

**CHAPTER 72**

**DIVISION OF PAROLE**

**Authority**

N.J.S.A. 30:4-123.48(d) and 30:4-123.92(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-5.1c, Chapter 72, Division of Parole, expires on December 12, 2013. See: 45 N.J.R. 1337(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.

Subchapter 3, Polygraph Examination of Sex Offenders, was adopted as new rules by R.2011 d.252, effective November 21, 2011. See: 43 N.J.R. 121(a), 43 N.J.R. 3087(a).

Subchapter 6, Search and Urine Monitoring of Parolees and Inmates, was renamed Search and Urine Monitoring of Parolees; Subchapter 8, Transportation of Parolees and Inmates in Custody, was renamed Transportation of Parolees in Custody; and Subchapter 10, Curfew and Electronic Monitoring, was adopted as new rules by R.2011 d.291, effective December 5, 2011. See: 43 N.J.R. 1408(a), 43 N.J.R. 3184(a).

Subchapter 11, Sex Offender Global Positioning System (GPS) Monitoring Program, was adopted as new rules by R.2012 d.201, effective December 17, 2012. See: 44 N.J.R. 2098(a), 44 N.J.R. 3069(a).

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

**CHAPTER TABLE OF CONTENTS**

**SUBCHAPTER 1. GENERAL PROVISIONS**

- 10A:72-1.1 Purpose
- 10A:72-1.2 Scope
- 10A:72-1.3 Definitions
- 10A:72-1.4 Procedures
- 10A:72-1.5 (Reserved)

**SUBCHAPTER 2. COMMUNITY PLAN AND SUPERVISION**

- 10A:72-2.1 Investigation of community release
- 10A:72-2.2 Parole supervision status

- 10A:72-2.3 Chronological Supervision Reports
- 10A:72-2.4 Violations of parole

**SUBCHAPTER 3. POLYGRAPH EXAMINATION OF SEX OFFENDERS**

- 10A:72-3.1 Authorization to administer polygraph examination
- 10A:72-3.2 Polygraph examination exclusions
- 10A:72-3.3 Type of polygraph examinations
- 10A:72-3.4 Polygraph examination referral procedure
- 10A:72-3.5 Notification of polygraph examination
- 10A:72-3.6 Polygraph examination disclosure form
- 10A:72-3.7 Polygraph examination procedure
- 10A:72-3.8 Polygraph examination report
- 10A:72-3.9 Review of polygraph examination report
- 10A:72-3.10 Cost of polygraph examination

**SUBCHAPTER 4. USE OF FORCE WHILE ON-DUTY**

- 10A:72-4.1 Parole officer authorization to carry firearm while on duty
- 10A:72-4.2 Firearms training, qualification and requalification
- 10A:72-4.3 On-duty firearm
- 10A:72-4.4 Use of force
- 10A:72-4.5 Non-deadly force; when justified
- 10A:72-4.6 Deadly force; when authorized
- 10A:72-4.7 Use of force against persons other than parolees
- 10A:72-4.8 Use of mechanical restraints
- 10A:72-4.9 Use of chemical agents; storage
- 10A:72-4.10 Training
- 10A:72-4.11 Motor vehicle pursuits prohibited
- 10A:72-4.12 Reports
- 10A:72-4.13 Penalties for violation

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

- 10A:72-5.1 Authorized off-duty firearm, ammunition and holsters
- 10A:72-5.2 Off-duty firearm
- 10A:72-5.3 Firearms training, qualification and requalification
- 10A:72-5.4 Use of force while off-duty
- 10A:72-5.5 Use of non-deadly force while off-duty
- 10A:72-5.6 Use of deadly force while off-duty
- 10A:72-5.7 Unauthorized carrying of firearms
- 10A:72-5.8 Possession of firearms within a casino or casino simulcasting facility
- 10A:72-5.9 Motor vehicle pursuits prohibited
- 10A:72-5.10 Reporting incidents
- 10A:72-5.11 Penalties for violation

**SUBCHAPTER 6. SEARCH AND URINE MONITORING OF PAROLEES**

- 10A:72-6.1 Search of parolees; when authorized; scope
- 10A:72-6.2 (Reserved)
- 10A:72-6.3 Search of a parolee's residence; when authorized
- 10A:72-6.4 Search of a motor vehicle; when authorized
- 10A:72-6.5 Search of objects in a motor vehicle
- 10A:72-6.6 Reports
- 10A:72-6.7 Testing for prohibited substances
- 10A:72-6.8 Collection, storage and analysis of specimens

**SUBCHAPTER 7. CONTRABAND AND DISPOSITION OF CONTRABAND**

- 10A:72-7.1 Procedures for handling contraband upon discovery

**SUBCHAPTER 8. TRANSPORTATION OF PAROLEES IN CUSTODY**

- 10A:72-8.1 Use of State owned and privately owned vehicles
- 10A:72-8.2 Transport of parolees in custody
- 10A:72-8.3 Emergencies
- 10A:72-8.4 Medical transportation
- 10A:72-8.5 (Reserved)

## SUBCHAPTER 9. VOLUNTEERS IN PAROLE PROGRAM (V.I.P.P.)

- 10A:72-9.1 Volunteers in Parole Program (V.I.P.P.) Supervisor
- 10A:72-9.2 District Volunteers in Parole Program (V.I.P.P.) Coordinator
- 10A:72-9.3 Recruiting volunteers
- 10A:72-9.4 Eligibility for service as a volunteer
- 10A:72-9.5 Volunteer application
- 10A:72-9.6 Screening process
- 10A:72-9.7 Volunteer responsibilities
- 10A:72-9.8 Volunteer handbook
- 10A:72-9.9 Orientation and training of volunteers
- 10A:72-9.10 Supervision of volunteers
- 10A:72-9.11 Performance evaluation
- 10A:72-9.12 Recognition of volunteers
- 10A:72-9.13 Curtailing, suspending or discontinuing the services of a volunteer
- 10A:72-9.14 Reporting responsibilities

## SUBCHAPTER 10. CURFEW AND ELECTRONIC MONITORING

- 10A:72-10.1 Criteria
- 10A:72-10.2 Specifications
- 10A:72-10.3 Procedure
- 10A:72-10.4 Board panel review
- 10A:72-10.5 Hearing; scheduling
- 10A:72-10.6 Hearing; notice of hearing
- 10A:72-10.7 Hearing; failure to appear
- 10A:72-10.8 Hearing; record
- 10A:72-10.9 Hearing; notice of decision

## SUBCHAPTER 11. SEX OFFENDER GLOBAL POSITIONING SYSTEM (GPS) MONITORING PROGRAM

- 10A:72-11.1 Criteria
- 10A:72-11.2 Global positioning system (GPS) monitoring referral procedure
- 10A:72-11.3 Chairperson of the State Parole Board (Chairperson) review
- 10A:72-11.4 Periodic review
- 10A:72-11.5 Conditions of global positioning system (GPS) monitoring
- 10A:72-11.6 Appeal procedure

## 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 parolees;
3. Define contraband and establish procedures for contraband seizure and disposal; and
4. Establish policies and procedures regarding the transportation of parolees.

Amended by R.2011 d.291, effective December 5, 2011.

See: 43 N.J.R. 1408(a), 43 N.J.R. 3184(a).

In (a)2 and (a)4, deleted "inmates and" preceding "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, a parolee that is prohibited by conditions of parole and/or community release, or that 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 a 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 offenders who are serving a mandatory period of parole supervision pursuant to N.J.S.A. 2C:43-7.2(c); the supervision of offenders under parole supervision from other states who have been accepted under the terms of the Interstate Compact for Adult Offender Supervision; 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.

“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 Director, 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 Parolee 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”.  
Amended by R.2011 d.291, effective December 5, 2011.  
See: 43 N.J.R. 1408(a), 43 N.J.R. 3184(a).

In definition “Contraband”, substituted “a parolee that” for “an inmate or parolee which” and the second occurrence of “that” for the second occurrence of “which”; in the introductory paragraph of definition “Detainer”, substituted “a” for “an inmate or” preceding “parolee”; rewrote definition “Division of Parole”, deleted definition “Electronic Monitoring Program (EMP)”; and in paragraph 2 of definition “Parole officer”, substituted “Director” for “Directors”.

**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, and 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;
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.

Amended by R.2011 d.291, effective December 5, 2011.

See: 43 N.J.R. 1408(a), 43 N.J.R. 3184(a).

In (d)5, updated the N.J.A.C. reference.

### 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 electronic casebook, hereafter known as the Chronological Supervision Report (CSR).

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

Amended by R.2011 d.291, effective December 5, 2011.

See: 43 N.J.R. 1408(a), 43 N.J.R. 3184(a).

In (a), inserted "electronic"; and in (b), substituted "case plan agreement" for "Problem Statement" and "problem statement".

### 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, wherein electronic monitoring serves to address violations of conditions of supervision;
  - iii. Assignment to and successful completion of a community 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.

Amended by R.2011 d.291, effective December 5, 2011.  
See: 43 N.J.R. 1408(a), 43 N.J.R. 3184(a).

In the introductory paragraph of (b), deleted a comma following "violation", and substituted "long-term" for "long term"; in (b)3ii, inserted ", wherein electronic monitoring serves to address violations of conditions of supervision"; and in (b)3iii, substituted "community" for "day".

### SUBCHAPTER 3. POLYGRAPH EXAMINATION OF SEX OFFENDERS

#### 10A:72-3.1 Authorization to administer polygraph examination

(a) Pursuant to N.J.S.A. 30:4-123.88, the Board may administer to all offenders serving a special sentence of community or parole supervision for life, imposed pursuant to N.J.S.A. 2C:43-6.4, polygraph examinations in order to obtain information necessary for risk management and treatment and to reduce the offender's denial mechanisms.

(b) A polygraph examination shall be administered pursuant to the provisions of N.J.A.C. 10A:72-3.4.

(c) Pursuant to N.J.S.A. 30:4-123.88, a polygraph examination shall be conducted by a polygraph examiner trained specifically in the use of the polygraph for the monitoring of sex offenders.

#### 10A:72-3.2 Polygraph examination exclusions

(a) A polygraph examination shall not be administered to an offender who has been formally charged with a new criminal offense or to an offender who is under active investigation by either a law enforcement authority or other State agency.

(b) A polygraph examination shall not be administered to an offender whose case is verified as being on direct appeal to the Superior Court-Appellate Division or Supreme Court of the State of New Jersey.

#### 10A:72-3.3 Type of polygraph examinations

(a) An instant offense examination may be administered when either an offender denies guilt regarding the commitment offense or an offender's version of the commitment offense differs significantly from the official version of the commitment offense as noted in the pre-sentence report.

(b) A periodic maintenance examination may be administered to verify the activities, behavior and truthfulness of an offender as related to compliance with the conditions of supervision.

(c) A sexual history examination may be administered to obtain comprehensive information regarding an offender's sexual interests and behaviors in order to identify the offender's predilections and to assist in case planning and treatment objectives.

#### 10A:72-3.4 Polygraph examination referral procedure

(a) The assigned parole officer shall review the offender's case with an Assistant District Supervisor, District Parole Supervisor, or Supervising Parole Officer for consideration of a polygraph examination, if the assigned parole officer has a reasonable belief that an offender is non-compliant with a condition(s) of supervision; if an offender denies guilt regarding the commitment offense; or if an offender's treatment provider believes that the administration of a polygraph examination would assist in the treatment or supervision of the offender. In addition, the reviewing supervisor must determine that there is a need to obtain and verify information regarding an offender's behaviors and sexual interests.

(b) The Assistant District Parole Supervisor, District Parole Supervisor or Supervising Parole Officer shall determine whether a polygraph examination be administered to the offender. If the determination is made that a polygraph examination shall be administered to the offender, the Assis-

tant District Parole Supervisor, District Parole Supervisor or the Supervising Parole Officer shall determine the type of polygraph examination to be administered to the offender.

(c) If the determination is made that a polygraph examination shall be administered, then the District Parole Supervisor or designee shall assign the offender's case to a polygraph examiner.

(d) The assigned polygraph examiner shall review the case records in advance of the examination and may consult with the assigned parole officer, Assistant District Parole Supervisor, District Parole Supervisor and/or treatment provider in developing appropriate examination questions.

#### 10A:72-3.5 Notification of polygraph examination

(a) Upon the determination being rendered that a polygraph examination is to be conducted in the offender's case, the offender shall be provided 30 days notice in writing that the offender has been referred for a polygraph examination. The notice shall specify the type of polygraph examination to be administered and the basis for the polygraph examination.

(b) The notice provided pursuant to (a) above shall be accompanied by a copy of the polygraph examination disclosure form.

(c) Upon the scheduling of the polygraph examination, the offender shall be notified of the scheduled location, date and time of the examination.

#### 10A:72-3.6 Polygraph examination disclosure form

(a) The polygraph examiner, during the pre-examination interview, shall provide the offender with a polygraph examination disclosure form.

(b) The disclosure form shall include, but not be limited to:

1. Notice to the offender regarding the scope of the examination;
2. The consequences for failure to fully participate and cooperate with the examination;
3. The consequences of the offender voluntarily providing identifying information regarding unreported victim(s) or crime(s);
4. The offender's right to remain silent as it relates to divulging identifying information of any unreported victim(s) or crime(s);
5. That the valid exercise of the right to remain silent does not constitute failure to fully participate and/or cooperate with the examination; and
6. That the results of the polygraph examination shall not be used as evidence in court to prove that a violation of the special sentence of community or parole supervision for life or condition of discharge has occurred.

#### 10A:72-3.7 Polygraph examination procedure

(a) The polygraph examination process shall consist of a pre-examination interview, polygraph examination and post-examination interview.

(b) The polygraph examination process shall be videotaped and/or electronically recorded.

(c) The polygraph examiner shall perform a functionality or calibration test on the polygraph instrument consistent with manufacturer recommendations.

(d) During the polygraph examination process, the polygraph examiner shall comply with the procedures of the Division of Parole regarding an offender's right to remain silent as it relates to divulging identifying information of any unreported victim(s) or crime(s).

(e) The only persons authorized to be present during the polygraph examination process shall be the polygraph examiner(s), the offender, an interpreter (if deemed necessary by the polygraph examiner) and any other person deemed necessary by the examiner. The offender is not entitled to have an attorney or a personal representative present.

(f) The pre-examination interview shall consist of the following:

1. The polygraph examiner shall provide the offender with the polygraph examination disclosure form. The offender shall be directed to read the disclosure form and sign the form acknowledging a full understanding of the examination and its uses.
2. If the offender is unable to read or understand the disclosure form, then the polygraph examiner shall read the form to the offender and answer any questions that the offender has regarding the examination. Upon reading the form to the offender and answering any questions, the offender shall be requested to sign the form acknowledging a full understanding of the examination and its uses. If, after further explanation by the polygraph examiner, the offender continues to indicate that he or she does not understand the nature and purpose of the polygraph examination or if the offender refuses to fully cooperate or participate in the examination, then the polygraph examiner shall review the matter with the District Parole Supervisor to determine if the polygraph examination should proceed.
3. If the offender refuses to sign the disclosure form, the polygraph examiner shall note the offender's refusal at the bottom of the form. In addition, the polygraph examiner shall record in writing the basis for the offender's refusal to sign the disclosure form.
4. The polygraph examiner shall specifically inquire of the offender whether the offender is currently receiving or has in the past received medical, psychological or psychiatric treatment or consultation. If a polygraph examiner has a reasonable doubt concerning the ability of an offender to

safely undergo an examination, a release from the offender and treating physician or advanced practice nurse is required.

5. The polygraph examiner shall discuss in detail with the offender the subject matter of the examination, each issue to be tested, a complete explanation of the instrumentation being utilized and a discussion regarding the natural anxiety that is normal, expected and compensated for during a polygraph examination.

6. The polygraph examiner, based upon the discussion with the offender, may elect to administer a periodic maintenance examination, in lieu of a scheduled instant offense examination.

7. The polygraph examiner shall develop questions to be presented during the polygraph examination.

(g) The polygraph examination shall consist of the polygraph examiner soliciting responses from the offender to the examination questions developed during the pre-examination interview.

(h) The post-examination interview shall consist of the following:

1. The polygraph examiner shall immediately analyze the charts reflecting the physiological responses generated during the polygraph examination.

2. The polygraph examiner shall review the test results with the offender, advise the offender of any significant, deceptive or inconclusive response to a polygraph examination question and provide the offender the opportunity to explain or resolve any significant, deceptive or inconclusive response.

3. The offender shall be required to remain in the designated polygraph examination location until the polygraph examiner elects to terminate the polygraph examination process.

**10A:72-3.8 Polygraph examination report**

(a) The polygraph examiner shall provide immediate verbal notification to the District Parole Supervisor or designated representative of any significant findings, conclusions and/or admissions made during the polygraph examination process.

(b) The polygraph examiner shall prepare a written polygraph examination report detailing the results of the examination and areas of concern and submit the examination report to the District Parole Supervisor within 10 business days of the conclusion of the examination.

**10A:72-3.9 Review of polygraph examination report**

(a) The District Parole Supervisor, upon receipt of the polygraph examination report or upon verbal advisement from the polygraph examiner of any significant findings, conclusions and/or admissions, shall review the offender's

case with the assigned parole officer and/or treatment provider to determine a course of action.

(b) The District Parole Supervisor or designated representative shall immediately refer in writing any voluntary admission(s) made by the offender regarding unreported victim(s) or crime(s) to the appropriate law enforcement and/or other state agency for their review and investigation.

(c) Pursuant to N.J.S.A. 30:4-123.88, the results of the polygraph examination shall not be used as evidence in court to prove that a violation of the special sentence of community or parole supervision for life or condition of discharge has occurred.

**10A:72-3.10 Cost of polygraph examination**

(a) Pursuant to N.J.S.A. 30:4-123.88, the cost of administering a polygraph examination shall be paid for by the offender.

(b) Upon referral for a polygraph examination, the assigned parole officer shall notify the offender in writing of the offender's obligation to pay the cost of the polygraph examination.

(c) The offender shall not be required to submit payment until the completion of the polygraph examination.

(d) If the polygraph examiner determines not to administer a polygraph examination due to an offender being deemed not suitable for a polygraph examination or due to an offender providing admissions during the pre-examination interview, the offender shall not be required to submit payment.

(e) An offender's inability to pay shall not be deemed a basis for not administering the polygraph examination.

**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:

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; and

2. Have been sworn as a peace officer by taking the oath of office and completing the oath of office form.

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.

**Case Notes**

Parole officer recruit's appeal from the State Parole Board's decision to remove her following her failure to complete mandated training should have been dismissed without prejudice; although the recruit failed to timely perfect an appeal to the Police Training Commission regarding her failure to complete the course to its satisfaction, she was in the process of attempting to have the Commission accept her untimely appeal and, if her attempt was successful, the recruit would have been able to proceed with her appeal from the Parole Board's removal decision. In re Johnson, OAL Dkt. No. CSV 8558-06, 2007 N.J. AGEN LEXIS 1164, Final Decision (July 25, 2007).

**10A:72-4.2 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 semiannually on a range approved by the Police Training Commission.

(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 with his or her approved firearm, the parole officer shall be required to carry the official State issued badge and photo identification card while on duty.

(e) The Director, Division of Parole, or designee shall maintain a current master list of all parole officers authorized to carry a firearm. The list shall include each parole officer's firearm qualification dates (new or expired), the model name and number of each parole officer's authorized firearm(s) and the serial number of the authorized firearm(s).

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.

**10A:72-4.3 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. 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) The parole officer entering any county correctional facility shall store his or her firearm in the designated area at the county correctional facility or at an approved Board authorized weapons storage unit.

(h) 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, his or her designee or the designee of the Chairperson within three hours from the time the parole officer is aware that the firearm is missing.

(i) When an official State issued photo identification card or badge is believed to have been lost or stolen, the parole officer shall notify the local law enforcement authorities and the Director, Division of Parole, his or her designee or the designee of the Chairperson within 24 hours from the time the parole officer is aware that the State issued official photo identification card or badge is missing.

(j) The authorized on-duty firearm shall not be utilized by a parole officer in the performance of any secondary employment.

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.2011 d.291, effective December 5, 2011.  
See: 43 N.J.R. 1408(a), 43 N.J.R. 3184(a).

In (b)3, substituted "During" for "When commanded by the firearms staff during".

(f) A parole officer shall not be authorized to conduct a strip or body cavity search of a parolee.

(g) A parolee shall be searched prior to being transported pursuant to N.J.A.C. 10A:72-8.1 to 8.5.

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 (j); in (c), inserted "and (b)" preceding "above"; in (e), substituted "A pat" for "The" preceding "search"; in (f), substituted "gender" for "sex".

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.

**10A:72-6.2 (Reserved)**

Repealed by R.2011 d.291, effective December 5, 2011.  
See: 43 N.J.R. 1408(a), 43 N.J.R. 3184(a).

Section was "Search of inmates and search of persons serving a court imposed sentence of community supervision for life".

**10A:72-6.3 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 articulable 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. An Assistant District Parole Supervisor or a higher level supervisor provides prior approval for the search or circumstances exist which require immediate action without prior approval from a 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 such other 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) provides written voluntary consent 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 has an objectively reasonable basis to believe that:

i. The parolee named in the parole warrant resides in the home of the third party; and

ii. The parolee named in the parole warrant is in the home of the third party at that time; or

2. The parole officer obtains written voluntary consent from an adult resident.

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.

**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:72-6.4 Search of a motor vehicle; when authorized**

(a) A parole officer may stop and conduct a search of a motor vehicle owned and/or operated by a parolee when there is a reasonable articulable 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. An Assistant District Parole Supervisor or a higher level supervisor provides prior approval for the search or circumstances exist which require immediate action without prior approval from a supervisor.

(b) A parole officer 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 the owner or operator of the motor vehicle provides written voluntary consent to the search.

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.

**10A:72-6.5 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 object that is exclusively owned or possessed by another person(s) in the motor vehicle unless the other person(s) provides written voluntary consent to the search.

Amended by R.2004 d.446, effective December 6, 2004.  
See: 36 N.J.R. 2136(a), 36 N.J.R. 5359(a).  
Rewrote (c).

**10A:72-6.6 Reports**

(a) The parole officer shall record incidents in which a search of a parolee, residence or vehicle was conducted in the Chronological Supervision Report.

(b) The Chronological Supervision Report 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.

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

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

Amended by R.2011 d.291, effective December 5, 2011.

See: 43 N.J.R. 1408(a), 43 N.J.R. 3184(a).

In (a), deleted "inmate," preceding "residence".

**10A:72-6.7 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 parolee.

(b) Parolees shall be tested:

1. When mandated by special condition of the Board or the Division of Parole pursuant to N.J.A.C. 10A:71-6.4;
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.

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

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

In (b)1, substituted "Board or the Division of Parole pursuant to N.J.A.C. 10A:71-6.4" for "New Jersey State Parole Board or the Division of Parole".

Amended by R.2011 d.291, effective December 5, 2011.

See: 43 N.J.R. 1408(a), 43 N.J.R. 3184(a).

In (a), deleted "inmate or" preceding "parolee"; and deleted (c).

**10A:72-6.8 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 Board.

(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:72-6.7, a continuity of evidence form provided by the Board 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 parolee shall not be considered in violation of a parole condition for refusal to provide a specimen or failing to comply with an order to submit a specimen unless that 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 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 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. 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 Chairperson 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 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, the district parole office to which the parolee 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

ii. Notice of any change in the offender's employment or employment location within 24 hours of the change occurring; and

iii. The offender's scheduled hours of work on a weekly basis.

(b) An offender serving a special sentence of community or parole supervision for life shall comply with the conditions in (a) above, in addition to the general conditions of community supervision for life specified in N.J.A.C. 10A:71-6.11(b) or parole supervision for life specified in N.J.A.C. 10A:71-6.12(d).

(c) Upon placement in the Sex Offender GPS Monitoring Program, the District Parole Office shall provide the offender with written notice of the conditions of the monitoring program. At the time of delivery of the written notice, the conditions of the monitoring program shall be explained to the offender.

(d) The offender shall be requested to acknowledge in writing the receipt of the written notice of the conditions of the Sex Offender GPS Monitoring Program. If the offender refuses to acknowledge in writing receipt of the conditions of the monitoring program, a designated representative of the District Parole Office shall make a written record of the

delivery of the written notice of the conditions of the monitoring program and the refusal of the offender to acknowledge in writing receipt of the written notice.

**10A:72-11.6 Appeal procedure**

(a) A determination to enroll an offender in the Sex Offender GPS Monitoring Program or a determination to continue enrollment of an offender in the monitoring program shall be appealable to the Chairperson of the State Parole Board (Chairperson).

(b) An appeal shall be filed in writing within 90 days of written notice of the determination being received by the offender and shall contain the basis for the appeal.

(c) The appeal shall be considered by the Chairperson within 45 days.

(d) The Chairperson shall notify the offender in writing of the decision within 14 days of the decision being rendered. Notice of the decision of the Chairperson shall also be provided to the District Parole Office and the Director, Division of Parole.