

CHAPTER 26
DIVISION OF PAROLE

Authority

N.J.S.A. 2C:43-6.4, 30:1B-6 and 30:1B-10.

Source and Effective Date

R.2000 d.504, effective December 18, 2000.
See: 31 N.J.R. 4205(a), 32 N.J.R. 4465(b).

Executive Order No. 66(1978) Expiration Date

Chapter 26, Division of Parole, expires on December 18, 2005.

Chapter Historical Note

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.

Chapter 26, Division of Parole, was adopted as new rules by R.2000 d.504, effective December 18, 2000. See: Source and Effective Date.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

- 10A:26-1.1 Purpose
- 10A:26-1.2 Scope
- 10A:26-1.3 Definitions
- 10A:26-1.4 Forms
- 10A:26-1.5 Procedures

SUBCHAPTERS 2 THROUGH 3. (RESERVED)

SUBCHAPTER 4. USE OF FORCE WHILE ON-DUTY

- 10A:26-4.1 Parole officers authorized to carry firearms while on duty
- 10A:26-4.2 Firearms training, qualification and requalification
- 10A:26-4.3 On-duty firearm
- 10A:26-4.4 Use of force
- 10A:26-4.5 Non-deadly force; when justified
- 10A:26-4.6 Deadly force; when authorized
- 10A:26-4.7 Use of force against persons other than parolees and inmates
- 10A:26-4.8 Use of mechanical restraints
- 10A:26-4.9 Use of chemical agents; storage
- 10A:26-4.10 Training
- 10A:26-4.11 Motor vehicle pursuits prohibited
- 10A:26-4.12 Reports
- 10A:26-4.13 Penalties for violation

SUBCHAPTER 5. USE OF PERSONAL FIREARMS AND USE OF FORCE WHILE OFF-DUTY

- 10A:26-5.1 Authorized off-duty firearm, ammunition and holsters
- 10A:26-5.2 Off-duty firearm
- 10A:26-5.3 Firearms training, qualification and requalification
- 10A:26-5.4 Use of force while off-duty
- 10A:26-5.5 Use of non-deadly force while off-duty
- 10A:26-5.6 Use of deadly force while off-duty
- 10A:26-5.7 Unauthorized use of personal firearms while off-duty
- 10A:26-5.8 Possession of firearms within a casino or casino simulcasting facility
- 10A:26-5.9 Motor vehicle pursuits prohibited
- 10A:26-5.10 Reporting incidents
- 10A:26-5.11 Penalties for violation

SUBCHAPTER 6. SEARCH AND URINE MONITORING OF PAROLEES AND INMATES

- 10A:26-6.1 Search of parolees; when authorized
- 10A:26-6.2 Search of inmates and search of persons serving a court imposed sentence of community supervision for life
- 10A:26-6.3 Search of a parolee's residence; when authorized
- 10A:26-6.4 Search of a motor vehicle; when authorized
- 10A:26-6.5 Search of objects in a motor vehicle
- 10A:26-6.6 Reports
- 10A:26-6.7 Testing for prohibited substances
- 10A:26-6.8 Collection, storage and analysis of specimens

SUBCHAPTER 7. CONTRABAND AND DISPOSITION OF CONTRABAND

- 10A:26-7.1 Procedures for handling contraband upon discovery

SUBCHAPTER 8. TRANSPORTATION OF PAROLEES AND INMATES IN CUSTODY

- 10A:26-8.1 Use of State owned and privately owned vehicles
- 10A:26-8.2 Transport of parolees and inmates in custody
- 10A:26-8.3 Escorting procedures for parolees and inmates
- 10A:26-8.4 Emergencies
- 10A:26-8.5 Medical transportation

SUBCHAPTER 1. GENERAL PROVISIONS

10A:26-1.1 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:26-1.2 Scope

This chapter shall be applicable to the New Jersey Department of Corrections, Division of Parole, unless otherwise indicated.

10A:26-1.3 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 certain functions of the Department of Corrections 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 agency within the Department of Corrections which is charged with the preparation, release, and supervision of those offenders who are paroled by the New Jersey State Parole Board; the supervision of parolees from other states who have been accepted under the terms of the Adult and Juvenile Compacts for the Supervision of Parolees and Probationers; the supervision and/or monitoring of inmates assigned to the Electronic Monitoring Program and Furlough Program; the supervision of persons sentenced to community supervision for life; the supervision of certain Executive Clemency cases; and any other inmate community program such as the Work Release Program.

“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.

“Parolee” means any person who is subject to the parole jurisdiction of the New Jersey State Parole Board and has been released on parole, or 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 Parolee and Probationers.

“Parole officer” means persons with the following New Jersey Department of Corrections, Division of Parole, titles that may be sworn as peace officers:

1. Assistant Commissioner;
2. Director, Division of Parole;
3. Deputy Executive Director, Division of Parole;
4. Supervising Parole Officer;
5. District Parole Supervisor;
6. Assistant District Parole Supervisor;
7. Supervisor, Parole Residential Facility;
8. Senior Parole Officer; and
9. Parole Officer Recruit.

“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.

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 A.2d 408.

10A:26-1.4 Forms

(a) The following forms related to the Division of Parole shall be reproduced from originals that are available by contacting the Standards Development Unit, New Jersey Department of Corrections:

1. 156 I OATH OF OFFICE;
2. 172 I CONTINUITY OF EVIDENCE—URINE SPECIMEN.

(b) The following forms related to the Division of Parole shall be reproduced from originals that are available by contacting the Division of Parole, New Jersey Department of Corrections:

1. F-19 CHRONOLOGICAL SUPERVISION REPORT;
2. 844 II INCIDENT REPORT—DIVISION OF PAROLE.

10A:26-1.5 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 forwarded to the Chief of Staff, New Jersey Department of Corrections, for review and approval on or before February 15 of each year.

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

SUBCHAPTERS 2 THROUGH 3. (RESERVED)

SUBCHAPTER 4. USE OF FORCE WHILE ON-DUTY

10A:26-4.1 Parole officers authorized to carry firearms while on duty

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

1. Pursuant to N.J.S.A. 52:17B-66 et seq., have taken and successfully completed the Police Training Commission (P.T.C.) approved Basic Course for Parole Officers at the Correctional Staff Training Academy of the New Jersey Department of Corrections; and
2. Have been sworn as peace officers by taking the oath of office and completing Form 156 I OATH OF OFFICE.

10A:26-4.2 Firearms training, qualification and requalification

(a) As required by N.J.S.A. 2C:39-1 et seq., all parole officers shall be initially trained and shall qualify in the use and handling of approved on-duty and off-duty firearms.

(b) Parole officers shall requalify annually on a range approved by the New Jersey Department of Corrections.

(c) Only those parole officers who achieve and maintain a minimum score of 80 percent during range qualification and requalification shall be authorized to possess firearms while on-duty and off-duty.

(d) Once a parole officer has qualified on his or her approved firearm, the parole officer shall receive the official State of New Jersey, Firearms Unit Weapons Card. Parole officers shall be required to carry the weapons card, the official badge and photo identification card of the New Jersey Department of Corrections while on duty.

(e) Each Division of Parole district office supervisor or his or her designee shall be responsible for preparing and maintaining a current master list of each parole officer authorized to carry a firearm.

1. The master list shall be maintained by the Director, Division of Parole, or designee to indicate the parole officer's firearm qualification date (new or expired), model name and number, and serial number of the authorized firearm.

2. Each time the parole officer registers a firearm with the Director, Division of Parole, or designee, the Director, Division of Parole, or designee, is responsible for comparing the firearm qualification date, firearm model name and number, and firearm serial number contained

on the master list against the State of New Jersey, Firearms Unit Weapons Card accompanying the firearms.

10A:26-4.3 On-duty firearm

(a) The authorized on-duty firearm shall be the responsibility of the parole officer at all times.

(b) The parole officer shall not draw or exhibit his or her firearm except for one of the following circumstances:

1. For maintenance of the firearm;
2. To secure the firearm;
3. When commanded by the firearms staff during training exercises, range practice, qualification or requalification with the firearm; or
4. When circumstances create a reasonable belief that it may be necessary to use the firearm in the performance of the parole officer's duties.

(c) A parole officer while on-duty, shall carry his or her on-duty firearm on his or her person at all times unless otherwise instructed by his or her immediate supervisor. The firearm shall:

1. Remain in the holster while in a rest room; and
2. Not be left in a motor vehicle or other unauthorized location except under unusual or special circumstances, such as when a parole officer must remove his or her on-duty firearm and another authorized Division of Parole staff member is unavailable to take custody of the firearm. Under an unusual or special circumstance every effort shall be made to secrete the firearm within the locked trunk or other locked compartment of the parole officer's motor vehicle.

(d) When off-duty, the parole officer shall be authorized to carry his or her on-duty firearm, baton and chemical agent to and from work.

(e) The parole officer may elect to carry his or her on-duty firearm as his or her sole authorized off-duty firearm.

(f) The parole officer entering any residential or correctional facility of the Department of Corrections shall store his or her firearm at the main correctional facility or at an approved Department of Corrections authorized weapons storage unit.

(g) When an authorized firearm is believed to have been lost or stolen, the parole officer shall report this fact to the local law enforcement authorities and to the Director, Division of Parole or designee of the New Jersey Department of Corrections within three hours from the time the parole officer is aware that the firearm is missing.

(h) When a State of New Jersey, Firearms Unit Weapons Cards, official photo identification card or badge of the New Jersey Department of Corrections is believed to have been lost or stolen, the parole officer shall notify the local law enforcement authorities and the Director, Division of Parole, or designee as soon as practicable.

10A:26-4.4 Use of force

(a) In any case when a parole officer uses force while on-duty, the parole officer shall only use that force that is objectively reasonable under the totality of the circumstances as known by the parole officer at the time the parole officer uses force.

(b) A parole officer may use the amount of force reasonably necessary to accomplish the law enforcement objective. If the suspect resists, the parole officer may increase the degree of force as necessary to accomplish the law enforcement objective but as soon as the suspect submits, the parole officer shall reduce the degree of force used.

10A:26-4.5 Non-deadly force; when justified

(a) The Department justifies the use of non-deadly force against persons only under the following circumstances:

1. To protect self or others against the use of unlawful force;
2. To protect self or others against death or serious bodily harm;
3. To prevent damage to property;
4. To prevent escape;
5. To prevent or quell a disturbance;
6. To prevent a suicide or attempted suicide;
7. To enforce conditions of parole; or
8. In situations where a supervisor with the title of Assistant District Parole Supervisor or above believes that failure to comply constitutes an imminent threat to security or safety.

(b) Non-deadly force includes the use of chemical agents, batons, and other weapons which are not likely to cause death or serious injury.

10A:26-4.6 Deadly force; when authorized

(a) Deadly force shall be used against persons, except as stated in (b) below, on order of the following:

1. The Commissioner;
2. The Chief of Staff;
3. The Assistant Commissioner, Division of Operations;
4. The Director, Division of Parole; or
5. The Deputy Director, Division of Parole.

(b) The parole officer shall use deadly force against persons when the parole officer reasonably believes that a lesser degree of force will be ineffective, and the person(s) presents an imminent threat of deadly force or serious bodily harm to the parole officer or a third party.

(c) Deadly force may be used in the following situations under limitations consistent with the provisions of the New Jersey Code of Criminal Justice, N.J.S.A. 2C:1-1 et seq.:

1. When the parole officer reasonably believes that deadly force is imminently necessary to protect himself or herself against the use of unlawful force which the parole officer believes may result in death or serious bodily harm;

2. When the parole officer reasonably believes that deadly force is imminently necessary to protect another against the use of unlawful force which the parole officer believes may result in death or serious bodily harm. However, deadly force is not justifiable if the parole officer can otherwise secure the complete safety of the protected person;

3. When the parole officer reasonably believes that deadly force is immediately necessary to prevent or stop the suspect from committing or continuing a criminal offense which would endanger human life or inflict serious bodily harm upon another person unless the commission or the consummation of the crime is prevented;

4. When the parole officer is authorized to use deadly force to effect an arrest or to prevent the escape of a fleeing suspect if the parole officer has probable cause to believe that the suspect will pose an immediate threat of death or serious bodily harm to human life should the parole officer not take immediate action; and

5. Where the parole officer reasonably believes that deadly force is immediately necessary to prevent the escape of a person committed to a correctional facility for the detention of persons charged with, or convicted of an offense, provided that the parole officer reasonably believes that the force employed creates no substantial risk of injury to innocent persons.

(d) Deadly force includes, but is not limited to, the use of hand guns and other lethal weapons.

(e) Where feasible, before using a firearm, the parole officer shall attempt to identify himself or herself as an officer and state his or her intent to shoot. Warning shots are not authorized.

(f) The parole officer shall not fire his or her firearm from, or at, a moving vehicle, nor engage in any vehicle contact action such as ramming, except as a last resort to prevent imminent death or serious injury to the parole officer or another person where deadly force would otherwise be justified.

(g) The parole officer shall not discharge a firearm if there is a substantial risk of injury to innocent persons.

(h) Whenever feasible, the parole officer shall contact the local law enforcement authorities and district parole office to request assistance before engaging in any use of force that reasonably could result in serious bodily injury.

10A:26-4.7 Use of force against persons other than parolees and inmates

(a) Appropriate force may be used against persons other than parolees and inmates when the parole officer observes what the parole officer believes to be a violation of the law, and when there is also imminent peril of bodily harm to any individual or destruction of property.

(b) Whenever possible, the parole officer shall contact the local law enforcement authorities and district parole office to request assistance before engaging in any use of force.

(c) In situations where a violation of law is suspected, but no imminent danger is present, the parole officer shall immediately contact the local law enforcement authorities and the parole officer's supervisor.

(d) Non-deadly force may be used upon or toward persons other than inmates and parolees only under the following circumstances:

1. To protect self or others against the use of unlawful force;
2. To protect self or others against death or serious bodily harm;
3. To thwart the commission of a crime involving or threatening bodily harm or damage to property;
4. To prevent a suicide or attempted suicide;
5. To prevent an escape, or flight from arrest for a crime; and/or
6. To effect an arrest for any offense or crime.

(e) Deadly force may be used against persons other than inmates and parolees when the parole officer reasonably believes that the person presents an imminent threat of death or serious bodily harm.

10A:26-4.8 Use of mechanical restraints

(a) Authorization for the use of mechanical restraints, except handcuffs, shall be obtained from a supervisor with the title of Assistant District Parole Supervisor or above. If the safety of the parole officer or security is jeopardized, the parole officer, by reason of his or her experience and best judgment, may use mechanical restraints when authorization can not be obtained.

(b) Mechanical restraints may be used on parolees, inmates, and lawfully confined persons in the following instances:

1. When transporting or awaiting transport in custody;
2. When the person's history, behavior, present emotional state or current medical advice indicates the likelihood that bodily injury, damage to property or escape will occur;

3. To prevent self-inflicted injury or injury to others;
or
4. To prevent property damage.

(c) At no time shall a person be left without proper supervision while in restraints.

(d) Mechanical restraints shall not be used as punishment, or in any way that causes unnecessary physical discomfort, inflicts unnecessary physical pain, or unnecessarily restricts blood circulation or breathing.

(e) Mechanical restraints shall be removed promptly when the reason for use has ceased to exist or has sufficiently abated.

10A:26-4.9 Use of chemical agents; storage

(a) Only Department of Corrections approved chemical agents shall be used by parole officers.

(b) Whenever chemical agents are used as a means of control the parole officer shall comply with the reporting procedure in N.J.A.C. 10A:26-4.12.

(c) A parole officer is not permitted to carry or use chemical agents unless he or she has received appropriate training and annual retraining in the use and effects of these chemical agents.

(d) After each instance of use, individuals who have been exposed to chemical agents will be provided with medical examination and treatment when necessary.

(e) Chemical agents shall be safely stored, legibly labeled to show the chemical name and expiration date, and properly inventoried to insure security and an adequate unexpired supply.

10A:26-4.10 Training

(a) All parole officers shall annually receive training in proper methods and techniques of using force and in the legal aspects of using force.

(b) Training in proper methods and techniques of using force shall be provided as part of the Basic Course for Parole Officers provided at the Correctional Staff Training Academy of the New Jersey Department of Corrections and shall be repeated annually.

10A:26-4.11 Motor vehicle pursuits prohibited

Parole officers shall not become involved in motor vehicle pursuits.

10A:26-4.12 Reports

(a) The parole officer shall immediately contact his or her supervisor and shall write a special report when the parole officer participated in or witnessed an incident in which:

1. A firearm was discharged outside of the firing range;
2. A use of force resulted in death or serious bodily injury; or
3. A suspect alleged that a serious bodily injury had been inflicted.

(b) The report shall contain the following information:

1. A description of the events leading up to the use of force;
2. A description of the incident;
3. The type of force used;
4. The reason for employing force;
5. A list of all participants and witnesses to the incident;
6. A description of the injuries suffered, if any, and medical treatment given; and
7. Other relevant facts or comments about the incident or conduct of employees, parolees, inmates, witnesses or the public.

(c) The parole officer's supervisor shall fax, as soon as possible, all special reports to the Central Office Special Investigations Division Unit and the Office of the Director, Division of Parole for review.

(d) The Director, Division of Parole or designee shall immediately advise the Chief of Staff and the Office of Public Information, New Jersey Department of Corrections of the following:

1. A description of the incident;
2. The persons involved;
3. The action taken; and
4. A current assessment of the situation.

(e) In emergency situations, the parole officer's supervisor or designee shall immediately notify the Chief of Staff, the Director or designee, Division of Parole, and the Office of Public Information of the New Jersey Department of Corrections.

(f) Within 10 working days following the incident in which force was used, the District Parole Supervisor or designee shall prepare and submit Form 844 II INCIDENT REPORT—DIVISION OF PAROLE along with a copy of the written report from the staff member(s) to the Director, Division of Parole, with copies to:

1. The Commissioner;
2. The Chief of Staff;
3. Assistant Commissioner, Division of Operations;
4. Central Office Special Investigations Division; and
5. The Director of Communications, Office of Public Information.

(g) Follow-up reports will be submitted to those persons listed in (f) above.

10A:26-4.13 Penalties for violation

(a) Parole officer or parole staff member action which does not conform to the provisions of this subchapter and any procedures implemented in connection with this subchapter may result in the following:

1. Disciplinary action pursuant to N.J.A.C. 4A:2;
2. Personal, civil or criminal liability;
3. Denial of indemnification; and/or
4. Refusal by the Office of the Attorney General to represent the parole officer or parole staff member.

(b) Decisions regarding (a)3 and 4 above will be made by the Attorney General after an investigation of the facts of the case.

SUBCHAPTER 5. USE OF PERSONAL FIREARMS AND USE OF FORCE WHILE OFF-DUTY

10A:26-5.1 Authorized off-duty firearm, ammunition and holsters

(a) Parole officers shall be authorized only one firearm for off-duty use.

(b) Prior to being permitted to carry a firearm off-duty, parole officers shall meet the following requirements:

1. Pursuant to N.J.S.A. 52:17B-66 et seq., have taken and successfully completed the Police Training Commission (P.T.C.) approved Basic Course for Parole Officers at the Correctional Staff Training Academy of the New Jersey Department of Corrections; and
2. Have been sworn as peace officers by taking the oath of office and completing Form 156 I OATH OF OFFICE.

(c) The firearm intended for use off-duty shall have been obtained and registered pursuant to State and local laws of the State in which the employee lives. Parole officers shall not loan or improperly transfer personal firearms.

(d) The firearm to be carried off-duty shall be approved and authorized by the New Jersey Department of Corrections.

(e) Ammunition for the off-duty firearm shall be approved and authorized by the New Jersey Department of Corrections.

(f) The off-duty firearm shall be carried on the body in the holsters approved by the Department of Corrections.

(g) Holsters shall hold the firearm firmly when inverted and have no internal clips.

(h) The waist holster is the only holster approved for use while qualifying with the firearm.

(i) A parole officer who elects to use a shoulder or ankle holster for off-duty use shall demonstrate proficiency in the use of that holster during firearms requalification but need not qualify while using the holster.

(j) No purse holsters or holstered firearms in purses are approved.

(k) When a firearm other than a Departmentally issued duty firearm is selected for off-duty use the parole officer shall be responsible for assuming the cost of the firearm, ammunition, holster and for maintaining his or her firearm in a safe and serviceable condition.

10A:26-5.2 Off-duty firearm

(a) The authorized off-duty firearm shall be the responsibility of the parole officer at all times.

(b) The parole officer shall not be authorized to carry his or her off-duty firearm to and from work unless the parole officer elects to carry his or her authorized on-duty firearm as his or her sole authorized off-duty firearm.

(c) The parole officer shall not draw or exhibit his or her firearm except for one of the following circumstances:

1. For maintenance of the firearm;
2. To secure the firearm;
3. When commanded by the firearms staff during training exercises, range practice, qualification, or requalification with the firearm; or
4. When circumstances create a reasonable belief that it may be necessary to use the firearm in conformance with this policy.

10A:26-5.3 Firearms training, qualification and requalification

(a) As required by N.J.S.A. 2C:39-1 et seq., all parole officers shall be initially trained and shall qualify in the use and handling of approved on-duty and off-duty firearms.

(b) The parole officer shall requalify annually on a range approved by the New Jersey Department of Corrections.

(c) Only those parole officers who achieve and maintain a minimum score of 80 percent during range qualification and requalification shall be authorized to possess firearms while on-duty and off-duty.

(d) Once a parole officer has qualified on his or her approved personal firearm, the parole officer shall receive the official State of New Jersey, Firearms Unit Weapons Card. The off-duty firearm the parole officer carries shall be the same one identified on the weapons card. Parole officers authorized to carry an off-duty firearm shall be required to carry the weapons card, the official badge and photo identification card of the New Jersey Department of Corrections while carrying their off-duty firearm.

(e) Each Division of Parole district office supervisor or designee shall be responsible for preparing and maintaining a current master list of each parole officer authorized to carry an off-duty firearm.

1. The master list shall be maintained by the Director, Division of Parole, or designee to indicate the parole officer's firearms qualification date (new or expired), model name and number, and serial number of the authorized off-duty firearm.

2. Each time the parole officer registers a firearm with the Director, Division of Parole, or designee, the Director, Division of Parole, or designee, is responsible for comparing the firearms qualification date, firearm model name and number, and firearm serial number contained on the master list against the State of New Jersey, Firearms Unit Weapons Card accompanying the personal firearm.

(f) Should the parole officer's authorized personal firearm become unusable, stolen or unserviceable and the parole officer selects a personal firearm different from the one originally qualified for use, the parole officer shall requalify on the different firearm before the weapon can be used. This qualification may be completed prior to the next annual firearms qualification period.

(g) Should a parole officer wish to change his or her authorized personal firearm as a matter of preference, the parole officer shall wait until the next annual firearms qualification period.

10A:26-5.4 Use of force while off-duty

(a) Although N.J.S.A. 2A:154-4 authorizes parole officers to exercise law enforcement powers, no parole officer is required to exercise these powers or to carry arms during off-duty hours.

(b) Parole officers, while off-duty, shall not become involved with routine law enforcement duties as they apply to local law enforcement agencies. When a parole officer observes what he or she believes to be a violation of the law, the parole officer may take note of the vehicle description(s), license plate number(s), identifying characteristics of person(s) involved, and other relevant information and report such information to the local law enforcement agency having jurisdiction and to the Central Communications Unit of the New Jersey Department of Corrections.

(c) In cases where a parole officer has passed the qualifying firearms examination and does elect to carry a firearm off-duty, the utmost discretion shall be exercised by the parole officer to determine when and under what conditions to use reasonable force.

(d) Any use of force while off-duty shall be in accordance with the requirements of this subchapter.

(e) A parole officer shall be deemed to have acted within the scope of his or her employment or in the law and enforcement interest of the State of New Jersey if the parole officer exercises police powers in accordance with the provisions of this chapter.

10A:26-5.5 Use of non-deadly force while off-duty

(a) Whenever non-deadly force is used off-duty, the reasonable force possible under the circumstances shall be used.

(b) Non-deadly force may be used off-duty when the parole officer believes it to be immediately necessary in order to:

1. Protect self or others against the use of unlawful force;
2. Protect self or others against death or serious bodily harm;
3. Prevent a suicide or attempted suicide;
4. Thwart the commission of a crime involving or threatening bodily harm, damage to or loss of property or a breach of the peace;
5. Prevent an escape; or
6. Effect an arrest for any offense or crime under the laws of the State of New Jersey subject to (c) below.

(c) The use of non-deadly force to effect an arrest is only justifiable if:

1. The parole officer makes known his or her identity and the purpose of the arrest; or
2. The parole officer reasonably believes that his or her identity and purpose are otherwise known by, or cannot reasonably be made known to, the person to be arrested; and
3. When the arrest is made under a warrant, the warrant is valid or reasonably believed by the parole officer to be valid.

10A:26-5.6 Use of deadly force while off-duty

(a) Deadly force includes, but is not limited to, the use of firearms and other lethal weapons.

(b) Deadly force may be used in the following situations under limitations consistent with the provisions of the New Jersey Code of Criminal Justice, N.J.S.A. 2C:1-1 et seq.:

1. When the parole officer reasonably believes that deadly force is imminently necessary to protect himself or herself against the use of unlawful force which the parole officer believes may result in death or serious bodily harm;
2. When the parole officer reasonably believes that deadly force is imminently necessary to protect another against the use of unlawful force which the parole officer believes may result in death or serious bodily harm. However, deadly force is not justifiable if the parole officer can otherwise secure the complete safety of the protected person;
3. When the parole officer reasonably believes that deadly force is immediately necessary to prevent or stop the suspect from committing or continuing a criminal offense which would endanger human life or inflict serious bodily harm upon another person unless the commission or the consummation of the crime is prevented;
4. The parole officer is authorized to use deadly force to effect an arrest or to prevent the escape of a fleeing suspect if the parole officer has probable cause to believe that the suspect will pose an immediate threat of death or serious bodily harm to human life should the parole officer not take immediate action; and
5. Where the parole officer reasonably believes that deadly force is immediately necessary to prevent the escape of a person committed to a correctional facility for the detention of persons charged with, or convicted of an offense, provided that the parole officer reasonably believes that the force employed creates no substantial risk of injury to innocent persons.

(c) Where feasible, before using a firearm, the parole officer shall attempt to identify himself or herself as an officer and state his or her intent to shoot. Warning shots are not authorized.

(d) The parole officer shall not fire his or her firearm from, or at, a moving vehicle nor engage in any vehicle contact action, such as ramming, except as a last resort to prevent imminent death or serious injury to the parole officer or another person where deadly force would otherwise be justified.

(e) The parole officer shall not discharge a firearm if there is a substantial risk of injury to innocent persons.

10A:26-5.7 Unauthorized use of personal firearms while off-duty

(a) A parole officer shall not be authorized to carry an off-duty firearm in the following instances:

1. Where N.J.S.A. 2C:39-7 (Persons Convicted of Certain Crimes) is applicable;
2. Where 18 U.S.C. 1202 Appx. Appendix to the United States Code (Persons Convicted of Certain Crimes) is applicable;
3. When the Director, Division of Parole, or designee, or a higher official of the Department of Corrections has suspended the parole officer from duty for any violation;
4. When there are pending charges or ongoing investigations of alleged incidents involving the misuse of a firearm; or
5. Any other situation where the Director, Division of Parole, or designee, may exercise his or her authority to withdraw off-duty firearms privileges, subject to the review by the Chief of Staff of the Department of Corrections.

(b) In any of the instances in (a) above, the State of New Jersey, Firearms Unit Weapons Card shall be turned in to the Director, Division of Parole or designee.

10A:26-5.8 Possession of firearms within a casino or casino simulcasting facility

Pursuant to N.J.A.C. 19:45-1.13, a parole officer shall not possess or be permitted to possess a firearm within a casino or casino simulcasting facility.

10A:26-5.9 Motor vehicle pursuits prohibited

Parole officers shall not become involved in motor vehicle pursuits.

10A:26-5.10 Reporting incidents

(a) When an authorized off-duty firearm is believed to have been lost or stolen, the parole officer shall report this fact to the local law enforcement authorities and to the Central Communications Unit of the New Jersey Department of Corrections within three hours from the time the parole officer is aware that the firearm is missing.

(b) When a State of New Jersey, Firearms Unit Weapons Card, official photo identification card or badge of the New Jersey Department of Corrections is believed to have been lost or stolen, the parole officer shall notify the local law enforcement authorities and the Director, Division of Parole, or designee as soon as practicable.

(c) Except as outlined in N.J.A.C. 10A:26-5.2(c), the parole officer shall immediately and without exception report to the local law enforcement authorities and the Director, Division of Parole, any incident where the parole officer has displayed, drawn or fired his or her off-duty firearm, or any incident or injury which occurred from the use of the parole officer's firearm.

(d) On the next working day after any incident as described in (a), (b) or (c) above, the parole officer shall report in writing to the Director, Division of Parole, or designee, the facts of the incident and identifying particulars of the incident. The Director, Division of Parole, or designee, shall forward the report for review to the Chief of Staff, the Office of Public Information, and the Central Office Special Investigations Division of the New Jersey Department of Corrections.

(e) The parole officer shall, within three days, report to the Director, Division of Parole, or designee, in writing whenever a registered authorized off-duty firearm has been sold or is no longer in use.

10A:26-5.11 Penalties for violation

(a) Parole officer actions which do not conform to the provisions of this subchapter and any procedures implemented in connection with this subchapter may result in the following:

1. Disciplinary action pursuant to N.J.A.C. 4A:2;
2. Personal, civil or criminal liability;
3. Denial of indemnification; and/or
4. Refusal by the Office of the Attorney General to represent the parole officer.

(b) Decisions regarding (a)3 and 4 above will be made by the Attorney General after reviewing the facts of the case.

SUBCHAPTER 6. SEARCH AND URINE MONITORING OF PAROLEES AND INMATES

10A:26-6.1 Search of parolees; when authorized

(a) Searches of parolees may be authorized by the New Jersey State Parole Board through the imposition of general or special conditions of parole.

(b) Parolees may be subject to routine and random searches such as, but not limited to, scanning/testing device, canine, passive canine and pat searches.

(c) In addition to (a) and (b) above, a search of a parolee may be conducted at any time when there is a reasonable suspicion to believe that the search will produce contraband or evidence that the parolee has violated or is violating a condition of parole.

(d) Searches of parolees shall be carried out in a reasonable manner and shall be reasonably related to the purpose of parole and the function of the parole officer.

(e) A pat search of a parolee shall be conducted while the parolee is fully clothed and shall include, but is not limited to, the touching of the parolee's body through clothing, a thorough examination into pockets, cuffs and seams, the touching of the parolee's hair, and all personal property within the parolee's immediate control.

(f) A search of a parolee may be conducted by a parole officer of either gender.

(g) Parole officers are not authorized to conduct strip or body cavity searches.

(h) Parolees may be subject to a pat-down of the outer clothing to determine whether they are in possession of a weapon.

(i) Parolees shall be searched prior to being transported.

Amended by R.2001 d.197, effective June 18, 2001.

See: 32 N.J.R. 2637(a), 33 N.J.R. 2082(a).

Added a new (b); recodified former (b) through (h) as (c) through (i); in (c), inserted "and (b)" preceding "above"; in (e), substituted "A pat" for "The" preceding "search"; in (f), substituted "gender" for "sex".

10A:26-6.2 Search of inmates and search of persons serving a court imposed sentence of community supervision for life

(a) Search of inmates shall be conducted in accordance with the applicable provisions of N.J.A.C. 10A:3-5.

(b) Search of persons serving a court imposed sentence of community supervision for life shall be conducted in accordance with N.J.A.C. 10A:71-6.11.

10A:26-6.3 Search of a parolee's residence; when authorized

(a) A parole officer may conduct a search of a parolee's residence when:

1. There is a reasonable suspicion to believe that evidence of a violation of a condition of parole would be found in the residence or contraband which includes any item that the parolee cannot possess under the conditions of parole is located in the residence; and

2. The search is approved by the parole officer's supervisor or circumstances exist which require immediate action without prior approval from the supervisor.

(b) Where the residence is jointly owned or shared by a parolee and another person(s), the parole officer:

1. May search all objects that appear to be owned or possessed by the parolee;

2. May search any area of the residence or objects that are jointly shared by both the parolee and the other person, even if that person(s) objects to the search; and

3. May not search any area that is exclusively under the control of the other person(s) unless that person(s) voluntarily consents to the search.

(c) A parole officer shall not enter the home of a third party to search for a parolee without having a search warrant unless:

1. The parole officer reasonably believes that the parolee resides at that address; or

2. The home owner voluntarily consents to the search.

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 A.2d 408.

10A:26-6.4 Search of a motor vehicle; when authorized

(a) A parole officer may stop and conduct a search of a motor vehicle owned by a parolee or a motor vehicle not owned but driven by a parolee when there is a reasonable suspicion to believe that:

1. Evidence of a violation of a condition of parole would be found in the motor vehicle or contraband which includes any item that the parolee cannot possess under the conditions of parole is located in the vehicle; and

2. The search is approved by the parole officer's supervisor or circumstances exist which require immediate action without prior approval from the supervisor.

(b) A parole officer may stop, but shall not conduct a search of a motor vehicle when the parolee is a passenger in a motor vehicle that is owned and driven by another person unless:

1. The parole officer has probable cause to believe that evidence or contraband is located in the motor vehicle or the owner of the motor vehicle voluntarily consents to the search; and

2. The search is approved by the parole officer's supervisor or circumstances exist which require immediate action.

10A:26-6.5 Search of objects in a motor vehicle

(a) In an authorized motor vehicle search, a parole officer may search all objects that appear to be owned or possessed by the parolee.

(b) In an authorized motor vehicle search, a parole officer may search all objects that are jointly shared by both the parolee and other person(s) in the motor vehicle even if that person(s) objects to the search.

(c) In an authorized motor vehicle search, a parole officer shall not search any objects that are exclusively owned or possessed by other person(s) in the motor vehicle unless:

1. The parole officer has probable cause to believe that contraband is contained within the property of the other person(s); or

2. The other person(s) voluntarily consents to the search.

10A:26-6.6 Reports

(a) The parole officer shall record incidents in which a search of a parolee, inmate, residence or vehicle was conducted on Form F-19 CHRONOLOGICAL SUPERVISION REPORT.

(b) Form F-19 shall contain a minimum of the following information:

1. A description of the events leading up to the search;

2. The parole officer's reasonable suspicion and basis for the search;

3. A description and the disposition of any items, articles, or materials determined to be contraband found as a result of the search; and

4. Any other relevant facts or comments about the search.

10A:26-6.7 Testing for prohibited substances

(a) Testing shall be conducted for the purpose of deterring the use of, or to detect the presence of, any substance not authorized for possession or use by the inmate or parolee.

(b) Parolees shall be tested:

1. When mandated by special condition of the New Jersey State Parole Board or the New Jersey Department of Corrections, Division of Parole;

2. When the parole officer believes, based upon his or her education and experience, that there is a reasonable

factual basis to suspect the parolee of using a prohibited substance(s); or

3. When the parolee is a participant in residential or outpatient drug treatment.

(c) In addition to the provisions of N.J.A.C. 10A:3-5.10, inmates shall be tested when the parole officer believes, based upon his or her education and experience, that there is a reasonable factual basis to suspect the inmate of using a prohibited substance(s).

10A:26-6.8 Collection, storage and analysis of specimens

(a) Testing for prohibited substances shall be conducted by staff who have been trained to perform the test(s).

(b) Test specimens shall be collected, labeled, handled and when necessary, sealed, stored, and transported in accordance with the instructions/standards provided by the manufacturer of the test.

(c) Testing shall be conducted using methods deemed reliable by the Department of Corrections.

(d) If the initial test result is positive, the specimen shall be subject to a confirmation test of equal or greater sensitivity than the initial test.

(e) Each time a specimen is collected for the reasons stated in N.J.A.C. 10A:26-6.7, a continuity of evidence form provided by the Department shall be completed and submitted with the specimen to the parole officer's district parole office which is responsible for maintaining custody over the specimen until on-site testing or specimen transfer to the testing laboratory.

(f) The inmate or parolee shall not be considered in violation of parole condition for refusal to provide a specimen or failing to comply with an order to submit a specimen unless that inmate or parolee has been given a reasonable physical opportunity to comply with such order.

1. For the purposes of urine testing, a reasonable physical opportunity shall constitute a two hour period from the time of the initial order.

2. The inmate or parolee shall not be deemed to have complied with the order to submit a specimen unless he or she provides a specimen in the presence of the parole officer, parole staff member or authorized treatment staff member.

(g) When testing is conducted through urinalysis, specimens taken from parolees or inmates shall be voided directly into an approved specimen container and immediately labeled in the presence of at least one parole officer, parole staff member or authorized treatment staff member of the same gender as the parolee or inmate. Chain of custody of the specimen shall be maintained.

1. A minimum of 30 milliliters must be voided to ensure a sufficient quantity for required testing.

2. Urine specimen testing shall be performed on-site or at a licensed laboratory as determined by the Commissioner or designee.

3. For initial on-site and confirmatory on-site testing of a urine specimen, the labeled specimen shall be tested and handled in accordance with the instructions/standards provided by the manufacturer of the on-site test.

4. For the initial laboratory testing, and confirmatory laboratory testing of a urine specimen, the labeled specimen container shall immediately be closed and sealed in the presence of the parolee or inmate by the parole officer, parole staff member or authorized treatment staff member.

5. The specimen label shall indicate the name and number of the parolee or inmate, the district parole office to which the parolee or inmate is assigned, the name of the parole officer, parole staff member or authorized treatment staff member who witnessed the voiding of the specimen, the date and time the specimen was voided, the current use or non-use of prescription medication by the parolee or inmate, and the signature of the parolee or inmate. Should the parolee or inmate refuse to sign, the parole officer, parole staff member or authorized treatment staff member who witnessed the voiding of the specimen shall indicate the refusal on the label and on the continuity of evidence form.

6. For laboratory testing, the parole officer, staff member or authorized treatment staff member who signs the label as witness shall, as soon as reasonably practicable:

i. Record on the continuity of evidence form provided by the Department the date and time the parole officer, parole staff member or authorized treatment staff member received the specimen, the parolee or inmate from whom the urine specimen was received, and the date and time of the specimen placement into a storage container and/or locked refrigerator or freezer;

ii. Place the urine specimen in a storage container and/or locked refrigerator or freezer; and

iii. Deliver the urine specimen to the district parole office which is responsible for maintaining custody over the specimen until transfer to the testing laboratory.

7. The date and time of the removal of the urine specimen from the district parole office as well as the date and time of urine specimen receipt by the testing laboratory shall be noted on continuity of evidence form provided by the Department by the person(s) performing these functions.

8. The Department of Corrections shall not proceed with laboratory testing any urine specimen unless the urine specimen arrives at the laboratory in a sealed and approved specimen container.

(h) All testing shall be accomplished in a professional and dignified manner with maximum courtesy and respect being given to the parolee or inmate.

SUBCHAPTER 7. CONTRABAND AND DISPOSITION OF CONTRABAND

10A:26-7.1 Procedures for handling contraband upon discovery

(a) Whenever an item, article or material is determined to be contraband pursuant to N.J.A.C. 10A:3-6 for inmates or N.J.A.C. 10A:26-1.3 for parolees, the contraband shall immediately be seized.

(b) The parole officer making a seizure of contraband from a parolee shall submit the criminal contraband to the local law enforcement jurisdiction or county prosecutor's office.

(c) The parole officer making a seizure of contraband from an inmate shall do so in accordance with the applicable provisions of N.J.A.C. 10A:3-6.

(d) The parole officer shall record the incident including the type, amount and disposition of the contraband on Form F-19, CHRONOLOGICAL SUPERVISION REPORT.

(e) Precautions shall be taken to assure the continuity of possession of contraband in accordance with accepted legal procedures.

SUBCHAPTER 8. TRANSPORTATION OF PAROLEES AND INMATES IN CUSTODY

10A:26-8.1 Use of State owned and privately owned vehicles

(a) Inmates and parolees shall be transported in State owned vehicles, except in emergencies when no such vehicle is available.

(b) In emergencies when no State vehicle is available and the parole officer chooses to transport parolees in a privately owned vehicle, the parole officer shall secure prior approval to transport parolees or inmates in the privately

owned vehicle from the Director, Division of Parole, or designee. If approval is granted, the parole officer shall be:

1. Made aware of Departmental policy regarding the use of private vehicles and the liability provisions currently applicable as established by the Division of Budget and Accounting of the New Jersey Department of the Treasury; and

2. Required to furnish proof that the privately owned vehicle is properly licensed, registered and insured as soon as practicable.

(c) When escorting parolees or inmates the parole officer shall carry in his or her possession a valid drivers license.

10A:26-8.2 Transport of parolees and inmates in custody

(a) State owned vehicles used to escort parolees and inmates in custody shall be equipped with protective screening devices to separate parolees and inmates from the driver.

(b) Opening devices on the inner rear doors and windows of State owned passenger sedans shall be made inoperable for parolees and inmates.

(c) The rear door locking mechanism of the State owned vehicle shall be modified so that it is redirected, making it accessible to the parole officer only when the front door is open.

(d) The standard State owned passenger sedan or van shall be used only in lieu of more secure but unavailable vehicles.

(e) Vehicles used to transport parolees and inmates in custody shall be thoroughly searched for contraband by the transporting parole officer(s) before and after being used.

(f) Parole officers escorting parolees or inmates shall be provided with necessary mechanical restraints which shall be used in accordance with N.J.A.C. 10A:26-4.8.

(g) Parole officers escorting parolees and inmates in custody shall be armed with Department of Corrections' authorized weapons and ammunition. Any use of force shall be governed by N.J.A.C. 10A:26-4.

(h) When escorting parolees and inmates in custody, the ratio of escorting parole officers to parolees or inmates shall be two parole officers for one parolee or inmate, two parole officers for two parolees or inmates, and three parole officers for three parolees or inmates.

(i) Only properly trained parole officers shall transport parolees and inmates in custody. Such parole officers shall have been fully trained in the following areas:

1. Use of weapons and mechanical restraint equipment; and
2. Effective search for contraband of parolees and inmates, their personal property and transportation vehicles.

(j) Searches of parolees and inmates being transported shall be conducted in accordance with N.J.A.C. 10A:26-6.1.

10A:26-8.3 Escorting procedures for parolees and inmates

(a) The parolee(s) or inmate(s) shall be carefully guarded to prevent escape and receipt of contraband.

(b) No communication between the parolee(s) or inmate(s) and the public shall be permitted at any time during escort.

(c) A parolee's or inmate's special requests during escort not related to the purpose of the trip shall not be honored.

10A:26-8.4 Emergencies

(a) The parole officer shall immediately notify the Central Communications Unit of the New Jersey Department of Corrections if an emergency arises during the transportation of a parolee or inmate.

(b) If time or other considerations make it impossible to contact the Central Communications Unit, the local police authorities shall be notified by the parole officer without prior clearance.

10A:26-8.5 Medical transportation

(a) In emergency situations when a non-ambulatory parolee or inmate in custody is in need of hospitalization or treatment, the parolee or inmate shall be transported by ambulance, or by a State owned vehicle if an ambulance is unavailable. A State owned vehicle shall be used to transport an ambulatory parolee or inmate who is in need of hospitalization or treatment.

(b) When a parolee or inmate in custody is transported by ambulance, the parole officer shall accompany the parolee or inmate in the ambulance and another parole officer shall follow the ambulance in a backup car.

(c) When a parolee or inmate in custody is transported in a State owned vehicle, the ratio of escorting parole officers to parolees and inmates shall be governed by N.J.A.C. 10A:26-8.2.

(d) The use of mechanical restraints and equipment when transporting a parolee or inmate in custody for hospitalization or treatment shall be governed by N.J.A.C. 10A:26-4.8 and the nature of the illness or injury.