

**CHAPTER 72
DIVISION OF PAROLE**

Authority

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

Source and Effective Date

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

Chapter Expiration Date

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

Chapter Historical Note

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

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

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

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

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

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).

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SUBCHAPTER 1. GENERAL PROVISIONS

10A:72-1.1 Purpose

(a) The purpose of this chapter is to:

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

10A:72-1.2 Scope

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

10A:72-1.3 Definitions

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

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

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

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

offense. Rules regarding community supervision for life are established at N.J.A.C. 10A:71-6.11.

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

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

“Detainer” means a warrant or formal authorization to detain or apprehend an inmate or parolee for prosecution or detention by a Federal, State or local law enforcement agency. Detainers may include, but are not limited to:

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

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

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

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

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

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

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

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

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

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

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:72-6.1;

6. Advise, in writing, all interested law enforcement authorities of the proposed parole residence plan;

7. Prepare a written report which shall include:

i. A list of any outstanding warrants;

ii. Any recommendation(s) for any special conditions that the parole officer believes will assist the parolee in making a successful reintegration into the community; and

iii. The parole officer's recommendation as to the suitability of the inmate residing at the proposed parole residence; and

8. Submit the written report to the appropriate Panel.

10A:72-2.2 Parole supervision status

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

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

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

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

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

10A:72-2.3 Chronological Supervision Reports

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

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

10A:72-2.4 Violations of parole

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

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

1. An adjustment to the parolee's reporting status;

2. The imposition of any special condition(s) that will reduce the likelihood of recurrence of criminal or delinquent behavior; or

3. The imposition of a special condition requiring:

i. Assignment to and successful completion of an out-patient substance abuse treatment program or any other recommended treatment program;

ii. Assignment to and successful completion of the electronic monitoring program;

iii. Assignment to and successful completion of a day reporting center program; or

iv. Assignment to and successful completion of a residential community-based treatment program.

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

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

SUBCHAPTER 3. 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 regard-

ing 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 Assistant 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. 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) 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.

10A:72-4.4 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:72-4.5 Non-deadly force; when justified

(a) The use of non-deadly force against persons is deemed justified 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. To effectuate a lawful arrest.

Amended by R.2004 d.466, effective December 6, 2004.
See: 36 N.J.R. 2136(a), 36 N.J.R. 5359(a).
Rewrote (a); deleted (b).

10A:72-4.6 Deadly force; when authorized

(a) The parole officer may 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.

(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. 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.

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

(d) 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.

(e) 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.

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

(g) 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.

Amended by R.2004 d.446, effective December 6, 2004.
See: 36 N.J.R. 2136(a), 36 N.J.R. 5359(a).
Deleted (a); recodified former (b) to (h) as (a) to (g).

10A:72-4.7 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:72-4.8 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:72-4.9 Use of chemical agents; storage

(a) Only Board 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:72-4.12.

(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.

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

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

In (a), substituted "Board" for "Department of Corrections".

10A:72-4.10 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 a Police Training Commission approved training facility and shall be repeated annually.

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), substituted "a Police Training Commission approved training facility" for "the Correctional Staff Training Academy of the New Jersey Department of Corrections".

10A:72-4.11 Motor vehicle pursuits prohibited

Parole officers shall not become involved in motor vehicle pursuits.

10A:72-4.12 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 Special Investigations Unit of the Board and the Director, Division of Parole for review.

(d) The Director, Division of Parole, or designee shall immediately advise the Chairperson and Executive Director of the Board 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 Director, Division of Parole or designee.

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

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

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

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

In (d), inserted "Chairperson and Executive Director of the Board" following "shall immediately advise"; in (e), deleted "Chief of Staff" following "shall immediately notify"; in (f), substituted "three" for "10" preceding "working days".

10A:72-4.13 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:72-5.1 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; and
2. Have been sworn as peace officers by taking the oath of office and completing the OATH OF OFFICE form.

(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 Chairperson in consultation with the Director, Division of Parole.

(e) Ammunition for the off-duty firearm shall be approved and authorized by the Chairperson in consultation with the Director, Division of Parole.

(f) The off-duty firearm shall be carried on the body in the holsters approved by the Chairperson in consultation with the Director, Division of Parole.

(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 an authorized on 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.

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

In (d), (e) and (f), substituted "Chairperson in consultation with the Director, Division of Parole" for "New Jersey Department of Corrections"; in (k), substituted "an authorized on" for "a Departmentally issued" preceding "duty firearm".

10A:72-5.2 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:72-5.3 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 at least annually 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) Parole officers authorized to carry an off-duty firearm shall be required to carry the official badge and photo identification card of the Board while carrying their off-duty firearm.

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

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:72-5.4 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 shall 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 Director, Division of Parole.

(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.

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), in the second sentence substituted "shall" for "may" preceding "take note of the vehicle description(s)".

10A:72-5.5 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: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 carrying of firearms

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

1. When the Chairperson, Executive Director of the Board, the Director, Division of Parole, or designee, has suspended the parole officer from duty;

2. When there are pending charges or ongoing investigations of alleged incidents involving the misuse of a firearm; or

3. Any other situation where the Director, Division of Parole, or designee, may exercise his or her authority to withdraw firearms privileges, subject to the review by the Chairperson or Executive Director of the Board.

(b) In any of the instances in (a) above, the State issued firearm and badge shall be turned in to the Director, Division of Parole or designee.

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:72-5.8 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 Director, Division of Parole, or designee within three hours from the time the parole officer is aware that the firearm is missing.

(b) When an official photo identification card or badge of the Board 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:72-5.2(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 Chairperson, the Executive Director of the Board and Special Investigations Unit of the Board.

(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.

Administrative correction.
See: 34 N.J.R. 3088(a).
Amended by R.2004 d.446, effective December 6, 2004.
See: 36 N.J.R. 2136(a), 36 N.J.R. 5359(a).

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; scope

(a) A parolee may be subject to a protective frisk at any time.

(b) A search of a parolee may be conducted by a parole officer at any time when that parole officer has a reasonable, articulable suspicion to believe that the search of the parolee will produce contraband or evidence indicating that the parolee has violated or is violating a condition of parole.

(c) A search of a parolee 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) A 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 gender.

(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 (i); 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 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 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, inmate, 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).

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 inmate or 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.

(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).

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".

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 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 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 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 Board 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 Board by the person(s) performing these functions.

8. The laboratory shall not proceed with 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.

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.

SUBCHAPTER 7. CONTRABAND AND DISPOSITION OF CONTRABAND

10A:72-7.1 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:72-1.3 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:72-8.1 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 Board 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.

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), substituted "Board" for "Departmental" preceding "policy" in 1.

10A:72-8.2 Transport of parolees and inmates in custody

(a) State owned vehicles used to transport 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 transporting parolees or inmates shall be provided with necessary mechanical restraints which shall be used in accordance with N.J.A.C. 10A:72-4.8.

(g) Parole officers transporting parolees and inmates in custody shall be armed with Board authorized weapons and ammunition. Any use of force shall be governed by N.J.A.C. 10A:72-4.

(h) When utilizing a State vehicle specified in (a) above to transport parolees and inmates in custody, the ratio of transporting 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. When utilizing a State vehicle specified in (d) above to transport parolees and inmates in custody, the ratio of transporting 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:72-6.1.

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

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

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

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:72-8.3 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.

Recodified from N.J.A.C. 10A:72-8.4 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:72-8.3, Escorting procedures for parolees and inmates, was repealed.

10A:72-8.4 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:72-8.2.

(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:72-4.8 and the nature of the illness or injury.

Recodified from N.J.A.C. 10A:72-8.5 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:72-8.4, Emergencies, recodified to 10A:72-8.3.

10A:72-8.5 (Reserved)

Recodified from N.J.A.C. 10A:72-8.4 by R.2004 d.446, effective December 6, 2004.
See: 36 N.J.R. 2136(a), 36 N.J.R. 5359(a).

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

10A:72-9.1 Volunteers in Parole Program (V.I.P.P.) Supervisor

(a) The Volunteers in Parole Program (V.I.P.P.) Supervisor, serving under the Director, Division of Parole, shall be responsible for the administration of the V.I.P.P. The V.I.P.P. Supervisor shall:

1. Disseminate the policies and procedures of V.I.P.P. as established by the Board;
2. Monitor and evaluate V.I.P.P. activities; and
3. Submit monthly and annual reports on V.I.P.P. activities to the Director, Division of Parole.

10A:72-9.2 District Volunteers in Parole Program (V.I.P.P.) Coordinator

(a) The District Parole Supervisor shall designate a District V.I.P.P. Coordinator who shall be responsible for the coordination and supervision of V.I.P.P. activities within the District Office. The District V.I.P.P. Coordinator shall:

1. Recruit volunteers;
2. Assist in the orientation and training of volunteers;
3. Coordinate the interviewing, screening and approval of volunteers;
4. Assign volunteers to appropriate activities and/or services;
5. Coordinate and monitor the supervision of volunteers; and
6. Prepare annual reports of V.I.P.P. activities.

10A:72-9.3 Recruiting volunteers

(a) Volunteers may be recruited by the V.I.P.P. Supervisor, the District V.I.P.P. Coordinator, or other interested individuals.

(b) Efforts shall be made to recruit volunteers from all cultural and socioeconomic segments of the community.

(c) When recruiting volunteers, emphasis shall be placed on the service to be provided and the qualifications of the prospective volunteer including:

1. Motivation;
2. Interest;
3. Background;
4. Training; and/or

5. Other qualifications which make the prospective volunteer the appropriate person to provide a needed service.

(d) Assistance in recruiting volunteers may be provided by a Department of Corrections staff member who is designated to coordinate volunteer services.

10A:72-9.4 Eligibility for service as a volunteer

(a) A volunteer shall be at least 18 years of age.

(b) A former inmate may serve as a volunteer if his or her application is approved by the District Parole Supervisor and the Director, Division of Parole.

(c) No application to serve as a volunteer shall be denied on the basis of sex, race, religion or national origin.

10A:72-9.5 Volunteer application

(a) Any person desiring to serve as a volunteer may obtain from the District Volunteers in Parole Program (V.I.P.P.) Coordinator the following forms:

1. Volunteer Application;
2. Request for Criminal History Record Information;
3. V.I.P.P. Volunteer Rules and Responsibilities;
4. General Waiver; and
5. Application for Clearance and Issuance of a Temporary Identification Card.

(b) The applicant shall complete and sign the forms in (a) above and return such forms to the District V.I.P.P. Coordinator, who shall schedule fingerprinting.

(c) All volunteers shall be fingerprinted.

(d) A copy of all applications shall be submitted by the District V.I.P.P. Coordinator to the Division of Parole V.I.P.P. Supervisor who shall:

1. Submit the Form Volunteer Application to the Board staff member who has been designated to coordinate volunteer services; and
2. Submit the Application for Clearance and Issuance of a Temporary Identification Card to the Special Investigations Unit of the Board.

(e) Applicants offering volunteer services in specialized fields requiring licensure or certification shall submit current and valid credentials for verification, along with the application.

10A:72-9.6 Screening process

(a) Applicants shall be evaluated on the basis of:

1. Information entered on Volunteer Application;
2. Information provided at the interview; and
3. Information provided by Request for Criminal History Record Information and Application for Clearance and Issuance of a Temporary Identification Card.

(b) The District Volunteers in Parole Program (V.I.P.P.) Coordinator shall verify all pertinent information and approve or reject applicants after a thorough review has been made of the qualifications of the applicants and the needs of the District.

(c) The District V.I.P.P. Coordinator shall notify all applicants, in writing, of whether they have been approved or disapproved for participation in the V.I.P.P.

10A:72-9.7 Volunteer responsibilities

(a) All volunteers shall agree to abide by the following rules:

1. Volunteer services shall be provided on a strictly volunteer basis, for which no money, gifts or compensation may be accepted;
2. The volunteer shall attend his or her assigned duties as scheduled by the District Volunteers in Parole (V.I.P.P.) Coordinator;
3. The volunteer shall not discuss Division of Parole business with unauthorized persons, and shall maintain confidentiality of information in accordance with N.J.A.C. 10A:71-2.1;
4. The volunteer shall not exchange gifts, money, personal services or other favors with any parolee or with any parolee's family or relative;
5. The volunteer shall notify the District V.I.P.P. Coordinator of possible violation of parole rules by a parolee;
6. The volunteer shall not engage in any volunteer activity while under the influence of alcohol or illicit drugs;
7. The volunteer shall not indulge in undue familiarity with parolees;
8. The volunteer shall not remove any case materials from the Division of Parole office;
9. The volunteer shall notify the District V.I.P.P. Coordinator if the volunteer desires to visit any State or county correctional facility;
10. The volunteer shall notify the District V.I.P.P. Coordinator of any condition or event which will affect or prevent the volunteer from continued participation in the Volunteer in Parole Program (V.I.P.P.); and

11. The volunteer shall not participate in any Division of Parole law enforcement activity.

10A:72-9.8 Volunteer handbook

(a) The Division of Parole shall develop and publish a Volunteers in Parole Program Handbook which shall bear the date of publication on the cover or front page.

(b) The Volunteers in Parole Handbook shall include, but is not limited to:

1. An introduction which summarizes the history, goals and objectives of the Department of Corrections, the Board and the Division of Parole;
2. A summary of Division of Parole policies and procedures;
3. The responsibilities of volunteers as established in this subchapter;
4. A summary of volunteer services and activities as established in this subchapter; and
5. An explanation of the volunteer performance evaluation as established in this subchapter.

(c) Prior to publishing or republishing the Volunteers in Parole Program Handbook, the final draft shall be submitted to the Director, Division of Parole, for review and written approval.

(d) Each volunteer shall receive a copy of the Volunteers in Parole Program Handbook prior to assignment to an activity or service.

(e) The contents of the Volunteers in Parole Program Handbook shall be updated every two years.

10A:72-9.9 Orientation and training of volunteers

(a) Each District Office shall provide orientation and training sessions to all volunteers prior to assignment to an activity or service. Orientation and training sessions shall include, but not be limited to:

1. The rules of the Department of Corrections;
2. The rules of the Board;
3. The rules of the Division of Parole;
4. The philosophy, goals, resources and programs of the Division of Parole;
5. The duties and responsibilities of volunteers; and
6. The appropriate exercise of authority by volunteers.

10A:72-9.10 Supervision of volunteers

The supervision of volunteers shall be provided by the District Office supervising staff members to whom the volunteers have been assigned.

10A:72-9.11 Performance evaluation

(a) The District Volunteers in Parole Program (V.I.P.P.) Coordinator, along with the volunteer's immediate supervisor, shall evaluate the performance of the volunteer after a trial period of four months, using Form 608.7 Volunteer Performance Evaluation.

(b) A performance evaluation shall include, but not be limited to, the following criteria:

1. Attitude toward work;
2. Relationship with co-workers and staff;
3. Relationship with parolee; and
4. Reliability.

(c) If the evaluation is unsatisfactory, a conference shall be scheduled with the volunteer, the District V.I.P.P. Coordinator, the immediate supervisor and any other appropriate staff member(s).

(d) Following the conference, the District V.I.P.P. Coordinator shall recommend to the District Parole Supervisor the retention or termination of the volunteer.

(e) The performance evaluation of a student intern shall be submitted according to the requirements of the educational institution attended by the student.

(f) A final evaluation using Form 608.7 Volunteer Performance Evaluation shall be completed on all volunteers.

10A:72-9.12 Recognition of volunteers

The Division of Parole may schedule an annual event to acknowledge the contribution of volunteers.

10A:72-9.13 Curtailing, suspending or discontinuing the services of a volunteer

(a) The District Parole Supervisor may curtail, suspend or discontinue the services of a volunteer for reasons which include, but are not limited to:

1. Any breach of confidentiality (see N.J.A.C. 10A:71-2.1, Records);
2. An arrest of the volunteer;
3. A physical or emotional illness;
4. The inability to cooperate with staff;
5. Irregular attendance; or
6. Violation of the rules of the Volunteer in Parole Program (V.I.P.P.) as established in this chapter.

10A:72-9.14 Reporting responsibilities

The District Volunteers in Parole Program (V.I.P.P.) Coordinator shall submit annual reports to the V.I.P.P. Supervisor which shall include a list of all volunteers listed by category for the fiscal year who have been terminated and the corresponding date of action.