

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:72-5.6 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:72-5.7 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:72-5.8 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:72-5.9 Motor vehicle pursuits prohibited

Parole officers shall not become involved in motor vehicle pursuits.

10A:72-5.10 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:72-5.11 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:72-6.1 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:72-6.2 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: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 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