

CHAPTER 72

DIVISION OF PAROLE

Authority

N.J.S.A. 30:4-123.48(d).

Source and Effective Date

R.2006 d.256, effective June 15, 2006.
See: 38 N.J.R. 100(a), 38 N.J.R. 3033(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 72, Division of Parole, expires on June 15, 2013. See: 43 N.J.R. 1203(a).

Chapter Historical Note

Former Chapter 26, Bureau of Parole, was adopted as R.1995 d.85, effective February 6, 1995. See: 26 N.J.R. 4143(a), 27 N.J.R. 550(a). Pursuant to Executive Order No. 66(1978), Chapter 26 expired on February 6, 2000.

Former Chapter 26, Division of Parole, was adopted as new rules by R.2000 d.504, effective December 18, 2000. See: 31 N.J.R. 4205(a), 32 N.J.R. 4465(b).

Chapter 72, Division of Parole, Subchapters 1 through 8, were recodified from Chapter 26, Division of Parole, and Subchapter 9, Volunteers in Parole Program (V.I.P.P.), was recodified from N.J.A.C. 10A:17-3.3 through 3.16, by administrative change. See: 34 N.J.R. 1918(a).

Subchapter 2, Community Plan and Supervision; and Subchapter 9, Volunteers in Parole Program (V.I.P.P.), were adopted as new rules by R.2004 d.446, effective December 6, 2004. See: 36 N.J.R. 2136(a), 36 N.J.R. 5359(a).

Chapter 72, Division of Parole, was readopted as R.2006 d.256, effective June 15, 2006. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. GENERAL PROVISIONS

10A:72-1.1 Purpose

(a) The purpose of this chapter is to:

1. Establish policies and procedures regarding the use of force by parole officers, while on duty and off-duty;
2. Establish policies and procedures for the search and urine monitoring of inmates and parolees;
3. Define contraband and establish procedures for contraband seizure and disposal; and
4. Establish policies and procedures regarding the transportation of inmates and parolees.

10A:72-1.2 Scope

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

10A:72-1.3 Definitions

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

“Central Communications Unit” means the centralized communication center within the Department of Corrections which coordinates communication functions of the Division of Parole on a 24-hour, seven day a week basis.

“Chemical agent” means an aerosol spray which may be used to gain control of individuals who resist arrest or for the purpose of self-defense against an attack.

“Community supervision for life” as established in N.J.S.A. 2C:43-6.4, means a court imposed sentence of community supervision commenced upon completion of sentence, supervised as if on parole on a person who has been convicted of aggravated sexual assault, sexual assault, aggravated criminal sexual contact, kidnapping pursuant to paragraph (2) of subsection c of N.J.S.A. 2C:13-1, endangering the welfare of a child by engaging in sexual conduct which would impair or debauch the morals of the child pursuant to subsection a of N.J.S.A. 2C:24-4, luring, or an attempt to commit any such offense. Rules regarding community supervision for life are established at N.J.A.C. 10A:71-6.11.

“Contraband” means any item, article or material found in the possession of, or under the control of, an inmate or parolee which is prohibited by conditions of parole and/or community release, or which is prohibited by the Criminal Code of the State of New Jersey.

“Deadly force” means force which is intended to cause, or is likely to cause, death or serious bodily harm.

“Detainer” means a warrant or formal authorization to detain or apprehend an inmate or parolee for prosecution or

detention by a Federal, State or local law enforcement agency. Detainers may include, but are not limited to:

1. Adjudicated criminal charges for which sentence has been imposed;
2. Criminal charges resulting from indictment, for which there is no final disposition (open charges);
3. Warrants for violation of parole or probation or executive clemency; and
4. Immigration detainers.

“Division of Parole” means the division within the State Parole Board responsible for the supervision of adult and juvenile offenders released on parole by the State Parole Board from an adult correctional facility; the supervision of parolees who are serving a mandatory period of parole supervision pursuant to N.J.S.A. 2C:43-7.2(c); the supervision of parolees from other states who have been accepted under the terms of the Interstate Compact for Adult Offender Supervision; the supervision and/or monitoring of inmates and parolees assigned to the Electronic Monitoring Program; the supervision of offenders sentenced to community supervision for life; the supervision of offenders sentenced to parole supervision for life; the supervision of juvenile offenders released from an adult correctional facility for the service of a term of post-incarceration; and the supervision of certain Executive Clemency cases.

“Electronic Monitoring Program (EMP)” means a program in which an inmate lives in the community and is monitored by an electronic monitoring device.

“Firearm” means any hand gun, rifle, shotgun, machine gun, automatic or semi-automatic rifle, or any gun, device or instrument in the nature of a weapon from which may be fired or ejected any solid projectable ball, slug, pellet, missile or bullet, or any gas, vapor or other noxious thing, by means of a cartridge or shell or by the action of an explosive or the igniting of flammable or explosive substances.

“Lawfully confined” means custodially confined in a detention facility or county correctional facility or a Department of Corrections’ facility.

“Mechanical restraints” means restraining devices such as handcuffs, leg irons, and belly chains.

“Non-deadly force” means force used by the parole officer which is not likely to cause death or serious bodily harm.

“Parole officer” means persons with the following Division of Parole titles that shall be sworn as peace officers:

1. Director, Division of Parole;
2. Assistant Directors, Division of Parole;
3. Supervising Parole Officer;
4. District Parole Supervisor;
5. Assistant District Parole Supervisor;
6. Senior Parole Officer; and

7. Parole Officer Recruit.

"Parolee" means any person who is subject to the parole jurisdiction of the New Jersey State Parole Board and has been released on parole; any person released to mandatory parole supervision pursuant to N.J.S.A. 2C:43-7.2(c); any person placed under supervision by reason of Executive Clemency; or any person released from another state correctional facility who resides in New Jersey under the terms of the Adult and Juvenile Compacts for the Supervision of Parolees and Probationers.

"Probable cause" means reasonable ground(s) of suspicion, supported by circumstances sufficiently strong to warrant a cautious person to believe that criminal activity is taking place.

"Reasonable suspicion" means a belief that an action is necessary based upon specific and articulable facts that, taken together with rational inferences from those facts, reasonably support a conclusion such as that a condition of parole has been or is being violated by a parolee.

"Serious bodily harm" means bodily harm which creates a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

"Unlawful force" means force, including confinement, which is employed without the consent of the person against whom it is directed and the use of which is not permitted by law.

"Warrant" means a writ or precept from an authority in pursuance of law, directing the performance of a specified act, and addressed to a peace officer or person competent to perform the act.

"Weapon" means anything readily capable of lethal use or of inflicting serious bodily injury.

Amended by R.2004 d.446, effective December 6, 2004.

See: 36 N.J.R. 2136(a), 36 N.J.R. 5359(a).

Rewrote the section.

Amended by R.2006 d.256, effective July 17, 2006.

See: 38 N.J.R. 100(a), 38 N.J.R. 3033(a).

Rewrote definition "Division of Parole".

Case Notes

Parole officer had reasonable suspicion that there was contraband in plainly visible brown paper bag in defendant's bedroom, and therefore search of bag did not violate constitutional guarantees against unreasonable searches and seizures, where defendant said she was going to retrieve court documents from bedroom, became nervous as officer approached bedroom, and lied by saying her sister's baby was not inside, an where officer saw crumpled brown paper bag which she knew was a common container for illegal drugs. *State v. Maples*, 346 N.J. Super. 408, 788 A.2d 314.

10A:72-1.4 Procedures

(a) The Director, Division of Parole, or designee shall be responsible for developing written procedures consistent with this chapter.

(b) All written procedures shall be submitted to the Board for review and approval.

(c) Written procedures developed in accordance with this chapter shall be made available to all parole officers and parole staff members.

Recodified from N.J.A.C. 10A:72-1.5 and amended by R.2004 d.446, effective December 6, 2004.

See: 36 N.J.R. 2136(a), 36 N.J.R. 5359(a).

Former N.J.A.C. 10A:72-1.4, Forms, repealed.

10A:72-1.5 (Reserved)

Recodified to N.J.A.C. 10A:72-1.4 by R.2004 d.446, effective December 6, 2004.

See: 36 N.J.R. 2136(a), 36 N.J.R. 5359(a).

SUBCHAPTER 2. COMMUNITY PLAN AND SUPERVISION

10A:72-2.1 Investigation of community release

(a) Prior to parole release, each inmate must submit a proposed parole residence plan to the appropriate Board staff person.

(b) Upon the proposed parole residence plan being provided to the appropriate District Parole Office, the District Parole Supervisor shall assign a parole officer to investigate the plan.

(c) The purpose of the investigation is to ensure that the inmate has a suitable residence upon his or her release to the community.

(d) The parole officer assigned to complete the investigation shall perform the following tasks:

1. Verify, in person, that the residence location is a valid address;
2. Verify, in person, that the host person or family is willing to provide housing and food for the inmate;
3. Determine whether acceptance of the inmate in the residence would not be a violation of any law, rule or regulation prohibiting a person with a criminal conviction from residing at the proposed residence plan;
4. Determine whether the host person or family is willing to cooperate with parole supervision;
5. Determine whether the host person or family is willing to comply with the parole officer's law enforcement authority and to comply with any search initiated pursuant to N.J.A.C. 10A:72-6.1;
6. Advise, in writing, all interested law enforcement authorities of the proposed parole residence plan;
7. Prepare a written report which shall include:

- i. A list of any outstanding warrants;
 - ii. Any recommendation(s) for any special conditions that the parole officer believes will assist the parolee in making a successful reintegration into the community; and
 - iii. The parole officer's recommendation as to the suitability of the inmate residing at the proposed parole residence; and
8. Submit the written report to the appropriate Panel.

10A:72-2.2 Parole supervision status

(a) Each parolee shall be assigned a level of supervision appropriate to maintain public safety, reduce the likelihood of recidivism and to ensure the parolee's positive reintegration into the community.

(b) The assigned parole officer, in coordination with his or her immediate supervisor, shall, at the first visit reporting session, determine, unless otherwise specified by a Board panel or the Board, the level of parole supervision for each parolee.

(c) The assigned parole officer shall immediately review instances of non-compliance of a recurring or serious nature with established conditions of parole with their immediate supervisor.

1. Upon review, if it is determined, by the supervisor, that the parolee is in non-compliance with parole conditions, the supervisor shall take appropriate remedial action commensurate with the seriousness of the violation(s).

2. Upon review by the assigned parole officer and their immediate supervisor, positive and constructive improvements in the parolee's adjustment to parole supervision may result in less restrictive levels of parole supervision or a recommendation for discharge from parole supervision pursuant to N.J.A.C. 10A:71-6.9. Thereafter, the level of parole supervision shall be periodically evaluated.

10A:72-2.3 Chronological Supervision Reports

(a) All contacts or events concerning the supervision of the parolee shall be recorded in the parole officer's casebook, hereafter known as the Chronological Supervision Report (CSR).

(b) Each CSR must begin with a "Problem Statement" identifying those areas in which the parolee may need improvement. The problem statement shall also include a case plan detailing the efforts to be taken by the parolee and the assigned parole officer to correct deficiencies.

10A:72-2.4 Violations of parole

(a) Whenever the parole officer has a reasonable belief that the parolee has violated the conditions of parole, the parolee will receive immediate remedial counseling. If the violation is of a serious or persistent nature, the parole officer shall promptly review the parolee's case with his or her supervisor for the purpose of determining an appropriate response. Such review shall include a formal assessment of the parolee's risk to public safety and current rehabilitative needs.

(b) The response to a violation of a condition of parole shall be proportional to the risk to the community posed by the parolee, the severity of the violation, and the potential for long term positive outcomes. Responses may include, but not be limited to, the following:

1. An adjustment to the parolee's reporting status;
2. The imposition of any special condition(s) that will reduce the likelihood of recurrence of criminal or delinquent behavior; or
3. The imposition of a special condition requiring:
 - i. Assignment to and successful completion of an out-patient substance abuse treatment program or any other recommended treatment program;
 - ii. Assignment to and successful completion of the electronic monitoring program;
 - iii. Assignment to and successful completion of a day reporting center program; or
 - iv. Assignment to and successful completion of a residential community-based treatment program.

(c) If the least restrictive responses in (b) above are inappropriate, refer to (d) below.

(d) The parole officer shall initiate revocation procedures pursuant to N.J.A.C. 10A:71-7.1 and 7.2 when it has been determined in consultation with the appropriate supervisor that probable cause exists that a parolee has seriously or persistently violated a condition(s) of parole and that the evidence indicates that the parolee poses a danger to public safety or poses a flight risk.

SUBCHAPTER 3. (RESERVED)

SUBCHAPTER 4. USE OF FORCE WHILE ON-DUTY

10A:72-4.1 Parole officer authorization to carry firearm while on duty

(a) Prior to being permitted to carry a firearm on duty, a parole officer shall: