

**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).

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

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

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

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

In (a)2 and (a)4, deleted "inmates and" preceding "parolees".

### 10A:72-1.2 Scope

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

### 10A:72-1.3 Definitions

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

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

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

"Community supervision for life" as established in N.J.S.A. 2C:43-6.4, means a court imposed sentence of community supervision commenced upon completion of sentence, supervised as if on parole on a person who has been convicted of aggravated sexual assault, sexual assault, aggravated criminal sexual contact, kidnapping pursuant to paragraph (2) of subsection c of N.J.S.A. 2C:13-1, endangering the welfare of a child by engaging in sexual conduct which would impair or debauch the morals of the child pursuant to subsection a of N.J.S.A. 2C:24-4, luring, or an attempt to commit any such offense. Rules regarding community supervision for life are established at N.J.A.C. 10A:71-6.11.

"Contraband" means any item, article or material found in the possession of, or under the control of, a parolee that is prohibited by conditions of parole and/or community release, or that is prohibited by the Criminal Code of the State of New Jersey.

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

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

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

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

2. If the District Parole Supervisor determines that exigent circumstances do exist, the curfew or electronic monitoring condition shall be effectuated immediately;

3. The offender shall be advised that he or she will have five business days to submit a written statement or documentation to be considered;

4. The District Parole Office shall forward a copy of the written notice of the imposition of the curfew or electronic monitoring condition and, if exigent circumstances were found to exist by the District Parole Supervisor, a copy of the written notice of the basis for the determination of the existence of exigent circumstances to a board panel. If the offender contests the imposition of the curfew or electronic monitoring condition and has submitted a written statement or documentation to the District Parole Office, a copy of the written statement or documentation shall be forwarded by the District Parole Office to the board panel for consideration;

5. An offender shall not be precluded from submitting a written statement or documentation to the District Parole Office after the expiration of the five business days time period; and

6. If the District Parole Office receives a written statement or documentation from an offender after the expiration of the five business days time period, the District Parole Office shall forward a copy of the written statement or documentation to the board panel for consideration.

#### 10A:72-10.4 Board panel review

(a) Upon receipt of the written notice of the imposition of the curfew or electronic monitoring condition, the basis for the imposition of the curfew or electronic monitoring condition, the written statement of the offender, if submitted, and any attendant documents, a board panel shall review the offender's case.

(b) If the board panel determines a hearing shall be conducted prior to the effectuation of the curfew or electronic monitoring condition based on a finding that an issue of fact requires resolution, the matter shall be referred for the scheduling of a hearing before a designated hearing officer.

(c) If the board panel concurs in the determination that exigent circumstances exist and determines a hearing shall be conducted based on a finding that an issue of fact requires resolution, the matter shall be referred for the scheduling of a hearing before a designated hearing officer.

(d) If the board panel does not concur with the determination that exigent circumstances exist and determines a hearing shall be conducted based on a finding that an issue of fact requires resolution, the matter shall be referred for the scheduling of a hearing before a designated hearing officer. The offender and District Parole Office shall be advised that the curfew or electronic monitoring condition shall be held in abeyance pending the conducting of a hearing.

(e) If the board panel determines that a hearing is not required, the board panel shall determine whether to affirm, modify or vacate the imposition of the curfew or electronic monitoring condition.

(f) The offender and the District Parole Office shall be advised in writing of the board panel's decision.

#### 10A:72-10.5 Hearing; scheduling

(a) Except as provided in this section, the hearing required pursuant to N.J.A.C. 10A:72-10.4 shall be conducted within 21 days of the board panel's determination that a hearing shall be conducted.

(b) The hearing may be conducted by video conferencing. A record of the hearing shall be made pursuant to N.J.A.C. 10A:72-10.8.

(c) If the offender requests a postponement of the hearing, such request may be granted by the hearing officer upon a showing of good cause.

(d) If the request to postpone the hearing is granted, the hearing shall be rescheduled no later than 14 days from the date of the request to postpone the hearing.

#### 10A:72-10.6 Hearing; notice of hearing

(a) It shall be the responsibility of designated board staff to provide written notice to the offender of the time, date and place of the hearing.

(b) Such notice shall inform the offender of the purpose of the hearing, the possible action that may be taken as a result of the hearing proceedings and the following rights to which the offender shall be entitled to at the hearing:

1. The right to appear and speak in his or her behalf and to be aided by an interpreter, if such aid is determined to be necessary;

2. The right to present witnesses to testify in his or her behalf as to the issue of fact to be resolved;

3. The right to confront and cross-examine adverse witnesses, unless the hearing officer determines that such witnesses would be subjected to risk or harm;

4. The right to present documentary evidence and any other relevant material or information;

5. The right to waive such hearing; and

6. The right to request postponement of such hearing.

(c) The designated hearing officer shall notify the offender and other participants in the hearing that their statements will be taken under oath.

#### 10A:72-10.7 Hearing; failure to appear

If the offender fails to attend the hearing on the original scheduled date or upon a postponement being granted fails to

attend the rescheduled hearing and the offender has failed to provide good cause for his or her non-appearance, the curfew or electronic monitoring condition shall be deemed not to be contested by the offender and the matter shall be presented to the board panel based on the existing record for a final determination.

**10A:72-10.8 Hearing; record**

(a) The hearing officer shall record the hearing by an electronic recording device. If the electronic recording device is not operational the hearing shall proceed only upon the offender waiving the electronic recording of the hearing. The waiver shall be in writing and signed by the offender and shall be made a part of the offender's records. If the offender does not wish to proceed without the electronic recording of the hearing, the hearing shall be rescheduled within 14 days.

(b) Any statement, document or information relevant to the issue of resolution may be received as evidence. The hearing

officer is authorized to exclude any statement, document or information not relevant to said issue.

(c) The hearing officer shall prepare a written report that shall summarize the facts and testimony presented at the hearing. The report shall include the finding of the hearing officer on the issue of fact that required resolution.

(d) A copy of the hearing report shall be forwarded to the offender, District Parole Supervisor and to the board panel within seven days of the hearing.

(e) The hearing officer may verbally advise the offender at the time of the hearing of the determination of the hearing officer.

**10A:72-10.9 Hearing; notice of decision**

Within 21 days of the hearing, the board panel shall render a decision. Written notice of the decision shall be provided to the offender and the District Parole Supervisor.