

**CHAPTER 26****BUREAU OF PAROLE****Authority**

N.J.S.A. 30:1B-6, 30:1B-10, and P.L. 1993, c.246.

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**Executive Order No. 66(1978) Expiration Date**

Chapter 26, Bureau of Parole, expires on February 6, 2000.

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**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, Bureau 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.

“Bureau 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 certain Executive Clemency cases; and any other inmate community program such as the Work Release Program.

“Central Communications Unit” means the centralized communication center within the Department of Correc-

tions 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.

“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.

“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.

“Internal Affairs Unit” means the unit responsible for conducting investigations at the direction of the Commissioner, New Jersey Department of Corrections.

“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 Duty Desk” means the centralized communication center within the Bureau of Parole which coordinates certain communication functions on a 24 hour, seven day a week basis.

“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, Bureau of Parole, titles that may be sworn as peace officers:

1. Chief, Bureau of Parole;
2. Assistant Chief, Bureau of Parole;
3. Supervising Parole Officer;
4. District Parole Supervisor;
5. Assistant District Parole Supervisor;
6. Supervisor, Parole Residential Facility;
7. Senior Parole Officer; and
8. 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.

Amended by R.1998 d.187, effective April 20, 1998.  
See: 30 N.J.R. 516(a), 30 N.J.R. 1417(a).

In “Chemical agent” substituted “gain control of” for “subdue” following “used to”.

**10A:26-1.4 Forms**

(a) The following forms related to the Bureau of Parole shall be reproduced from originals that are available by

contacting the Standards Development Unit, New Jersey Department of Corrections:

(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 Thomas M. Cooper Corrections 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 Internal Affairs Unit and the Office of the Chief, Bureau of Parole for review.

(d) The Chief, Bureau of Parole or his or her 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 his or her designee shall immediately notify the Chief of Staff, the Chief or Assistant Chief, Bureau 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 his or her designee shall prepare and submit Form 844-II INCIDENT REPORT—BUREAU OF PAROLE along with a copy of the written report from the staff member(s) to the Chief, Bureau of Parole, with copies to:

1. The Commissioner;
2. The Chief of Staff;
3. Assistant Commissioner, Division of Operations;
4. Central Office Internal Affairs Unit; 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.

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### 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 Thomas M. Cooper Corrections 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 Bureau 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 an off-duty firearm.

1. The master list shall be maintained by the Chief, Bureau of Parole, or his or her 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 Chief, Bureau of Parole, or his or her designee, the Chief, Bureau of Parole, or his or her 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 Assistant Chief, Bureau of Parole, 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 Chief, Bureau of Parole, or his or her 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 Chief, Bureau of Parole or his or her 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 Parole Duty Desk 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 Chief, Bureau of Parole, or his or her 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 Chief, Bureau 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 Chief, Bureau of Parole, or his or her designee, the facts of the incident and identifying particulars of the incident. The Chief, Bureau of Parole, or his or her designee, shall forward the report for review to the Chief of Staff, the Office of Public Information, and the Central Office Internal Affairs Unit of the New Jersey Department of Corrections.

(e) The parole officer shall, within three days, report to the Chief, Bureau of Parole, or his or her 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) In addition to (a) 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.

(c) 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.

(d) The 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.

(e) A search of a parolee may be conducted by a parole officer of either sex.

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

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

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

#### **10A:26-6.2 Search of inmates**

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

#### **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.

#### **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: