are seen by MH every day.

3. What are out-of-cell opportunities, and during what hours are they offered?

RESPONSE:

Inmates can use the phone, take a shower, take rec or use the law library every day.

4. When people in the SHU are permitted out of their cells, what space(s) can they access? What are the sizes and features of these spaces (e.g., rooms, outdoor areas, pods on a tier, etc.)? Are people able to congregate with others during that out-of-cell time, or are they let out alone?

RESPONSE:

Inmates have access to areas adjacent to the SHU housing areas including recreation with outdoor exposure (fresh air) or common areas in some SHU areas. Some may congregate and some are not allowed to congregate depending on their status.

5. Do people have access to any recreational equipment or other recreational opportunities while in the SHU? How often do people engage with these recreational opportunities? If people refuse, are the reasons for refusal documented? Are there any reasons people would be unable to or discouraged from participating?

RESPONSE:

SHU recreation has a pull-up bar and access to outside air. They can do calisthenics. Refusals are documented but the reason is not. No one is discouraged from participating.

6. Do people ever refuse or decline out-of-cell time? If so, are the reasons for refusal documented? Are there any reasons people would be unable to or discouraged from using out-of-cell time?

RESPONSE:

Out of cell time is strictly voluntary, we do not force inmates to recreate.. Refusals are documented, but not the reason. See previous answers.

7. How do people receive food and water in the SHU?

RESPONSE:

On the unit through the food port and all have water in their cells.

8. How large are the cells in which people are housed in the SHU? Are they single- or double-bunked? What is the SHU's bed capacity, and how full is it relative to its maximum capacity?

RESPONSE:

Most are single bunked. However, some PCs are double bunked when appropriate.

9. What furniture or equipment are in individual cells? What personal items are permitted in individual cells? Is law library access still granted to people in the SHU? Do people have access to tablets? What are the costs of using these tablets?

RESPONSE:

Built-in furniture includes a toilet, sink, desk and bed. Inmates have access to tablets and the law library. Cost of tablet is based on usage. Many tablet functions are free.

10. How often are people evaluated by medical professionals, including mental health specialists? Are they evaluated if they do not explicitly request an evaluation?

RESPONSE:

Per Dr. Jason Fleming, the answer to this depends on the MH clinical needs and general custody status of the inmate. See my response to Question IV.2 above.

V. Facility- and unit-lockdowns and medical isolation

1. Please provide a summary of how many facility and unit lockdowns have occurred since the public health emergency was declared in March 2020 with clear breakdowns by year, i.e., how many in the past calendar year 2021, and how many in 2022 year-to-date?

RESPONSE:

Any area with Covid exposure was shut down, the county health department was notified and the inmates were placed in a 14 day quarantine. We maintain all Covid protocols as required by the Essex County Health Dept.

2. During the past calendar year (i.e., 2021), how many instances of facility lockdowns, medical isolation and protective custody have led to members of a vulnerable population being placed under isolated confinement?

RESPONSE:

We need more clarity on this question to provide a response.

3. Please describe any other units that impose conditions of isolation.

RESPONSE:

None

4. Please describe how medical isolation following COVID-19 infection and quarantine following exposure are being implemented.

RESPONSE:

ECCF follows the Covid Guidelines from the Essex County Health Dept.

5. Please describe which units have been on lockdown in the past 3 months, and for how long. Has ECCF taken steps to ensure these lockdowns are in compliance with the Isolated Confinement Restriction Act? Please describe criteria for such lockdowns.

RESPONSE:

There has been one facility wide lockdown in the last three months. All units were locked down for security searches.

Putting Essex County First
ESSEX COUNTY IS AN EQUAL OPPORTUNITY EMPLOYER

EXHIBIT U

Essex County Task Force Public Hearing: January 29, 2022

Name	Title
Alfaro Ortiz	Facility Director
Guy Cirillo	Warden
Antonio Pires	Associate Warden
Tony Brown	Associate Warden
Lionel Anicette, MD	Medical Director
Jason Fleming, MD	Psychiatry Services

Time	Item
10:00am – 10:30am <i>Alfaro Ortiz, Facility Director</i> <i>Guy Cirillo, Warden</i> <i>Antonio Pires, Associate Warden</i> <i>Tony Brown, Associate Warden</i>	Overview: What is the Special Housing Unit or Closed Custody System?
10:30am – 11:00am <i>Alfaro Ortiz, Facility Director</i> <i>Guy Cirillo, Warden</i> <i>Antonio Pires, Associate Warden</i> <i>Tony Brown, Associate Warden</i>	Special Housing and Closed Custody: General Population
11:00am – 11:30am <i>Dr. Jason Fleming</i> <i>Dr. Lionel Anicette</i>	Special Housing and Closed Custody: Psychiatric Observation
11:30 am – 12:00 pm	Public Comment Session

Member Attendance

- James McGreevey – *Chairman*
- Dr. Chris Pernell
- Alessandra DeBlasio
- Rubin Sinins
- Justice Rountree
- Rosa Santana
- Judge Joe Linares – *Executive Director*

Follow-Up Information Requests

General

- What are the current percentages of those who are fully vaccinated and boosted at ECCF? Please provide a breakdown including inmates and staff through the month of January 2022.
- How many of these inmates and staff are partially vaccinated, i.e. have received only the first does of a two-dose series vaccine?
- Please provide the procedure for inmates requesting the vaccine and expected time interval from request to administration of the vaccine dose.
- How many requests has ECCF received from both inmates and staff soliciting vaccination or a booster? Please include the length of time between request and vaccination, or note any unresolved requests.

SHU

- How many people in Calendar Year 2021 have been confined in special housing units? Please provide a breakdown based on the classifications of SHU custody and inmate general custody status (i.e. pretrial detainee, etc.).
- Who serves on the SHU classification board at ECCF?
- Please provide the individual reasoning for those inmates currently in SHU custody.
- Please indicate the average length of time of SHU custody for all classifications of SHU custody.
- Please provide a map and schematic of the SHU area.
- Please provide the number of individual mental health services solicited in response to inmates in SHU custody over the course of Calendar Year 2021. Please note repeated or follow-up visits, as well as the original categories of SHU custody for each inmate.
- Please provide a copy of the inmate handbook and ECCF personnel policies for public distribution.
- Please provide the legal citation allowing 4 consecutive hours of SHU custody per individual.

Notes

2022 Task Force Medical Report: Dr. Chris Pernell described the assembled medical subcommittee comprised of experts in correctional health and specialists in areas like behavioral and women’s health.

- Allows for a broad-based review of those incarcerated while taking into account race, gender, ability, etc.

- Includes interviews, direct observation & interaction, etc. all used to summarize findings to present best practices
- Introduction of Professor Pamela Valera (Rutgers University) & Sebastian Acevedo (medical student)
- Goal is to establish the best template for correctional health care

ECCF compliance & areas of improvement– described general nature of SHU and noted the New Jersey “Isolated Confinement Restriction Act” (A314/S3261) went into effect August 2020.

Director Al Ortiz: Closed custody/SHU is for those who require special management, mental health attention, etc. (4-5 categories)

Warden Guy Cirillo

- Many of those incarcerated in SHU need specialized treatment
- Has been challenging to facilitate and enforce the rules
- Questionnaires & assessments before inmate enters facility to determine placement (predisposition to sexual assault, mental health/pattern of behavior that may require psychological attention, etc.)
- Law enforcement doesn’t address root problems, which leads to recidivism; “reactive, not proactive”
- SHU: no isolation area in ECCF; depending on classification, individuals can come and go from cell, watch TV, etc.; must be out of cell for more than 2 hours a day
- SHU classifications
 - Involuntary protective custody (suicidal ideation, court order finds the individual as an imminent threat) for individualized observation; discipline component
 - Voluntary protective custody is for those who feel they need specialized protection (either from themselves or from others)
 - Mental health can also require someone to be in special housing
 - Discipline: combative inmates may also be put in special housing
- Laws that limit how long someone can be in SHU regardless of circumstance
- Working on developing stats to be more proactive
 - How many people in the last calendar year have been confined in special housing units? And provide details on whether it was involuntary protective custody, voluntary, etc. (we only have current numbers)
 - Use this data to forecast what works to manage inmates; be more systematic in data collection

Associate Warden Antonio Pires

- Walked through stats & numbers of those currently in SHU and mental health status
 - Dr. Pernell: Are you able to indicate the length of time that those in different categories of SHU are kept there?
 - Could not immediately provide statistics, but Warden Cirillo and Associate Warden Pires can later obtain and share with the Task Force – average length of time that someone within different categories stays in the SHU
- Inmates are seen by doctor/mental health specialists, body scan
- *Up to 15 days per violation; multiple violations could mean 15 days per violation, but max is 20 consecutive days out of 30-day window (new law)*

- SHU has corridors (instead of layout of a square, like gen population) for the sake of personal attention; multiple officers can constantly see and contact those in special housing
 - Governor McGreevey: Can you provide a schematic on what the area looks like?
 - Warden Cirillo: ECCF needs to seek formal approval for this clearance as revealing this info could compromise security. Agreed to seek appropriate way to convey this information without compromising the facility; he will definitely provide dimensions and size
- Governor McGreevey: It would also be helpful to have stats on how people move from general population to the SHU + approximate reasons
- Governor McGreevey: The Task Force should review stats on mental health services that are available + durations for future reports.
- Some representative of the administrative team sees the SHU every day
- Reports of people being in the cells for weeks without coming out
 - Vulnerable populations in SHU doing things that hurt themselves, such as being reclusive
 - Warden Cirillo: Administration is challenged in addressing situations if the problem isn't brought up right away, but if it is, the situation is addressed by multiple people. There are many instances of inmates lying and creating a false narrative of their conditions.
 - Marshall: Are there ways to address the systematic practices and culture instead of putting a Band-Aid on issues that arise? (for example, the problem of feces)

Dr. Jason Fleming, mental health services at ECCF

- Mental health & SHU: 60-75 individuals would have a difficult time in gen population, so they are put on forensic status → mental health counseling, assigned a mental health clinician, counseling in the mental health unit or in cell side
 - Specific stats can be provided on how often these sessions occur by assigned classification; is there a difference, and if so, why?
 - How frequently are those in SHU mentally evaluated?
 - Differs by classification, but broadly about once a day for any mental health contact
 - Mental health assessment: beginning of incarceration - intake (bio, sexual, social, etc.) or within 72 hours → recommended for meds, SHU, etc.
- Issue of feces in cells – balancing act; in worst cases, there is an effort for a ruling that they are not capable of being in prison
 - Dr. Fleming: Data can start to be collected on how many of those who smear feces actually have psychological problems vs. those who are just acting out

Prisoners' rights

- Altercations are mostly caught on camera (~400 cameras); people are then charged
- Voluntary PC status – don't lose rights to phone calls, commissary, etc.
- Legal obligation to provide essential services to all inmates
- Issue of those who allegedly want protection when they actually do not; put in SHU, takes a long time to get out
- How do people get themselves out of the SHU?
 - There is an ECCF Classification committee to review protective custodies

- Administration noted they don't want people in SHU for an extended period of time
 - Alessandra DiBlasio: attorneys should be incorporated more in this process, especially in the more questionable areas, like voluntary PC
 - Phil Alagia: It is a state issue that there are many inmates who should be in psychiatric hospitals, not prison
 - Judge Linares: Is there a way we can engage the state politically on this issue?
 - Chair noted internal task force meeting for this discussion.
- General conditions of SHU: fewer phone calls & commissary; over 2 hours rec time; scheduled legal calls, attorney/regular visits in addition to 2 hours; same size cells except for pre-hearing detention (some may be a little smaller)
 - Chair note on future meeting: Future meeting focusing on the question of equity & balance of privileges
 - Dr. Pernell: The Task Force should submit written questions to personnel in advance of the next meeting to facilitate structured responses with relevant data

Public comments

- Lydia Thornton: mental health component of intake process; questions are basic; 72 hours is too long for evaluation; there needs to be available services around the clock
- Hesham El-Meligy: wife is incarcerated; she's been requesting psychotherapy since the day she entered; people with less severe mental health issues don't get as much attention from staff; staffing issue
- Molly Linhorst: ACLU of NJ; need for outreach ahead of meeting re public comments, remote/in person, etc.; necessity of speaking directly with people at ECCF; application of law to general lockdowns; important to focus on conditions; delays in sharing information and communication; **requests copy of inmate handbook and ECCF policies for the public to access**

EXHIBIT V



AMERICAN CIVIL LIBERTIES UNION

New Jersey

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**TESTIMONY IN ADVANCE OF
ECCF CIVILIAN TASK FORCE PUBLIC MEETING**

**MOLLY LINHORST AND TESS BORDEN, STAFF ATTORNEYS
AMERICAN CIVIL LIBERTIES UNION OF NEW JERSEY**

January 26, 2022

Thank you, Governor McGreevey, Judge Linares, and members of the Essex County Correctional Facility (ECCF) Civilian Task Force for convening a public meeting on the use of special housing units at ECCF, which is scheduled for Saturday, January 29, 2022. Task Force meetings that are open to public testimony – particularly remote public testimony – are an important first step in building a transparent oversight body that is responsive to the community, especially on issues as important as ECCF’s use of restrictive housing and the conditions therein.

The ACLU of New Jersey is a private, nonprofit organization founded in 1960 to promote and defend the founding American principles of freedom, justice and equality. We have 42,000 members and many more supporters across the state. The ACLU of New Jersey has long advocated to reduce the use of isolated confinement and for safe, humane conditions in the New Jersey’s prisons and jails.

We submit this written testimony in advance of Saturday’s public meeting. In addition to soliciting public testimony in person and remotely through Zoom, we also remind you that it is critical to collect information and testimony from people in custody at ECCF. Finally, we urge you to affirmatively invite testimony from advocates and community members with loved ones incarcerated at ECCF. We hope that the Task Force is engaging in factfinding among these communities as well.

This written testimony consists of two parts. The first part addresses the Isolated Confinement Restriction Act, which restricts how state and county correctional facilities can impose conditions of isolation. ECCF’s use of special housing units must comply with the Act at all times, even during lockdowns, other security emergencies, and the COVID-19 pandemic. The second part of this testimony provides a list of questions designed to gather basic information that is necessary to evaluate ECCF’s use of special housing units. We hope the Task Force will consider

soliciting information to answer these questions from those who appear on behalf of ECCF at Saturday's meeting.

I. Special Housing Units and the Isolated Confinement Restriction Act

In correctional facilities, special housing units (SHUs) are typically units in which movement, access to recreation and programming, and other out-of-cell opportunities are limited for disciplinary, security, or other reasons. In some facilities, an SHU may also be known as, or house people in the status of, administrative segregation, disciplinary detention, close custody, or restrictive housing. The name does not matter: if conditions in an SHU or other similar unit amount to isolation – also known as solitary confinement – they can cause serious and long-lasting psychological harm and trauma. Regardless of what a jail may call such units, New Jersey law now places extensive limitations on how a jail may subject people to conditions of isolation – whether in an SHU or in general population. The Task Force's consideration of SHUs at Saturday's meeting is therefore against the backdrop of these legal obligations, as well as ECCF's historical practices.

a. Reports of isolation practices at ECCF

As the Task Force knows, ECCF has a history of reported abuses in isolation, which adds to the urgent need for oversight and scrutiny of the jail's current practices. When ECCF held people on behalf of U.S. Immigration and Customs Enforcement (ICE), there were [reports](#) of ECCF subjecting people to isolation for non-violent infractions like writing a thank you note to an officer, skipping a meal, and hiding a bag of fruit in a cell. People at ECCF have [claimed](#) that they were subjected to isolation as retaliation for speaking out about poor conditions or abuse at the jail, and a [study](#) of the use of isolation among people in ICE custody at ECCF concluded that terms of confinement were arbitrary and left to the discretion of corrections officers. That study [also revealed](#) that 39 percent of incidents leading to isolation were related to complaints or frustrations about conditions at the jail. A [2019 report](#) by the Office of the Inspector General of the Department of Homeland Security – one of the reports that prompted community members' calls for this Task Force – found that by routinely strip searching and restraining people in isolation and providing them with only one hour of time outside their cells each day, ECCF routinely violated the Performance-Based National Detention Standards, which ECCF was required to abide by to hold people on behalf of ICE.

The end of the ICE contract has not meant the end of these concerns. We have heard reports that ECCF continues to over-rely on isolation for people facing criminal charges or serving sentences. We recognize some of this may relate to the use of SHU(s), as well as medical isolation and quarantine given the COVID-19 pandemic. Additionally, we have heard that ECCF has recently been subject to facility- and/or unit-lockdowns for days at a time. We have heard that such

lockdowns can mean people are confined to their cells for more than twenty-two hours a day, sometimes let out only to use the shower.

b. Legal limits on ECCF's use of isolation

Recognizing the severe harm that isolated confinement can cause, in 2019 the Legislature passed and Governor Murphy signed into law the Isolated Confinement Restriction Act (ICRA).¹ ICRA was the result of a years-long campaign, led by survivors of solitary confinement in New Jersey who [testified](#) before the Legislature and appeared in [various media](#), telling their stories about the torture of isolation. Effective August 1, 2020, ICRA is binding on ECCF. That month, the ACLU-NJ sent a letter to ECCF Warden Anderson, providing detailed guidance on how to comply with ICRA. With the hope that it will assist the Task Force in understanding how and when county jails may employ SHUs or any unit whose conditions may amount to isolation, we have attached this letter, as well as a copy of the law, to this testimony. We summarize some of the main points in the remainder of this section.²

ICRA introduced strict limits on when prisons and jails may use isolated confinement. In a county jail, the Act defines isolated confinement as confinement for twenty-two hours or more per day in a cell or similarly confined holding or living space, alone or with other people, with severely restricted activity, movement, and social interaction, regardless of the classification.³ No matter the purpose behind the confinement or whether someone is confined in a cell or another restricted space, ICRA's restrictions apply. Generally, isolated confinement may only be used for disciplinary purposes or when there is reasonable cause to believe that the person would create a substantial risk of serious harm to themselves or another person and a less restrictive intervention would be insufficient to reduce this risk. Isolated confinement – regardless of how it is classified – cannot extend longer than twenty consecutive days or thirty days in a sixty-day period. And with

¹ In adopting the Isolated Confinement Restriction Act, the New Jersey Legislature recognized that conditions of isolation, including for long periods, can “foster psychological trauma, psychiatric disorders, or serious, long-term damage to an isolated person’s brain.” The Legislature also cited reforms adopted by President Obama in January 2016 for federal facilities, which acknowledged “the devastating and lasting psychological consequences of solitary confinement on persons detained in correctional facilities” and banned “restrictive housing for low-level offenders and juveniles,” decreased the maximum time a person could be held in restrictive housing, and increased the time spent out-of-cell for people in restrictive housing. *See* N.J.S.A. 30:4-82.6.

² Under ICRA’s terms, the NJDOC was required to promulgate regulations following enactment. NJDOC adopted final rules in May 2021, making changes and updates to Chapters 4, 5, 9, and 31 of its regulations in light of ICRA’s provisions. The regulations specifically regarding county jails are at N.J.A.C. 10A:31.

³ For readability, we have omitted citations to ICRA. All of the information included here can be found in the attached copy of the law and corresponding guidance to the Administrator.

limited exceptions, ICRA specifies that members of vulnerable populations may generally never be placed in isolated confinement.⁴

ICRA requires prisons and jails to ensure proper ventilation, temperature, and cleanliness in isolated confinement, as well as functioning sanitary fixtures. ICRA further requires that people in isolated confinement are not denied basic necessities or proper medical care, and instructs facilities to conduct medical evaluations of people in isolated confinement at least once per week. ICRA institutes processes for challenging confinement within seventy-two hours of placement and requires regular reviews. People have a number of process rights during these hearings and reviews, including the right to appear at the hearing, the right to be represented at the hearing, and a written statement of reasons for the decision made at the hearing.

Importantly, ICRA dictates that jails must meet certain requirements when instituting a facility-wide lockdown. Under ICRA, the facility administrator or designated shift commander must determine that a facility-wide lockdown is necessary to ensure the safety of people in custody at the facility. The facility administrator or shift commander must also document specific reasons why any lockdown is necessary for more than twenty-four hours, and why less restrictive interventions are insufficient. In this way, ICRA applies to people who remain in general population and ensures that they are not subjected to conditions of extended isolation through lockdowns.

c. Isolation and the pandemic

Particularly relevant to the current pandemic, ICRA specifically contemplates the use of medical isolation only in discrete instances. ICRA defines medical isolation as isolated confinement of a person for medical reasons, including a mental health emergency or when necessary for preventing the spread of a communicable disease. Isolated confinement in the form of medical isolation is permitted only when a medical professional, based on a personal examination, determines that the people should be placed or retained in medical isolation. Clinical reviews must be conducted at least every eight hours and as otherwise clinically indicated.

Thus, while quarantine and medical isolation should certainly be used where clinically indicated, we take this opportunity to reiterate that even a public health emergency does not justify

⁴ ICRA defines members of vulnerable populations as people who: are twenty-one years old or younger; are sixty-five years old or older; have a disability based on mental illness, a history of psychiatric hospitalization, or have recently exhibited conduct indicating the need for further observation or evaluation related to mental illness; have a developmental disability; have a serious medical condition that cannot effectively be treated in isolation; are pregnant, gave birth in the last forty-five days, or recently suffered a miscarriage or terminated a pregnancy; have a significant auditory or visual impairment; or are perceived to be lesbian, gay, bisexual, transgender, or intersex.

the indiscriminate use of isolation. Even in these unprecedented times, the plain language and legislative intent of ICRA make clear that while ECCF may use medical isolation to combat the spread of COVID-19 in its facilities, such isolation must still be individualized, time limited, and clinically necessary. Of course, other measures that restrict movements and group interactions short of isolated confinement may be used to limit infection spread.

II. Questions about the Use of Special Housing Units at ECCF

There is little public information about the use of SHUs at ECCF. To understand how isolation is used at the jail, we ask the Task Force to request copies of ECCF's policies on SHUs and any other close custody unit or status (such as administrative segregation or disciplinary detention), along with the Inmate Handbook,⁵ and to make these items publicly available.

In addition, we urge the Task Force to address the following questions to ECCF presenters at Saturday's meeting. This is not meant to be an exhaustive list, and we encourage the Task Force to add additional questions. This information, if made available, will better equip the Task Force, people incarcerated at ECCF, and other community members to evaluate ECCF's policies and practices.

- General policies
 - What criteria do ECCF use to place people in the SHU?
 - Does ECCF use other close custody units? Are people in the SHU placed in "administrative segregation," "disciplinary detention," or other classification status?
 - As of January 15, how many people are in the SHU? For what reasons?
 - On average, how long are people confined in the SHU?
 - Please describe the process that occurs before someone is placed in the SHU.
 - Please describe the medical evaluations that occur before someone is placed in the SHU.
 - Has ECCF taken steps to ensure the SHU is compliant with the Isolated Confinement Restriction Act and N.J.A.C. 10A:31?
- Conditions while confined within the SHU
 - How much out-of-cell time are people in the SHU provided each day?
 - What are out-of-cell opportunities, and during what hours are they offered?
 - When people in the SHU are permitted out of their cells, what space(s) can they access? What are the sizes and features of these spaces (e.g., rooms, outdoor areas, pods on a tier, etc.)? Are people able to congregate with others during that out-of-cell time, or are they let out alone?

⁵ In the alternative, we ask that ECCF share the relevant portions of the Inmate Handbook.

- Do people have access to any recreational equipment or other recreational opportunities while in the SHU? How often do people engage with these recreational opportunities? If people refuse, are the reasons for refusal documented? Are there any reasons people would be unable to or discouraged from participating?
- Do people ever refuse or decline out-of-cell time? If so, are the reasons for refusal documented? Are there any reasons people would be unable to or discouraged from using out-of-cell time?
- How do people receive food and water in the SHU?
- How large are the cells in which people are housed in the SHU? Are they single- or double-bunked? What is the SHU's bed capacity, and how full is it relative to its maximum capacity?
- What furniture or equipment are in individual cells? What personal items are permitted in individual cells? Is law library access still granted to people in the SHU? Do people have access to tablets? What are the costs of using these tablets?
- How often are people evaluated by medical professionals, including mental health specialists? Are they evaluated if they do not explicitly request an evaluation?
- Facility- and unit-lockdowns and medical isolation
 - Please describe any other units that impose conditions of isolation.
 - Please describe how medical isolation following COVID-19 infection and quarantine following exposure are being implemented.
 - Please describe which units have been on lockdown in the past 3 months, and for how long. Has ECCF taken steps to ensure these lockdowns are in compliance with the Isolated Confinement Restriction Act? Please describe criteria for such lockdowns.

* * *

Thank you for considering this testimony, and for engaging the public in this truly important conversation about how ECCF uses special housing units. We look forward to continuing this conversation. Please consider the ACLU of New Jersey a continued resource as you examine conditions at ECCF.

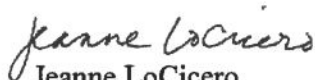
law at the start of this month. The DOC's delay in adopting changes to the Chapter 31 regulations does not relieve you of your obligations under the new law.²

To assist you in complying with the law, I have attached a summary that provides a breakdown of the substantive obligations the Isolated Confinement Restriction Act places on county jails, effective August 1. Counties must take immediate action to comply with these obligations and avoid liability. We hope that this summary helps equip you to take that action.

We are sending this letter to county jail wardens in New Jersey, the New Jersey Association of Counties, and the New Jersey Jail Warden's Association. We would welcome the opportunity to discuss this matter further, to provide any technical assistance, and to offer suggestions for best practices from other correctional settings. For example, this month, Middlesex County, under the leadership of Warden Cranston and Captain Grover, issued a number of directives to medical, classification, and all staff that significantly change the use of close-custody statuses and isolated confinement in light of the new law, effective immediately. These directives reflect an effort to comply with the law and may be worth your consideration as you modify operations in your county's facility.

We hope that you are also implementing immediate changes to bring your practices into compliance with the Isolated Confinement Restriction Act. Please consider the ACLU of New Jersey as a resource as you undertake these important efforts. Feel free to contact Staff Attorney Tess Borden at tborden@aclu-nj.org or 973-854-1733 if you would like to discuss further.

Sincerely,


Jeanne LoCicero
Legal Director

cc: Warden Eugene Caldwell, President, New Jersey Association of County Jail Wardens
John Donnatio, Executive Director, New Jersey Association of Counties
Marcus Hicks, DOC Commissioner
Michelle Ricci, DOC Acting Deputy Commissioner

² We also note that it is unlikely that compliance with the new law would render a county noncompliant with existing Chapter 31 regulations. However, to the extent there was any conflict, the statutory obligations take priority.



New Jersey

To: County Policymakers
From: ACLU of New Jersey
Date: August 25, 2020

SUMMARY OF COUNTY JAIL OBLIGATIONS
UNDER THE ISOLATED CONFINEMENT RESTRICTION ACT,
N.J.S.A. 30:4-82.5 ET SEQ.

The ACLU of New Jersey provides this memorandum of the Isolated Confinement Restriction Act in the spirit of collaboration and a shared goal of ensuring that practices in county correctional facilities comply with the newly enacted law. This memo reflects the ACLU-NJ's current understanding of the law and outlines steps that counties should take toward compliance.¹

Definition of Isolated Confinement

In a county jail,² isolated confinement (in this document, also referred to as "isolation") is defined as 22 hours or more per day "in a cell or similarly confined holding or living space, alone or with other inmates. . . with severely restricted activity, movement, and social interaction[.]" regardless of the classification. N.J.S.A. 30:4-82.7. Accordingly, it does not matter whether the person is classified, *e.g.*, as administrative segregation, disciplinary detention, protective custody or otherwise; the law looks to the number of hours a person is confined in a cell or similarly confined space, regardless of the classification. This definition also recognizes that double-bunking does not render the placement not isolation.

A person may not be placed in isolation with other people if there is reasonable cause to believe "there is a risk of harm or harassment, intimidation, extortion, or other physical or emotional abuse to that inmate or another inmate in that placement." N.J.S.A. 30:4-82.8(c).

¹ The ACLU-NJ make no suggestion that implementation of all of these steps is sufficient to comply with the law; we suggest that these steps are, at a minimum, necessary. We reserve the right to change or update our understanding of the statute. This document does not bind the ACLU-NJ in any legal forum and does not constitute legal advice. Please consult your county counsel.

² The Act applies to "county correctional facilities." This document uses the term "county jail" for ease of reference but incorporates the complete definition of that term under the Act, which also includes "a county jail, penitentiary, prison, or workhouse." N.J.S.A. § 30:4-82.7.

Prohibition on Isolated Confinement for Members of Vulnerable Populations

With four limited exceptions, members of vulnerable populations may *never* be placed in isolated confinement. N.J.S.A. 30:4-82.8(b). “Member of a vulnerable population” is defined to include the following eight categories, N.J.S.A. 30:4-82.7:

- a. is 21 years of age or younger;
- b. is 65 years of age or older;
- c. has a disability based on a mental illness, as defined in subsection r. of section 2 of P.L.1987, c.116 (C.30:4-27.2), a history of psychiatric hospitalization, or has recently exhibited conduct, including but not limited to serious self-mutilation, indicating the need for further observation or evaluation to determine the presence of mental illness;
- d. has a developmental disability, as defined in subsection b. of section 3 of P.L.1985, c.145 (C.30:6D-25);
- e. has a serious medical condition which cannot effectively be treated in isolated confinement;
- f. is pregnant, is in the postpartum period, or has recently suffered a miscarriage or terminated a pregnancy;
- g. has a significant auditory or visual impairment; or
- h. is perceived to be lesbian, gay, bisexual, transgender, or intersex.

This means, for example, that a person who is LGBTI may not be placed in isolated confinement for any period of time as a disciplinary sanction. It is not limited simply to placing a person in isolation *because* they are LGBTI; that would be unconstitutional and a violation of the New Jersey Law Against Discrimination, whose protections are also reflected in the Isolated Confinement Restriction Act at N.J.S.A. 30:4-82.8(a)(15).

However, this does not mean that a person who is a member of a vulnerable population may not receive disciplinary sanctions. Those sanctions simply cannot amount to isolation; instead, they may include the loss of institutional privileges and/or placement in restrictive housing short of isolation. The Act contemplates “less restrictive intervention,” N.J.S.A. 30:4-82.7, and the “require[ment of] appropriate alternative placements for vulnerable populations in county correctional facilities.” N.J.S.A. 30:4-82.11(f).

The four limited exceptions in which isolated confinement is permissible for members of vulnerable populations are for the following non-disciplinary purposes: a facility-wide lock down, which must be documented if it stretches beyond 24 hours, N.J.S.A. 30:4-82.8(d)(1); emergency confinement for no more than 24 hours, N.J.S.A. 30:4-82.8(d)(2); medical isolation, based on the personal examination of a member of the medical staff, with clinical review within 72 hours and then as clinically indicated, N.J.S.A. 30:4-82.8(d)(3); and protective custody, upon the determination of the facility administrator, N.J.S.A. 30:4-82.8(d)(4) (see more on protective custody below).

In a county jail, members of the medical staff must evaluate people in isolated confinement to determine if they are members of a vulnerable population as frequently as clinically indicated, but at least once per week. N.J.S.A. 30:4-82.8(a)(7).

When Isolated Confinement May be Used for Others

Except for a facility-wide lockdown, medical isolation, and protective custody, N.J.S.A. 30:4-82.8(d)(1), (3), (4), isolated confinement may only be used – for people who are not members of vulnerable populations – when it is for disciplinary reasons, N.J.S.A. 30:4-82.8(a)(2), and when “there is reasonable cause to believe that the inmate would create a substantial risk of serious harm to himself or another. . . and a less restrictive intervention would be insufficient to reduce this risk,” N.J.S.A. 30:4-82.8(a)(1). The county jail must establish this standard by clear and convincing evidence. *Id.*

Any period of isolated confinement must be no longer than 20 consecutive days or 30 days in a 60-day period. N.J.S.A. 30:4-82.8(a)(9).

The only exception to this time limit is for a facility-wide lockdown, *id.*, which requires documentation and public reporting by the Commissioner on the DOC website and to the Legislature, N.J.S.A. 30:4-82.8(d)(1). Protective custody is not an exception to this time limit, meaning either that a person may only be in protective custody for 20 consecutive days if the conditions amount to isolation, or that the conditions must be changed such that the person is not in isolation. N.J.S.A. 30:4-82.8(a)(9).

A person should not be held in isolated confinement if they are within 30 days of their release date/during the final 30 days of the term of incarceration, unless it is necessary for the safety of the inmate, staff, other inmates, or the public. N.J.S.A. 30:4-82.8(a)(14).

To the extent the county jail uses isolated confinement pending investigation of a disciplinary offense, such placement is prohibited unless the person’s presence in general population poses a danger, which must be based on enumerated considerations, or the facility administrator has granted approval in an emergency situation. N.J.S.A. 30:4-82.9(a). Placement in isolation pending investigation of a disciplinary offense must be reviewed every 24 hours by a supervisory employee who was not involved in the initial placement decision. N.J.S.A. 30:4-82.9(b).

Conditions in Isolated Confinement

Cells or other holding or living space used for isolated confinement must be properly ventilated, lit, temperature-monitored, clean, and equipped with properly functioning sanitary fixtures. N.J.S.A. 30:4-82.8(a)(10). A person in isolated confinement cannot be denied access to food, water or other basic necessities or to appropriate medical care, including emergency medical care. N.J.S.A. 30:4-82.8(a)(12), (13).

Because isolated confinement in a county jail can still involve up to two hours out of a cell or similarly confined space per day, the facility must maximize the amount of time a person “held in isolated confinement spends outside of the cell by providing, as appropriate, access to recreation, education, clinically appropriate treatment therapies, skill-building activities, and social interaction with staff and other inmates.” N.J.S.A. 30:4-82.8(a)(11).

Mental and Physical Health Examinations

For any placement in isolated confinement, except in a lockdown as described above and at N.J.S.A. 30:4-82.8(d)(1), a person must receive a personal and comprehensive medical and mental health examination upon initial placement. In a county jail, a preliminary examination must be conducted by a member of the medical staff within 12 hours of confinement and an examination by a clinician must be conducted within 48 hours, except that it may be extended to 72 hours if staffing levels require. N.J.S.A. 30:4-82.8(a)(3). A clinician is defined as “a State licensed physician, except if the clinician makes mental health evaluations, the term shall mean a State licensed psychiatrist or psychologist, or an advanced practice nurse or clinical nurse specialist with a specialty in psychiatric nursing.” N.J.S.A. 30:4-82.7. Medical staff is defined as “State licensed physicians, physician assistants, advanced practice nurses or clinical nurse specialists or, for mental health evaluations or decisions, those registered nurses with a specialty in psychiatric nursing, or comparably credentialed employees or contractors employed to provide healthcare.” *Id.*

After the initial placement, a person in isolated confinement must receive a mental health and physical health status examination, in a confidential setting outside of the cell whenever possible. In a county jail, the evaluation must be conducted by a member of the medical staff as frequently as clinically indicated, but at least once per week. N.J.S.A. 30:4-82.8(a)(7).

Hearing Requirements

Except in a facility-wide lockdown as described above and at N.J.S.A. 30:4-82.8(d)(1), a county jail must have initial procedures and reviews that provide timely, fair and meaningful opportunities for the person to contest their confinement. These procedures “include the right to an initial hearing within 72 hours of placement absent exigent circumstances, and a review every 30 days thereafter, in the absence of exceptional circumstances, unavoidable delays, or reasonable postponements; the right to appear at the hearing; the right to be represented at the hearing; an independent hearing officer; and a written statement of reasons for the decision made at the hearing.” N.J.S.A. 30:4-82.8(a)(4). These hearings and reviews, with their associated rights, must occur for every placement in isolation except for a facility-wide lockdown, including *e.g.* disciplinary detention, protective custody, medical isolation, and any other isolated confinement status.

The reasons for placement in isolation must be established by clear and convincing evidence, N.J.S.A. 30:4-82.8(a)(1), and, with the exception of medical isolation, the final decision to place a person in isolated confinement must be made by the facility administrator. N.J.S.A. 30:4-82.8(a)(5). The decision as to medical isolation at a county jail must be made by a member of the medical staff and be based on personal examination; clinical reviews must be conducted within 72 hours and then as clinically indicated. N.J.S.A. 30:4-82.8(d)(3).

Use of Protective Custody

As with other isolated confinement placements described above, a facility administrator must make the final decision that a person should be placed in isolated confinement. N.J.S.A. 30:4-82.8(d)(4). Protective custody is permissible only where there is no “less restrictive intervention, including transfer to the general population of another institution or to a special-purpose housing unit for inmates who face similar threats, . . . unless the inmate poses a security risk so great that transferring the inmate would be insufficient to ensure the inmate’s safety.” N.J.S.A. 30:4-82.8(d)(4)(f).

For people in voluntary protective custody (“VPC”), there must be a record that the placement was with informed, voluntary consent and that there is reasonable cause to believe that confinement is necessary to prevent reasonably foreseeable harm. N.J.S.A. 30:4-82.8(d)(4)(a). Those in VPC must be notified that they can opt out of that status by providing informed, voluntary, written refusal of that status. N.J.S.A. 30:4-82.8(d)(4)(e).

For people in involuntary protective custody (“IPC”), there must be a record that there is clear and convincing evidence that confinement is necessary to prevent reasonably foreseeable harm and that a less restrictive intervention would not be sufficient to prevent the harm. N.J.S.A. 30:4-82.8(d)(4)(b). Because this standard requires a higher burden of proof than the current regulations, a hearing – as described above, with all attendant rights – should be timely provided to each person who remains in IPC to establish whether their placement remains appropriate under the law.

Anyone remaining in protective custody must receive similar opportunities for activities, movement, and social interaction, consistent with their safety and the safety of others, as are people in the general population of the facility. N.J.S.A. 30:4-82.8(d)(4)(c).

Use of Administrative Segregation and Other Close Custody Statuses

With the exception of a facility-wide lockdown, medical isolation, and protective custody, N.J.S.A. 30:4-82.8(d)(1), (3), (4), a person may not be placed in isolated confinement for non-disciplinary reasons. N.J.S.A. 30:4-82.8(a)(2). Accordingly, placement in conditions of isolation in administrative segregation or other close custody statuses for non-disciplinary reasons is now prohibited by law.

For county jails that have historically used administrative segregation, we note that the DOC has proposed eliminating this status from N.J.A.C. 10A:5 (regarding close custody units) and related chapters. 52 N.J.R. 1321(b) (July 6, 2020). If the DOC adopts this proposal, administrative segregation will therefore no longer be used in state prisons.

EXHIBIT W

Essex County Task Force Public Hearing – Special Housing Units Issues
October 22, 2022

Task Force/Panel Attendees

1. Governor Jim McGreevey (**JM**)
2. Dr. Chris Parnell (**CP**)
3. Rubin Sinins (**RS**)
4. Alessandra DiBlasio (**AD**)
5. Imran Rabbani (**IR**)
6. Michele Vanderstreet (**MV**)
7. Warden Guy Cirillo (**GC**)
8. Dr. Jason Fleming (**JF**)
9. Dr. Lionel Anicette (**LA**)

JM made opening remarks and introduced the SHU subcommittee.

RS: The Task Force is looking at the special housing unit, whether it is in compliance with the law, whether recommendations could and should be made for either compliance or best practices, and for the intersection between SHU and medical issues including mental health issues, which the Governor and CP have been focusing on.

I'd like to call in order our second public meeting regarding SHU. The first was held on January 19, 2022. In terms of introducing my fellow members, to my left is Alessandra DiBlasio and to my right is Imran Rabbani.

With the creation of the Task Force, the NJ legislature and governor implemented the Isolated Confinement Restriction Act (ICRA), which was passed in 2019 and became effective on August 1, 2020. This extraordinary legislation is the legal framework that correctional facilities have to operate and is, in a sense, the best practice in the country to date with respect to SHU. Pursuant to ICRA, after the passage of the legislation, there were implemented regulations in accordance with ICRA.

So, what are we doing as part of the SHU subcommittee? We subcommittee decided to go well beyond just reading ICRA and the regulations and just to tick off the boxes to see what ICRA requires, does such exist at ECCF—we wanted to do a deep dive with respect to special housing units at ECCF.

By way of background, SHU is not a place; it's a status. So individuals who are classified to be in SHU technically could remain in his or her cell. It's a status. There are various status positions within ICRA that might and could qualify an individual to be within SHU. We're going to explore all of those today and ask questions about them.

The first status is a mental health status. If certain requirements and parameters are met, then an individual meeting those requirements could be placed in SHU status. In addition, there are two types of protective custodies that may qualify under ICRA: voluntary and involuntary protective custody. We're going to see what these mean and what the requirements are and what is actually

happening in practice at ECCF. In addition, there is pre-hearing detention and detention, which deal with disciplinary issues within the correctional facility.

So what have we done, and how will we proceed today? As I indicated, we will be dealing with all of these different categories of classifications for those in SHU. Alessandra DiBlasio will take the lead when it comes to questioning our witnesses today when it comes to the mental health issues. Imran Rabbani will take the lead when it comes to questions of IPC and VPC. I will be taking the lead on pre-hearing detention and detention issues.

I'm going to go to the background of what we've done to date and where we intend to go in the future. As the Governor rightly pointed out, and I think he understated the matter, ICRA has a very specialized language and a language requirement. It's very complicated. What we've done from the onset is ask a lot of questions. There are outside interested groups who have helped us by providing their expertise and giving us suggestions on how the subcommittee should be inquiring. We regarded the January 19, 2022 meeting on SHU as just a jumping off point. Virtually every issue imaginable was raised that meeting, and we explored those questions further. We sent ECCF a series of questions. They dealt with not only the categories we've talked about but how things are operating in practice. They asked about what happens when someone is classified in SHU. Do they get the same privileges and benefits as others? A million different questions, all legitimate. Following the January 2022 meeting, we inquired of the ECCF with a series of written questions. I'm a lawyer, so I regard them as interrogatories. We've gotten responses from ECCF, some of which we can't tell you about for security reasons, and we followed up to understand why. We've gathered a host of documents from the facility. We wanted everything you could possibly imagine—every policy and procedure document related to any aspect of SHU. We wanted all the data we could get related to SHU-classified inmates from January 1, 2022 to the present. We've obtained incredible amounts of data on a weekly basis based upon inmates classified, why they were classified, the statistics as to the categories of classification. We can know on any given week how many mental health individuals, VPC individuals there were. Further, we asked for actual forms put in place on a day-to-day basis utilized to document everything. Because it's not enough to say, as we've seen in some of the statistical information, "This individual in IPC because of the warden." Well, we went further and started inquiring how we go beyond that, how we know what that means. ECCF has told us, because we interviewed them, such and such form is used for this purpose for each individual. For each file, there is backup that documents the basis for the placement, and there are various forms that substantiate the placement.

We visited the various units in the SHU at the facility to understand what SHU status is and what the place is. Yes, it's a status, but in reality, it's a place. Those at ECCF are not simply placed in the status; they are, where possible, actually gathered together. The mental health unit is the mental health unit. The pre-hearing detentions are with the detentions. We've even asked for examples of each of the categories of classifications to see what is done in practice. For example, inmate X has asked to be in IPC. We wanted to understand what is actually done in practice, so we've gotten examples of the full documentation of inmates in each category.

It goes beyond that. It's not a static situation. Someone classified in SHU may stay in SHU or leave, and there are significant requirements under ICRA and the associated regulations to

review. There is a classification committee within ECCF, which Warden Cirillo will tell us more about. This committee is supposed to review individuals classified within SHU.

With all this information, the subcommittee will draft a report of legal and factual findings as a result of our review to make informed recommendations that will be taken into consideration by the entire TF. We are in the beginning stages of drafting such a report. Part of our goal is to gather all of the relevant information, including at public meetings like this. We would intend to make recommendations for improvements. If we find that ECCF is not complying with the law, it is our job to point that out. Equally important are our recommendations to make things better, even if the facility is technically in compliance. Those recommendations may include more policies with respect to certain aspects of SHU. We've already seen some gaps, which doesn't mean things aren't going in accordance to law, but there may be certain policy docs which may help in terms of later transparency and being able to trace that the law is being complied with and to ensure a uniformity in treatment of inmates.

Once the report is issued, it's our desire to educate the public as well as ECCF as to what is truly happening. We're fortunate to have today three witness representing ECCF: Warden Cirillo, Dr. Jason Fleming, and Dr. Lionel Anicette. They have specialized knowledge about different aspects of SHU. They will talk to us about various aspects of classification, assignment, the procedures and standards utilized, their attempts at compliance with ICRA and the regulations, and the like. Although it's a formal meeting, I'd like the TF to jump in and ask questions as needed. With that, I'd like to turn things over to Alessandra to open us up and talk about the first classification, which has to do with mental health. She will be questioning JF and LA.

AD: Dr. Fleming, if we could start with you, and this isn't going to be a questioning as much as asking you to teach us and inform us. Can you walk us through the classification system when somebody's designated to the SHU for mental health reasons?

JF: Typically, an individual would end up in SHU with regard to mental health if he's put on close watch observation status, a constant watch observation status, or a separate category, a forensic status. The first two have to do with or the result of mental health or medical departments' assessment that someone is being psychiatrically unstable and/or a risk to themselves or others. Constant watch is if someone is assessed to be an imminent danger to themselves or others, or unable to control their behavior or allow us to complete our assessment to where we would err on the side of caution to place them on constant observation. This means one to one, with an officer who is typically sitting outside an individual's cell. In some facilities that are more dorm-style, an individual would be within arm's reach of an officer. At ECCF, the officer is stationed right outside the inmate's door with full view into the cell.

AD: And full-time, you mean each shift?

JF: Around the clock. You've probably seen examples of the log book that officers are required to complete on a staggered 15-minute schedule. I'll peek in on Mr. X at 15 mins, then 8 mins, then 22 mins, but on average about 15 minutes. So an inmate under these circumstances have been assessed by us—mental health using our clinical judgment determines, in addition to assigning their one-to-one observation, what property an inmate is safe enough to have. That

GC: An added layer to that process is of course the person on the frontline, the corrections officers. They are generally required to do tours and if the CO identifies someone exhibiting through body language, demeanor, or them saying they need to talk to someone.

RS: What do you think the ECCF would need to ensure better practices or best practices in terms of classifying individuals and supervising individuals properly who are classified as mental health within SHU?

JF: I think we do a darn good job of actually assessing people when they are brought to our attention. One of the difficulties of having a small mental health department and not eyes and ears everywhere is that several inmates who are struggling have not been identified because they haven't been seen yet. Once brought to our attention, I think we do a pretty good job at knowing what to do once we have someone identified. It's the inmates who are not presenting themselves or too afraid or too depressed who don't say anything that we're most concerned about. I'm not sure how we rectify that situation with the exception of having staff, custody, and mental health trained as well as possible in asking questions and noticing the sign. This could be someone dispensing meds, engaging in recreational activities, putting someone on a phone call, etc.

RS: You had mentioned the third category of individuals. Could you go into that?

AD: I was gonna follow up on Rubin's question before going into forensics. What could be done—is it the situation that the SHU is sometimes full and there just aren't enough beds when you see someone decompensating? What do you do then?

JF: With regard to the forensic inmates, that's if we had a mental health/forensic unit. Close or constant watch are housed in the SHU because it's more structured and secure. Any cell in the facility could be used for close or constant watch, and for forensic inmates too.

AD: How often does it happen where the SHU may be full?

JF: Often. For example, right now as of yesterday, I have 93 inmates on forensic status. 19 of them are not in my forensic unit because there is no space. That space is designated or occupied by VPC, IPC, inmates on some sort of disciplinary status. That takes up cells and spaces on our forensic units or the SHU. We have two SHUs, one on the first floor and another on the third. They are used for different purposes as you guys have learned. So what happens is you get in where you fit in depending on how many inmates are on other statuses. There generally is an effort to get as many of the forensic inmates into one of the two SHUs, but there's always overflow.

JM: So the 19 are in general population?

JF: Not general population. They're assigned to almost like a section of another unit. So we have two other units: 2E2 and 4B3. When there's overflow, they go to one of those spaces. There are typically cells side by side. So they're not like randomly in GP.

is going on. We have so many inmates now who are developmentally disabled, psychiatrically disabled, and/or some combination where telling you the number of cells wouldn't paint a good picture of what we have available to us.

Forensic inmates are those who have been ID'd as having, to some degree, significant or severe mental illness rendering them unable to function, perform, or be safe in GP. Typically, these people have a diagnosis of schizophrenia, schizoaffective disorder, bipolar disorder, unspecified psychotic disorder, severe depression, anxiety, PTSD where placing them in GP would place them at risk for harm. This is based on clinical judgment where I make the final call with my staff. They can sometimes be housed together. We have levels of the forensic status: one, two, three, and then we also have four, but four is technically a stepdown to another special needs unit that is sort of an intermediary between GP and forensics. These are the inmates who are doing well psychiatrically, improving, sort of "graduating" to 2B1. Many of them just stay there because they really won't ever be fit for GP, and others actually work to the point where they get themselves stabilized, are compliant with medications, and then move to GP. But in forensic status, the majority of our inmates are level two, which means they can enjoy some recreation time with other inmates. One we sort of keep separate from everyone because they're too unstable. Many of those inmates don't want to come out of their cells or they're dangerous or at significant risk for being harmed if they come out of their cells. Level two, you still have your single cell but you're able to mingle during recreation with other inmates who are also level two. So watching TV, playing cards, reading magazines. At some point soon, I'd like to have groups with inmates who can tolerate the group format. Level three involves having a cellmate, functioning well on your own, participating regularly in your visits with whomever may visit you, access to potential jobs on the housing units. They take pride and we take pride and encourage them to be social and engaged in their treatment and the operations of the facility.

RS: Did ICRA cause any major change in the way you handled mental health issues, and if so, even if not, what is being done to ensure compliance with ICRA that may be different that you can tell us about?

JF: Nothing much has really changed as far as what we do. With the recent years and what they have placed on mental health in everyone, our populations of people are more mentally and medically ill. It's not that we're doing anything differently; it's more of a strain on the existing resources that we have as mental health or medical departments to be treating people who have neglected their medical care for a significant period of time or because they don't want to come outside or are uninvolved or they're literally sicker because they were exposed to an infection and COVID and things like that.

RS: Apart from the increase in numbers, has any of the increased restrictions or requirements of ICRA caused concern or challenges for your unit in compliance? And do you need anything else?

JF: No, actually. No.

JM: This is a point of explanation. Could you tell me—you referred to levels, is that a published list and criteria, and by whom?

JF: It's not. It's Dr. Fleming when he came to the facility...

JM: So this is the Fleming Index?

JF: Yeah, absolutely. It's common knowledge now in the facility because officers are often asked when we're making changes or switches within the forensic population, "Hey Doc, is this guy a three?"

JM: So it's helpful.

JF: Very helpful. And it creates a quick way for any officer to know who an inmate can engage with, who he can't engage with, and whether he's eligible or meets the criteria to be considered to have a cellmate.

JM: Would it be possible if you could share with the subcommittee and the TF your understanding of the criteria for those levels, for people such as myself who are not physicians? Is there a comparable diagnostic test? And we talked about 450 individuals—can you make another forensic unit? Who deems a forensic unit necessary—is there a process to establish a new one?

JF: Sure. Hopefully one of the TF's recommendations is to create an actual forensic unit—take a whole unit and give it to mental health so we have a central location not mixed with other inmates on other SHU statuses, ideally. We have some units that house up to 132 units, but ideally, that's what Dr. Fleming would want.

CP: So a unit that would be designated specifically for forensic?

JF: Yes.

JM: Could I just have Warden Cirillo's response?

GC: I think all of the department heads would agree that an area specifically identified for that classification inmate would be beneficial not just to the management but to the inmate itself. But space is always a commodity that we don't really have a lot of considering we have 2400 beds and our population is 2200 and change. We're trying to balance it as best as we can, but Dr. Fleming is asking for more space. We have to manage this classification of inmate, but what we can't control is how many of these individuals are being dropped off by the local police departments as well. So I can't find myself in a place where I don't have room for them, which is how we're managing it now. So we have an allotted amount of space for forensics and if my population is high, we still have to accommodate and find a place for him. Although you have to recognize that SHU is a classification, you can't talk about it without talking about space.

JM: It seems like the SHU you have 2D3 and 2D4 and backup 2E2 and 4B3. It sounds like you're creating these feeder systems or quasi-forensics.

GC: We are. So we're going to spill over.

JM: So there's a need to be direct, transparent, and with a set of clear and unambiguous criteria so everybody understands what it is in good faith we're trying to do to the best of our capacity and resources.

GC: Agreed. And I would add that, to keep the numbers simple, if we had a forensic unit that had a hundred beds in it, it's very likely depending on circumstances that there will come a day very soon we'll need 101 beds. This forces us to move things around to expand to accommodate this spillover. If you say how many beds would I need, I don't know if I can give you that number because that number will be weak.

JM: That's fair, but what I think Rubin was saying earlier, and part of that is developing a system both medically and operationally where that would have to be evaluated every 12 months or 18 months.

RS: I'd like to move on for time constraint reasons. The subcommittee had asked ECCF for all policies and procedures for placement in the SHU for mental health and forensic reasons. When we were at our latest visit, I believe GC indicated there were procedures in place but not specific written policies. And we got an excellent further explanation, which provided us with a list of the necessary forms that have to be filled out for individuals to be placed on that status. And just for the public's knowledge, these include a critical data sheet, incident report, the medical mental health transfer form, the close custody SHU placement order, a stripped cavity search report, and the inmate is given a close custody SHU orientation form. But am I correct that in terms of mental health status within the SHU, as we sit here today, there is no formal policy specific to mental health? There's a SHU general policy and it applies to mental health, but there are some other policies that deal with prehearing detention, IPC, VPC, etc. Supplemental policies. I don't know if there any specific to mental health.

JF: As in what constitutes a placement on close watch, etc.?

RS: Yes, that would answer a lot of the questions we have in terms of standards. Is there such a thing? I'm not questioning your expertise, but would it be helpful to have such a policy in place? It could help orient your staff.

JF: It certainly couldn't hurt because in our current policy, there's an inmate who is assessed by mental health and assigned a designated mental health status based on clinical assessment, and then there could be additional policies that say, this is what goes into meeting the criteria. There will be a lot of—no two constant or close watches are equal. It would provide a standard but once you go into the nitty gritty, there won't necessarily be a standard policy. Everyone's differently.

RS: Before we move on to the next category, I just want to ask some very basic questions. Do mental health individuals, those on mental health status, go through the classification committee? And two, irrespective of the answer to that question, how frequently are they reviewed to see if they should remain on mental health status?

medical does weigh in and sometimes the warden has to make the decision because sometimes we'll say "this person is not SHU-able."

CP: Can you define that a little bit more?

LA: Certain individuals that medical may consider to be more at risk if they're placed in SHU. Maybe they need more medical observation or close observation. For example, I just stepped out to take a call about a patient who University is discharging for a motor vehicle accident in the course of her arrest. She's pregnant and bipolar. She's on lithium. She may not be the person who's going to integrate in GP well when she comes today. So, let's say she does something irregular. Even if she might've violated some disciplinary rule, we might say that we won't clear her for SHU. So this person will get placed in the infirmary, and we can still have Dr. Fleming's team monitor her for her bipolar disorder, but at the same time, custody has a great responsibility to maintain the peace and security within that system. So there is that tension, as you say. Then we appeal to the good warden to make decisions about where to place that individual. So SHU is always controversial for every placement and for good reason, because every department has a role to place someone in SHU. Sometimes someone's diet has to change. Someone's suicidal—there's a suicide prevention diet.

RS: I think this goes to the warden saying he'd love no one to be on SHU status. These are excellent issues being raised having to do with the need for the SHU to expand and for standards in documentation.

JF: We have many inmates who are mentally ill in the jail system due to a failure in society and communities who should never have come to jail. Bail reform was kicking them back out to the streets before being seen. Then there are others who never should've been in jail but stay there once they're there due to mental illness. And that's why the SHU is filling up, 2E2 is filling up, etc. That's why we need to figure out—here and across the U.S.—other options and resources for inmates who are mentally ill so jail doesn't become their medical and mental health care.

RS: We're going to have to move on because of time. The next category of SHU status is both voluntary and involuntary protective custody.

IR: Warden, if we could start with and if you could walk through how someone would be placed on IPC. What is the process?

GC: There are a few, and it depends. To minimize the specifics of IPC, it could be that we developed intelligence (from police investigations, FBI, or even my own internal investigative unit) where we have reasonable belief that the inmate is in immediate harm's way. We would engage with the inmate, ask if he or she believes they're in harm's way, and in some cases (and quite a few), inmates would say no, they're fine. If we have reasonable belief to believe that isn't necessarily true, that could be a reason for placement in IPC. Another way is if I get a phone call from a judge because through testimony by a codefendant or others there was intelligence determined that an inmate at ECCF may be in harm's way. I've gotten phone calls from the FBI based on intelligence.

IR: So at this point, you'd be filling out an incident report for placement in IPC.

GC: If the intel was developed internally, then an incident report would be filled. If it's from an outside source, not necessarily.

IR: What would the process be if the information is coming from an external source?

GC: So, an example of that would be placed by the warden.

IR: Okay and so in an individual report, that is obviously sensitive. You would note down the reason for IPC.

GC: Yes.

IR: For IPC, how often is a mental health clinician supposed to see the inmate?

GC: If it's for a mental health reason, I would defer to...

IR: Not for mental health, but placed based on internal or external information. How often is a mental health assessment conducted?

GC: I don't know the answer to that because it would depend on the circumstances. From a custodial standpoint, there wouldn't necessarily be a time—unless there was an indicator or a red flag that would require it.

JF: In the absence of a mental health diagnosis or if you're actually on forensic status or through the tablet system placing a sick call request, there is no designated number of times like a close or constant watch for follow-up.

CP: Is a mental health professional at any time ever evaluating someone in IPC?

JF: Typically any time a new inmate comes to the SHU, a mental health clinician assigned there would be assessing at least initially any new IPC or VPC who comes into the unit.

CP: So if there is a new IPC or VPC, then that person is at least once evaluated by someone from mental health?

JF: Correct.

CP: And if during that evaluation it is found to be true that the person is exhibiting symptoms consistent with mental health illnesses or other issues that need to be actively monitored, that person would—

JF: Be assigned for follow-up just like anyone else at the facility.

CP: But aside from that first time, there is no other routine follow-up.

happens to be female sergeant, and her job is to go to every single inmate to essentially check on him. It would be at that point that the inmate would say, "I don't know why I'm here; I don't agree." That is heavily documented. There's also a SHU sergeant who actually does the custodial, management part of that particular area. That's where the classification would come in, where a person has the formal ability to appeal or essentially request that they get taken off that particular status. The inmate is brought up in person and is able to kind of state their case that they don't believe they're in harm's way.

IR: Is there an advocate internally within the facility who could voice the concerns of the inmate?

GC: Yes. At the classification meeting, it is in person and the inmate is put on a list with others and brought up one at a time. In the meeting there is a foundation in terms of who's at the meeting: social services, medical/mental health, someone representing the warden's office, as well as an inmate advocate and someone from internal affairs. It depends on the circumstances of why that person was basically placed to begin with. I've been to classification meetings where there were 12 people either advocating for or against the inmate, in some cases for the inmate to be released.

RS: Is it a frequent occasion that someone who's put on IPC status challenges that status?

GC: Not necessarily. I would say it's more frequent when you try to take someone off of the status that they don't want to be taken off of it.

RS: I see. And obviously, if there's a court order, you're going to comply with it.

GC: Of course. Although I accept the court order at face value, more times than not, I've reached out to the judge to find out what the circumstances are because they're not as explicit as I'd like them to be because if it's simply just putting someone on a status, I want to know if there is a circumstance regarding a co-defendant. I need a little more information, and the judges are always forthcoming with the information.

IR: Say, John Smith, an IPC. What does a future in SHU look like for him? Is he going to essentially stay there until he's transferred to another facility, released, or sentenced? I want to see what the endpoint is for SHU.

GC: So you kind of hit it right on the head. So, all of those things would apply. It could be that the person remains until court, until they're released, or pending a transfer to another facility. All of the above.

IR: So someone in the SHU is spending about 22 hours in the cell every day?

GC: Yes.

IR: And that wouldn't be restricted by ICRA, the minimum being 20 days consecutively, or 30 within 60 days?

GC: Correct.

IR: So if there's a court order saying that this person, we have external information, and for these reasons we need this person to be placed into PC.

GC: It would change that. So the 20 day rule may not apply.

AD: That only applies to disciplinary, is that right?

GC: That's what I'm saying. So in an IPC situation, there is no stipulation on how much time I would keep them in there. It would be based on circumstances.

RS: Is it fair to say that in terms of the timeframe limitations under ICRA that those do not apply to mental health status, VPC or IPC, that they apply to the detention status people?

GC: Correct.

IR: I want to also commend the facility for trying to place individuals or inmates together because you're restricted by space but because spending 22 hours a day in a cell is so difficult. I believe I spoke to Sergeant Smith when we visited the SHU. Is there any way that the facility can streamline or standardize that process, where those on IPC can be placed together through a similar assessment to Dr. Fleming's levels 1, 2, and 3 where if they're cleared to have a cellmate making their time in solitary confinement easier?

GC: It's my 34th year, so I always answer things from a custodial standpoint because we have to mitigate risk as best we can. It's difficult to do that because some individuals are opportunists and jail in general can be a relatively violent place. What you're suggesting is that if I have a couple guys on PC status, to not keep them locked in a cell, that I kind of put them all together so they can congregate?

IR: No, I actually noticed that individuals were placed in the cell together, they had cellmates, and both were on IPC. That practice, I believe, makes it easier for individuals to spend those 22 hours in a cell together. My question would be not to let everyone out together in a common area but if there could be a standard process similar to an individual in forensic going from level 2 to 3, where now he's able to have a cellmate, is there a process to determine if an IPC inmate can move onto level 3 if they have levels, where they have a cellmate?

GC: The IPC inmates do not have levels.

IR: Right, but hypothetically. Let's keep it simple and say 1 and 2. 1, they can have a cellmate, and 2 they can't.

GC: I'm clear on your question now. So although we don't have to wait for the classification meeting, it happens immediately and there's a group effort to determine and mitigate risk based on that person's status and how viable or dangerous it'd be to put them with another individual.

CP: Well, I'm just putting the question directly if they have not been developed, I want them to consider it.

RS: Exactly.

JF: I can answer that. I would say the shortest answer to your question is have them assessed by mental health more often or there be policy or procedure in place. I smile as I say that because that's just asking more of the mental health staff to do this.

AD: So you need more staff.

JF: Right. Well, I don't want to be the guy who's always asking for more staff but everything we talk about as it relates to the mental health of inmates comes down to how often they're being assessed, how they're being identified. By function of being incarcerated, they are at an increased risk for mental health. So essentially, mental health should be following up with 2,200 inmates weekly, biweekly, or something like that. So the short answer to your question is for me to have more staff, or for me to be able to assess those inmates, at the very least almost like the forensics, 2 or 3 times a month at least.

CP: Right. And what you're doing right here I think deserves some more comprehensive and focused attention by the facility because that is the foundation that then begins to be a launching pad for us to consider what are the best practices that we will recommend as a TF. You've already recommended a number that is in the medical subcommittee report. So the ability to do that more specifically for this context meaning SHU and even within SHU, PC, would be very helpful.

GC: One other thing I think we've done to improve circumstances or accountability as it relates to those housed in the SHU—I think the second sergeant in the SHU, there's a lot of documentation because a lot of this is driven or at least captured by documentation. One time, we had a sergeant who was tasked with interviewing those placed in SHU and documenting and categorizing. And it essentially became—you don't want to get in trouble for not filling out the documentation but you don't want to neglect the individual you're documenting. So we added the second sergeant in the SHU, and I have two officers who categorize all that documentation. It becomes an arduous task, but I'm able to capture the documentation that you requested and am able to send it to you. I have a team people who are not just ensuring the wellbeing of the inmate physically, verbally, visually, but there's someone completely different documenting everything and categorizing accordingly to identify red flags and indicators.

RS: What is the nature of that document?

GC: I actually sent them to you.

RS: So what is it called?

GC: It's not a document, it's multiple documents. So I think when you use the old adage "it takes a village," we definitely have a team of people in SHU paying very specific attention to the

documentation and the wellbeing of the inmate. The sergeants are required to do an impromptu interview with the inmate. So it's not just walking by the cell, just doing a security check to ensure that the person is alive. They're having verbal contact with the individual. So that sergeant is able to identify red flags and also have an interaction with the inmate. So if the inmate was saying "I'm not having a good day today, and I gotta get out of here" or something. That would immediately be a red flag for us to then come together and make a specific action.

CP: Does that sergeant have specialized training to be able to identify a person who is in a mental health crisis?

GC: This would be a perfect time for you to ask me, well how can I help? So there's a couple different ways the staff is trained. When you go to a police academy, it's called basic training for a reason. It's basic. It's a foundation of training. Of course I have training background from the state where there was extensive attention paid to inmates with special needs. And there was considerable training and follow-up training and then annual training. So I would recommend that there's additional training because there is training but there could always be more, right? Because things are always changing.

AD: For the IPC and VPC, I was wondering if you could come up with a list or explain to us what is lost from GP, by which I mean—yes they get the same number of letters and hours on the phone, but there's so much that goes on in GP that helps people maintain some sanity, which is potentially lost when they go into the SHU. So television, card playing. I understand that they can get out for two hours and maybe play some solitaire with the cards. But is there television?

GC: There is a television, but it's for everyone assigned to that particular area. So whatever's on stays on. To answer your question very simply, is the congregate interaction—being able to sight down at a table with 4 or 5 people you know as well as other standing around. The environment, the ambient noise, that's kind of lost. The sensory stuff gets diminished considerably.

AD: But books, TV, things like that to take people's mind off where they are. As many books as they want, that kind of thing.

GC: Yeah, the idea behind the tablets, although it wasn't specifically identified for the SHU, it was suggested and introduced as a means to assist with COVID lockdowns because there were quite a few. When we recognized that we would be able to issue a tablet to every individual, that would include IPC and PC, where they have access to music, movies, phone calls, video calls... Again, I'd say it's the congregate interaction that they would miss.

AD: So they still have tablets.

GC: Yeah.

LA: Yes, that's been an evolution. And I would say the TF had an impact on that.

AD: That's important because the public understands that solitary confinement is frightening.

LA: The tablets used to be like 8-10 and it was shared and rotated. Now the warden has it so that every single inmate who can responsibly use a tablet is given one. And on that tablet there are a number of ways they can interact with departments—grievances, sick calls, mental health issues that they'll put into the public advocate, so they can communicate actively. They can rent movies, see public announcements, things like that. So that's really been a tool that hasn't changed the dynamics in terms of when you're kept in a room by yourself.

IR: We just want to move onto VPC. If you could briefly, in detail, walk me through how inmate John Smith can request VPC.

GC: He can do it through a tablet, in writing, he can tell a CO or supervisor. All essentially resulting in the fact that I am, typically what happens is that the inmate will express concern that they are in direct fear of their life.

IR: So from there, an incident report is filled out. And after the report, what happens next?

GC: So after the incident report is generation, it's dependent upon how the information was obtained or who obtained it. The shift commander, the lieutenant who runs that shift, would report it to my office or the director's office, and we would authorize placement, and then there's documentation that would support who authorized it, why there would be a mental health/medical evaluation, which is similar to IPC, but the difference is how I get it.

IR: Okay. The medical clearance is given prior to the individual being placed in PC?

GC: Yes.

IR: So what are the privileges that people in VPC have as compared to IPC?

GC: It's the same.

IR: Are they housed in the same unit?

GC: They can be, yes.

IR: Is that due to a lack of space?

GC: It could be due to space issues, yes.

IR: On one of our visits, we visited 2D1. Was that one of the units where there were multiple categories of SHU—IPC, VPC—placed in the same unit?

GC: Right and so 2D1—the larger concentration of IPCs were on 2D1, but I also have VPCs and some PHDs. Of course they're separate because they don't all come out at the same time, but yes, they could be with other statuses.

IR: So similar to IPC, do VPC individuals have a set assessment day? So within 30 days, is there a period of assessment or can they request to be released to GP?

GC: Yes, it would be in writing. The person's status is reviewed, at least the documentation part of it and the justification is reviewed every 30 days. However, within those 30 days, it could be that the next day, the inmate is saying, "Look, I'm good." And that has happened, not too frequently, but I do interact with the inmates as much as I can, especially if they send something directly to me, and I've talked to inmates where—the most recent one was probably about 3 weeks ago where I had an inmate brought up, discreetly of course, because if an inmate sees another inmate talking to me, there could be judgment. So I do it discreetly in a multitude of ways: I can have someone bring the person to me and told they're going to be brought down to medical or their attorney wants to speak to him and then I'll have them in an isolated area where I'll talk to them where there's no fear of reprisal because of his interaction with me. And the inmate initially requested PC, and after the third day, he said, "We worked it out. I don't need to be in PC. It was someone from the street. He came at me one way and so I had to defend myself, so I thought they were gonna jump me, but we worked it out." Now that's a great story. But if I make the wrong decision, no one's gonna be focused on the fact that he and the other individual worked it out. They're gonna be focused on me and the administration and why we took that person off of PC. So that's why when I talk about mitigating damage, it's my job.

RS: So that raises the question—I assume that there are circumstances where someone is in VPC, they ask to be removed from VPC, and the classification committee says no.

GC: That's correct.

RS: And what, if any process, is there for them to appeal that decision?

GC: They can formally appeal it, but essentially they're going to present their case, and then I or my team have to present mine to deny it. So you typically see that with high-profile crimes, especially gang-related, where we're pretty confident that something from the street is going to kind of filter over into retaliation in the facility. And the individual might be boyish and say they're not afraid of anybody, but I'm not worried about whether he's afraid or not. I'm worried about his safety. So I'm gonna have to override his request to be removed, and I keep him.

RS: You had indicated that with the promulgation of ICRA that not much really changed in terms of your determinations of VPCs and IPCs, which I guess goes to the procedures already in place. But when we received the procedure documents we requested, they had all been updated effective 2022. Does that reflect that ECCF has reviewed all the policies to ensure that they are in compliance?

GC: Yes. I along with my team review the policies annually. Every policy, because the laws change and circumstances change and processes change. But specifically with regard to your question as it applies to IPC and VPC, there weren't changes. None that I can even think of. Basically, it's just good corrections. Since I got there in April 2019, nothing has changed.

RS: At our request, ECCF has provided oodles of data having to do with the placements and status of SHU in various categories from January 1, 2022 to the present. And as we've indicated, a lot of it is sort of summary answers per warden, you know, little things, meaning not a lot of explanation. Is it correct, and so the public is aware, that notwithstanding that for each inmate who is in a status in the SHU whether it's mental health, VPC, IPC, detention, for each individual there would be any applicable critical data sheet, incident reports, a PC admittance and release form, close custody placement order, strip search, body search, and they are given orientation forms. Is that correct?

GC: Yes.

RS: For each time that inmate visits the classification committee, is there another document that is created as a result of that?

GC: Yes. If I remember correctly, there would be a document that shows the results of that classification meeting.

RS: Can you think of any instance where an individual in VPC has asked over and over again, multiple times, to leave PC, where that just never happened?

GC: I can't think of a specific case, but could it happen? I assume it could happen. I guess the next question is give me a circumstance of why that could happen, right?

RS: Yes.

GC: The only thing that comes to mind is if, although the person things their circumstances have been abated, our experience, intel, and dynamics suggest to us that it's not—because we opened up this session with the philosophy that we don't want anybody in SHU. It's a heavy lift for us, it's very straining for our staff, resources, and space. Because there are some individuals who are very violent, I don't want to have to move people around to ensure the safety of others because there's someone who's just deadest on hurting somebody. So the classification committee—it's a consolidated effort to try to mitigate damage or come up with a solution to get that person out of special housing. But I have to err on the side of caution in many cases.

RS: We've seen in various contexts—the TF, not just the subcommittee—that the facility has provided each inmate the TF's information, contact information, so they can email the TF with that. Is that true also for inmates in the status of the SHU? Do they have access to the TF to provide information? Because quite frankly, I haven't seen any complaints from the SHU having to do with inmates complaining about conditions in the SHU or their status in the SHU and the like.

GC: My initial answer would be yes, they do have access to the information. However, I can follow up on that to find out.

CP: Yes, please do. Can you verify that?

GC: Yes.

RS: And they also have access to the tablets, so they also have access to the email.

JF: And I've been on units where right next to the postings, next to the ombudsman is the posting for contacting the TF. Now for every unit, I can't recall necessarily but it typically would've been posted right next to that.

AD: Super quick question. Those on VPC who say I want out and the classification committee says they can't, do you just change their classification then to involuntary?

GC: Yes, I can. I have.

AD: I don't know if that makes a difference at all, but it doesn't make a difference for how you treat them.

GC: Right, it's a formality.

AD: Yes. That's what would occur, I assume.

GC: Yes.

JF: To go into the question about the cell, double bunking, and having cellmates—I mean, when someone's on PC status, the reason is very clear. Either they are, whether they believe it to be or not, at risk for harm—it's a possibility for them, and that, as the warden said, ultimately outweighs everything. So, sometimes the public doesn't necessarily always appreciate, well, how can you have a person in the cell by themselves, or how come they can't come out of their cell with these 10 other people, etc. The problem is when you do and you succumb to the wanting to be nice and wanting everybody to have what everybody else has—it only takes one person to get hurt, and then the public and everyone else is screaming, "Well you put them on status, you clearly identified them as a risk for harm—why did you, why did you—" and nobody cares at that point about whether they had a cellmate or not or the sort of outcry for some of these other amenities, luxuries that they may be slightly restricted from due to a concern for, ultimately, their safety.

CP: Also just to enter into the record—you mentioned that there are passive public reminders that inmates, even those on PC, can contact the TF. Are there other active reminders, is anyone actively engaging with those in PC whether in their initial assessment, in some regular committee review, to say "You have access to the TF"?

GC: I'm gonna have to confirm that. So, there are many means of, in addition to the visual—Karen McCann, our inmate advocate, is very involved in the facility every day. But I will confirm the means in which they have been advising that.

RS: Before we get to our last subject, which has to do with detention issues, some of the spreadsheets we've received from ECCF do list, although it says SHU status, I'm not sure that's

GC: Yes, that's correct. So then that person serves their time. However, in the most extreme cases, they serve their time because I'm trying to figure out what I'm gonna do once they're let out. But there have been circumstances where someone was involved in a major altercation, I interacted with that person, their behavior was nothing but compliant and apologetic, and I have let them out. I have the purview to let that person out of that lock-up environment early, and I have in fact done that as well.

RS: When someone is in detention status, which is part of SHU, is their life the same in terms of their rights and all of that?

GC: No, it's not the same. So there are restrictions, and they're based on circumstance. But generally speaking, they would not have access to a phone during the pre-hearing detention component but during the detention they'd have access to a phone. They still have access to what I referred to as essential services for the inmate population that would be medical, mental health, food services, and their attorneys, but like I said, the process may slow down a bit because I have to do it more individualized than just allow them to do it on their own volition.

AD: Do they lost their tablet privilege, for example?

GC: Yes.

AD: Because it's punitive.

GC: Yes, could be.

RS: So, whereas most SHU status classification of course are not punitive, this one is by virtue of discipline, correct?

GC: Yes.

RS: We didn't really go into it throughout this day even though we've spoken about it a lot as a TF. Obviously individuals need access to their attorneys, right? In terms of inmates who are SHU status, are there limitations upon attorney access, access to discovery for example provided by an attorney, are there limitations beyond that from GP?

GC: I would say yes. There are limits. I can't have them use the law library in the congregate setting. I have to do it one at a time because of their status. That slows things down a little bit. However, we are looking at potential remedies for that. Would you like me to get into that?

RS: As a separate subcommittee, we were looking at generally recommendations to ECCF in terms of all the inmates having better access to counsel and in particular to the discovery process, including e-discovery.

GC: As is the case in many instances, one of our biggest obstacles in providing services to members of the population is exploitation of those services. So the inmate population will use their law library time to watch movies in peace, which takes away the access for all to use those

resources to contact or view discovery specifically. When we got the tablets, I was not involved in that particular application until late in the stage of the project. However, I had thought we could maybe use the tablets to view discovery and learned from IT that the tablet itself doesn't have enough memory to download—and in some cases, with federal cases, I just had a judge reach out to me because there are approximately a million pages in discovery, which is a tremendous lift and it's something we wouldn't be able to facilitate in terms of time. So we did some research, I had a captain that did some research, and determined that the tablets will accept, which is called a toggle, and it accepts the thumb drive with discovery. So that's one way that would be a game changer. That would probably abate 90-95% of the issues because now, the inmates could view the discovery.

RS: What about access to a cloud-based service?

GC: That's the one we're waiting—I have a meeting on Wednesday with the company that facilitates that. I came across is inadvertently only because the company reached out to me on behalf of an inmate's defense saying they have a mechanism in which they could upload countless pages of documents and discovery into a cloud, and all the inmate would need is a password and he would essentially get access to a computer terminal. And I don't have to worry about storage, about things getting delivered to me and getting lost. So it's a game changer. I have a meeting Wednesday.

RS: And incidentally, going back to something that we've spoken about in prior meetings both public meetings and privately, I know that the facility has concerns always, even when attorneys know are sending thumb drives to the jail, the thumb drives can be turned into something that's a weapon.

GC: Right.

RS: Or I know you've had experiences where other individuals are sending illicit information and materials. So you have to have staff reviewing this and quite frankly, it's led to instances where what I send doesn't get to my client or doesn't timely get to my client. What you're talking about now as potential remedies to this could very well save money and staff time.

GC: It will undoubtedly save money, time, and resources.

RS: Going back to the detention and PHD, is there anything that you would recommend that you think would help to assist the ECCF not just comply with ICRA but might improve things?

GC: It's essentially going to mirror the sentiment from anybody that would be up here. Space is a commodity, and to have an area that although specifically regarding PHD is punitive, the intention is to get the person out of PHD. And if I had an environment where I keep those individuals separate from members of GP while allowing them to exercise and do things—we've all gotten mad. If I got mad and got locked in my room that wouldn't make things better, right? But I have an obligation to keep others safe. I think I could do both if I had the space to do it.

RS: Are you saying there are more inmates who may be PHD or detention status that you've had in the past?

GC: Definitely. Bail reform has shed some light on that because the folks that I have in the facility now are essentially the ones that the courts are not letting out. So the violence has climbed considerably where that wasn't the case, at least in experience, when I first got there. It's raised. Now what I'm saying is I don't necessarily need another building. If these guys got what they needed, I'd be able to use the SHU for what it's intended for.

LA: If you ask what we can do to enhance what we're doing now, I think being able to engage and be interactive with people in SHU—maybe the tablet could be a mechanism. We did implement telehealth, and it's something that the GP patients have taken to. So we're looking at doing telehealth, and that might be a mechanism to interact with these patients while they're there because as the warden stated, some of the patients frankly can't be placed out of SHU. The law is the law and it says what it says, but I've been to some of these classification meetings for the SHU and you'll have a gentleman coming. He'll be advocating for himself, and I've seen people in outright fear saying they want to be in GP, they're ready. And they're trembling and they're holding a Bible or some spiritual book and you can see it's not really genuine or well thought out. The insight's not there, the judgment is not there. They're making a decision that really is probably going to have a negative consequence upon them, but they feel almost inclined to do it. And I know from sitting there in those meetings the officers, when they vote for that person to stay in SHU, they're literally putting more work on themselves. It would be much easier to just absolve themselves of the decision and say, "You know what? You want to go back in GP? Go for it." But no, I think our ultimate aim is to keep that patient safe. Some folks are there for disciplinary reasons, they're acting out, but I don't want the folks listening to this discussion to think the average inmate in Delaney, in ECCF is out there gang banging and fighting and doing all these things. Most of the time, they're trying to get through jail and go home. Most aren't engaged in active fighting, so by the time they're in SHU, it's a symptom of what they're going through. There's retaliation. There's all kinds of reasons why they're in there. They don't want to be there if they're IPC, but even the VPC guys there's a lot of times they're going through this and it's almost like a sense of machoism. "Oh, I can't be put in PC." I don't know if you know what the street vernacular is for PC. It's "Punk City." So if you're going in there, you literally almost emasculate yourself. You're saying to the rest of GP that you can't fit in. That's not true, it needs to be communicated that if you're in PC, they're going through a change and can't fit in for whatever reason. It doesn't mean they're weaker, it just means for whatever reason that they need to safeguard themselves. I've seen a change in custody and the warden's been doing this for a long time. It used to be that segregated asset (?) was the answer for any problem. Put them in asset (?) and leave them there. Now we have this law, and the law is just and right. Unfortunately in the execution of it, just like bail reform, it skips over these folks who maybe now the folks that maybe the officers aren't trying to put them in there. They're putting themselves in there and they don't know how to navigate once they're in that situation. So, if there's a way we can enhance it would be yes, how to engage with them. The tablets would be a good tool but all of the things that Dr. Pernell and the rest of the TF talked about is doing this crisis intervention training to get folks more engaged and maybe that will get more folks engaged. Maybe we create a new type of personnel, like in MAT, we have these peer recovery specialists. It may be that we engage some inmates that can talk to guys that are in there to start

understanding where they are and how to present. Because why are we having a classification meeting and it's obvious to all of us that this gentleman should not be signing himself out. He just shouldn't be. And now we're changing his status from VPC to IPC for his own good. I saw a gentleman he had both fingers crossed and he was trembling saying he should be released. And I'm like, there's no way. And I'd rather release all these guys.

RS: ICRA went into effect on August 1, 2020. We're now some 26 months later. Has the state or any other reviewing agency ever come in to assess whether ECCF is in compliance with ICRA?

GC: Yes.

RS: How frequently and what were the results?

GC: Annually, and we were in compliance.

RS: And which agency?

GC: The NJ State Department of Corrections.

RS: And when was the last time that was reviewed?

GC: I believe it was late last year, and a recent change in the state's inspection policy is now they'll come out with a calendar schedule for each facility so you'll know in January which facilities.

RS: Apart from being told you're in compliance, did ECCF complete reports on the review or was it a one-page "you're in compliance"?

GC: Both.

RS: Can the TF get copies of all of that?

GC: I believe so. I'm not necessarily the person to give authorization for that.

Closing remarks, no public comments.