

Subchapter 9, Medical Assistance for the Aged Continuation, sets forth requirements regarding continuation of medical services to individuals who were receiving Medical Assistance for the Aged prior to June 30, 1982.

While the Department is readopting this chapter without change, it recognizes that further rulemaking may be necessary to update the chapter to reflect current program requirements and any applicable Federal rules. Thus, the Department will continue to review the rules and may consider making substantial amendments prior to the next scheduled expiration.

An administrative review of the rules has been conducted, and a determination has been made that N.J.A.C. 10:71 should be readopted because the rules are necessary, reasonable, adequate, efficient, understandable, and responsive to the purposes for which they were originally promulgated. Therefore, pursuant to N.J.S.A. 30:4D-1 et seq., and 30:4J-8 et seq., and in accordance with N.J.S.A. 52:14B-5.1.c(1), these rules are readopted and shall continue in effect for a seven-year period.

CORRECTIONS

(a)

STATE PAROLE BOARD

Parole Board Rules

Division of Parole Rules

Readoption with Amendments: N.J.A.C. 10A:71

Adopted Amendments: N.J.A.C. 10A:72-1.1, 2.4, 4.1, 4.3 through 4.7, 4.12, 5.1, 5.4, 5.5, 5.6, 8.3, 10.1 through 10.5, 10.7, 16.1, 16.5, and 16.10

Adopted New Rules: N.J.A.C. 10A:71-5.9 and 10A:72-6.9

Proposed: April 21, 2025, at 57 N.J.R. 822(a).

Adopted: July 30, 2025, by the New Jersey State Parole Board, Samuel J. Plumeri, Jr., Chairperson.

Filed: August 8, 2025, as R.2025 d.105, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 30:4-123.48.d, 30:4-123.51.b, and 30:4-123.92.d.

Effective Dates: August 8, 2025, Readoption;
September 15, 2025, Amendments and New Rules.

Expiration Dates: August 8, 2032, N.J.A.C. 10A:71;
July 23, 2028, N.J.A.C. 10A:72.

Summary of Public Comments and Agency Responses:

The official comment period ended on June 20, 2025. In response to the notice of proposal, the State Parole Board (SPB) received one comment letter dated June 20, 2025, from Stephanie Lutz, Deputy Public Defender, Office of the Public Defender (OPD).

1. COMMENT: The OPD advised the SPB that the Summary of the notice of proposal refers to proposed amendments at N.J.A.C. 10A:72 pertaining to "certain parolees residing with or having unsupervised contact with minors." The OPD noted, however, that the proposed changes or new rules themselves do not refer to this topic. The OPD requested that if the SPB did, in fact, propose changes and new rules related to certain parolees residing with or having unsupervised contact with minors, the rulemaking be made available for review and comment.

RESPONSE: In reviewing the Summary of the notice of proposal and the proposed amendments at N.J.A.C. 10A:72, the SPB determined that inclusion of the phrase "certain parolees residing with or having unsupervised contact with minor" was an oversight as the proposed amendments at N.J.A.C. 10A:72 do not relate to the aforementioned topic. The SPB appreciates the OPD bringing this matter to the attention of the SPB.

2. COMMENT: The OPD noted that the Summary of the notice of proposal refers to the amendments at N.J.A.C. 10A:71-7.7(c)2 and 7.14(c)2 as reflecting that a parolee determined to be indigent has the right to be represented by an attorney assigned by the Office of the Public Defender at a preliminary violation hearing and revocation hearing, respectively. The OPD noted that the proposed amendments themselves would remove the reference to the indigency requirement. The OPD advised that the amendment to the OPD enabling statute establishing the Parole Revocation and Resentencing Unit does not impose an indigency requirement for these services (N.J.S.A. 2A:158A-5.3). The OPD advised that the proposed amendments to the respective sections are correct.

RESPONSE: The SPB appreciates the OPD identifying that the language in the Summary of the notice of proposal did not coincide with the respective proposed amendments and the acknowledgement that the respective proposed amendments correctly reflect the amendment to the OPD enabling statute.

3. COMMENT: In reference to the new rule proposed at N.J.A.C. 10A:71-6.12(i) pertaining to Global Positioning System (GPS) monitoring pursuant to the Sex Offender Monitoring Act (S.O.M.A.), the OPD requested the SPB include language reflecting the judicial prohibition on the retroactive application of S.O.M.A. to parolees whose predicate offense occurred prior to the enactment of S.O.M.A. on August 6, 2007.

The OPD advised that the Appellate Division banned the retroactive application of S.O.M.A. in *State v. F.W.*, 443 N.J. Super. 476 (App. Div. 2016), *certif. denied*, 227 N.J. 150 (2016). The OPD noted that in *F.W.* the court held that prosecuting and punishing the defendant for a third-degree crime created through S.O.M.A. violated the Ex Post Facto Clause when the defendant committed the predicate offense prior to the enactment of S.O.M.A. The OPD noted that though the defendant in *F.W.* was subject to Community Supervision for Life (CSL), not Parole Supervision for Life (PSL), the court's reasoning would apply to similarly situated individuals on PSL who committed the predicate offense prior to the enactment of S.O.M.A.

The OPD recommended that the proposed new rule at N.J.A.C. 10A:71-6.12(i) be clarified to explicitly exclude the subset of PSL offenders whose predicate offenses occurred prior to the enactment of S.O.M.A. The OPD believed that setting forth the exclusion in the text of the rule will ensure fairness, minimize confusion, and avoid time-consuming litigation.

RESPONSE: The SPB does not believe that the suggested change at N.J.A.C. 10A:71-6.12(i) is necessary. The SPB's Division of Parole staff is cognizant of the effective date of S.O.M.A. and the SPB is confident that the Division of Parole will apply the rule in a fair manner; that there will not be confusion in the application of the rule; and that the Division of Parole will act in a manner that will preclude time-consuming litigation.

The SPB notes that the PSL statute, N.J.S.A. 2C:43-6.4, vests in the SPB, the authority to impose special conditions of supervision in the case of an offender on PSL, as needed, for the protection of the public and to foster rehabilitation. Therefore, though the new rule may not be mandatorily applied to offenders on PSL whose predicate offense was committed prior to the enactment of S.O.M.A., the SPB is not precluded from imposing a form of electronic monitoring on said offenders when the present circumstances of an offender's case warrant the imposition of such a special condition.

The SPB will adopt the amendment without change.

4. COMMENT: The OPD advised that the proposed rule at N.J.A.C. 10A:72-6.9 eliminates the longstanding reasonable suspicion requirement for the Division of Parole to search a parolee's residence.

The OPD noted that the reasonable suspicion standard for warrantless probation searches was permitted by the United States Supreme Court in the "special needs" doctrine after the Court weighed the privacy rights of probationers and the special needs of probation; that, likewise, New Jersey Courts have permitted warrantless parole searches that are justified by reasonable suspicion; and that New Jersey Courts have never authorized what the SPB proposes at N.J.A.C. 10A:72-6.9, the suspicionless search of a parolee's residence.

The OPD noted that one's residence is afforded the highest level of protection from government intrusion and that the searches proposed pursuant to N.J.A.C. 10A:72-6.9 are unlikely to pass muster under the

“special needs” rubric where a court will consider the competing governmental need against the privacy interest involved. The OPD noted that the privacy interest is considerable, though reduced, while a parolee is living in a residential treatment facility, and the competing governmental need is minimal as the Division of Parole can detect substance abuse without searching residential facilities by simply testing the parolees living in the facility. The OPD noted that as to other contraband, such as weapons or prohibited sexual material, a parolee’s substance use disorder does not give rise to a special need to search for these items. Further, the OPD believed that the facilities themselves should be tasked with ensuring a safe weapons-free environment for their residents.

The OPD urged the SPB to reconsider the proposed rule and to leave the reasonable suspicion requirement in place for searches of residential facilities.

RESPONSE: The SPB contracts with community-based treatment providers for appropriate services to assist offenders in their rehabilitative progress and reintegration into the community. The SPB notes that offenders who are designated for placement in a community-based residential program are participating in a group environment in which their living space is not an individual room, but instead a dormitory setting. An expectation of privacy for an offender participating in a community-based residential treatment program is, therefore, not analogized with an expectation of privacy of an offender residing in a private home. Further, due to the group environment, lapses of substance abuse or the potential possession of contraband can threaten the sobriety of other residents, as well as the safety of other residents and facility staff. Controlling and deterring the introduction and concealment of contraband through the utilization of random searches is essential to provide the community-based treatment program residents with a drug-free environment conducive to an offender’s rehabilitative progress.

Each community-based treatment program has a handbook addressing the rules and regulations of the program. Upon an offender entering a community-based residential program, the offender is provided with a copy of the program’s handbook, which includes notice that the offender and the entire facility is subject to search at any time without notice. An offender is, therefore, cognizant that as a participant in the program they will be subject to a search on a random basis.

The OPD suggests that the SPB can detect substance abuse without searching a facility by merely testing the parolees who reside in the facility and that program staff should be tasked with ensuring a safe weapons-free environment. The SPB, however, believes that it has the responsibility to ensure that offenders are receiving appropriate treatment services in a safe environment that is conducive to their well-being and rehabilitative efforts and that the conducting of random searches by the Division of Parole is an appropriate means to achieve same.

The SPB believes that the rule, as proposed, is legally permissible and elected to adopt same without change.

Summary of Agency-Initiated Change Upon Adoption:

The State Parole Board is changing N.J.A.C. 10A:72-4.3(i) to delete the phrase “within 24 hours from.” This language was inadvertently not included in the bracket in the notice of proposal to effectuate deletion. The State Parole Board has, therefore, deleted the language. The deletion of the language is consistent with the intended change as noted in the Summary of the notice of proposal and clarifies an ambiguity created by failing to originally delete the language and by the addition of the phrase “immediately upon” in the subsection.

Federal Standards Statement

The rules readopted with amendments and the adopted amendments and new rules do not pertain to the implementation of, compliance with, or participation in, any programs established pursuant to Federal law or a State statute that incorporates or refers to Federal law, standards or requirements. An analysis of the rules readopted with amendments and the adopted amendments and new rules pursuant to P.L. 1995, c. 65 is, therefore, not required.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 10A:71.

Full text of the adopted amendments and new rules follows (addition to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks *[thus]*):

CHAPTER 71 PAROLE

SUBCHAPTER 2. RECORDS; GENERAL ADMINISTRATIVE PROVISIONS

10A:71-2.10 Institutional infractions

(a) The Board panel or Board shall consider the final decision of the officials of the Department or a county correctional facility responsible for adjudication of institutional infractions to be *res judicata*.

(b)-(c) (No change.)

SUBCHAPTER 3. PAROLE RELEASE HEARINGS

10A:71-3.7 Preparation of cases for parole hearings; adult inmates

(a) (No change.)

(b) This list shall be distributed to the chief executive officer of the institution of incarceration and the Chairperson of the Board of Trustees for the institution of incarceration.

(c)-(l) (No change.)

SUBCHAPTER 5. SUSPENDING OR RESCINDING A PAROLE RELEASE DATE

10A:71-5.9 Administrative parole release

(a) In the case of an inmate who has been certified for administrative parole release pursuant to N.J.A.C. 10:71-3.16(b) and it is subsequently determined prior to the administrative parole release date that the inmate does not meet the criteria set forth at N.J.A.C. 10A:71-3.22(a), the decision to certify administrative parole release shall be vacated by the Board members certifying administrative parole release and the inmate shall be referred for a hearing pursuant to N.J.A.C. 10A:71-3.17.

(b) The inmate and the Department shall be provided written notice of the decision to vacate, the decision to certify administrative parole release, and the basis for the decision within 14 days of the decision.

SUBCHAPTER 6. SUPERVISION

10A:71-6.4 Conditions of parole

(a) An offender granted parole shall comply with the following general conditions of parole:

1.-12. (No change.)

13. Refrain from the unlawful purchase, use, possession, distribution, or administration of the following, which shall not apply to a controlled dangerous substance prescribed by a physician:

i. Any narcotic drug, controlled dangerous substance, or controlled substance analog as defined at N.J.S.A. 2C:35-2 or imitation controlled dangerous substance or imitation controlled substance analog as defined at N.J.S.A. 2C:35-11, other than possession of marijuana or hashish in violation of N.J.S.A. 2C:35-10.a3, and distribution of marijuana or hashish in violation of N.J.S.A. 2C:35-5.b12; or

ii. (No change.)

14.-21. (No change.)

(b)-(m) (No change.)

10A:71-6.9 Discharge from parole

(a) A Board panel may grant any parolee a complete discharge from parole prior to the expiration of the maximum term for which they were sentenced; provided that:

1.-4. (No change.)

(b) (No change.)

(c) The provisions at (a) and (b) above shall not preclude a Board panel from granting a county parolee a complete discharge from parole prior to the expiration of the maximum term for which they were sentenced when the Board panel determines that good cause exists to grant such a discharge.

(d) If the District Parole Supervisor determines that a parolee has made exceptional progress while on parole supervision, the District Parole

Supervisor may request that a waiver of the time periods in this section be granted by a Board panel. Such waiver may be granted by a Board panel for good cause.

(e) When a parolee has completed two years of parole supervision and thereafter, on an annual basis, the parole officer and the District Parole Supervisor shall review the case to determine whether good reason exists to require continued supervision.

1. (No change.)

2. If the District Parole Supervisor determines that good reason does not exist to require continued supervision and that the parolee qualifies for discharge pursuant to (a) above, a favorable discharge recommendation shall be submitted, in writing, to a Board panel. The discharge recommendation shall include the basis for the recommendation and a full explanation as to the adjustment of the parolee while under supervision. A copy of all chronological supervision reports shall be submitted with the discharge recommendation to a Board panel.

3. A Board panel shall review requests for discharge and advise the District Parole Supervisor of its decision within 45 days of receipt of the recommendation.

(f) In assessing whether good reason exists to require continued supervision, the District Parole Supervisor shall consider factors such as, but not limited to, the following:

1. Is the parolee presently serving a court-ordered term of incarceration or community supervision term;

2. Has the parolee committed a crime, a disorderly person offense or the offense of Driving While Intoxicated or Driving Under the Influence, or incurred the revocation of a supervision status during the preceding two years;

3. Is the parolee the subject of an active criminal investigation;

4. Is there an active warrant(s) for the arrest of the parolee;

5. Is there an active temporary restraining order or final restraining order filed against the parolee during the preceding three years;

6. Is the parolee on an advanced supervision status;

7. Has the parolee successfully completed all programs mandated by court order or a condition of supervision including, but not limited to, substance abuse counseling, mental health counseling, and anger management;

8. Has the parolee achieved all goals outlined in the Case Plan Agreement;

9. Has the parolee completed an approved risk assessment within the preceding year; and

10. Has the parolee made a satisfactory adjustment while under supervision and is the parolee currently in substantial compliance with the conditions of supervision.

(g) A Board panel may provide a discharge from continued parole supervision:

1.-2. (No change.)

(h) If discharge is granted, the Board panel shall issue a discharge certificate on the parolee. A copy of the discharge certificate shall be provided to the parolee and to the Department.

(i) If discharge is denied, the Board panel shall state, in writing, the basis for the decision to deny discharge. The parolee shall be provided written notice of the decision to deny discharge and the basis for the decision within 21 days.

(j) (No change in text.)

(k) If discharge is granted by the Board, the Board shall issue a discharge certificate on the parolee. A copy of the discharge certificate shall be provided to the parolee and to the Department within 21 days.

(l) If discharge is denied by the Board, the Board shall state, in writing, the basis for the decision to deny discharge. The parolee shall be provided written notice of the decision to deny discharge and the basis for the decision within 21 days.

10A:71-6.11 Community supervision for life

(a) (No change.)

(b) The special sentence of community supervision for life shall commence pursuant to N.J.S.A. 2C:43-6.4.b upon the completion of the sentence imposed pursuant to the Code of Criminal Justice, N.J.S.A. 2C:1-1 et seq. An offender serving a special sentence of community supervision for life shall be supervised by the Division of Parole as if on parole and

subject to any special conditions established by a Board panel and to the following general conditions. The offender shall:

1.-12. (No change.)

13. Refrain from the unlawful purchase, use, possession, distribution, or administration of the following, which shall not apply to a controlled dangerous substance prescribed by a physician:

i. Any narcotic drug, controlled dangerous substance, or controlled substance analog as defined at N.J.S.A. 2C:35-2, or imitation controlled dangerous substance or imitation controlled substance analog as defined at N.J.S.A. 2C:35-11, other than possession of marijuana or hashish in violation of N.J.S.A. 2C:35-10.a(3), and distribution of marijuana or hashish in violation of N.J.S.A. 2C:35-5.b(12); or

ii. (No change.)

14.-19. (No change.)

20. Comply with any curfew established by the District Parole Supervisor, or designee.

21.-24. (No change.)

(c)-(n) (No change.)

10A:71-6.12 Parole supervision for life

(a)-(c) (No change.)

(d) An offender sentenced to a special sentence of parole supervision for life shall comply with the following:

1.-12. (No change.)

13. Refrain from the unlawful purchase, use, possession, distribution, or administration of the following, which shall not apply to a controlled dangerous substance prescribed by a physician:

i. Any narcotic drug, controlled dangerous substance, or controlled substance analog as defined at N.J.S.A. 2C:35-2, or imitation controlled dangerous substance or imitation controlled substance analog as defined at N.J.S.A. 2C:35-11, other than possession of marijuana or hashish in violation of N.J.S.A. 2C:35-10.a(3), and distribution of marijuana or hashish in violation of N.J.S.A. 2C:35-5.b(12); or

ii. (No change.)

14.-19. (No change.)

20. Comply with any curfew established by the District Parole Supervisor, or designee.

21.-27. (No change.)

(e)-(h) (No change.)

(i) If, upon release from confinement or during the course of supervision, the appropriate county prosecutor determines, pursuant to N.J.S.A. 2C:7-8, that an offender is a high risk to re-offend and the appropriate court affirms the determination of the county prosecutor, the offender serving a special sentence of parole supervision for life shall, in addition to the conditions specified at (d), (e), (g), and (h) above, participate in the Global Positioning System (GPS) monitoring program and comply with the conditions specified at N.J.A.C. 10A:72-10.2(b).

Recodify existing (i)-(q) as (j)-(r) (No change in text.)

(s) The time period established pursuant to (q) or (r) above shall not, pursuant to N.J.S.A. 30:4-123.51b.c, be reduced by commutation time for good behavior (N.J.S.A. 30:4-140) or credits for diligent application of work and other institutional assignments (N.J.S.A. 30:4-92).

(t) In accordance with N.J.S.A. 30:4-123.51b.c, the time period to be served pursuant to (q) or (r) above, shall not for the purpose of establishing a primary parole eligibility date pursuant to N.J.S.A. 30:4-123.51.h be aggregated with a term of imprisonment imposed on the offender for the commission of any other offense.

(u) Upon the completion of the time period established pursuant to (q) or (r) above, the offender shall be released from confinement unless the offender is serving a sentence of incarceration for another crime. Prior to the offender being released from confinement, the offender shall be served with a written certificate pursuant to (j), (l), and (m) above. Upon the offender being released from confinement the offender shall remain under parole supervision for life.

Recodify existing (u)-(v) as (v)-(w) (No change in text.)

SUBCHAPTER 7. REVOCATION OF PAROLE

10A:71-7.1 Commencement of revocation proceedings

(a) Whenever the parole officer has probable cause to believe that a parolee under their supervision has seriously or persistently violated the

conditions of parole, the parole officer shall file a report with the District Parole Supervisor, or designee, requesting the commencement of revocation proceedings.

(b) Pursuant to N.J.S.A. 30:4-123.62(h), the conviction of a crime committed while on parole shall be deemed to constitute probable cause to believe that the parolee has violated a condition of parole. In such a case, the parolee shall be scheduled for a parole revocation hearing pursuant to N.J.A.C. 10A:71-7.13 and 7.14.

10A:71-7.2 Issuance of warrants

(a)-(d) (No change.)

(e) If a parolee has been sentenced to a custodial term or sentenced to a custodial term as a condition of probation for a crime committed while on parole supervision and if a parole warrant has not been previously issued, the appropriate individual shall determine whether a parole warrant shall be issued and filed against the parolee at the institution in which the parolee is confined.

10A:71-7.7 Preliminary hearing; notice of hearing

(a)-(b) (No change.)

(c) Such notice shall inform the parolee of the purpose of the hearing; the violation(s) of parole conditions alleged; the time, date, place, and circumstances of the alleged violation(s); the possible action that may be taken as a result of the revocation proceedings; and the following rights to which the parolee shall be entitled at the preliminary hearing:

1. (No change.)

2. The right to representation by an attorney or such other qualified person as the parolee may retain, or the right to representation by an attorney assigned by the Office of the Public Defender.

3.-8. (No change.)

10A:71-7.14 Revocation hearing; notice of hearing

(a)-(b) (No change.)

(c) Such notice shall inform the parolee of the following: the purpose of the hearing; the violation(s) of parole conditions alleged; the time, date, place and circumstances of the alleged violation(s); the name(s) of any witness(es) scheduled to appear at the hearing; and the following rights to which the parolee shall be entitled at the revocation hearing:

1. (No change.)

2. The right to representation by an attorney or such other qualified person as the parolee may retain, or the right to representation by an attorney assigned by the Office of the Public Defender.

3.-9. (No change.)

SUBCHAPTER 9. CERTIFICATE SUSPENDING CERTAIN EMPLOYMENT, OCCUPATIONAL DISABILITIES, OR FORFEITURES

10A:71-9.3 Eligibility

(a) (No change.)

(b) Pursuant to N.J.S.A. 2A:168A-8.c, a qualified offender is eligible for relief pursuant to (a) above if the offender has not been convicted of:

1.-7. (No change.)

8. Any crime committed against a person 16 years of age or younger, or a person with a disability; or

9. (No change.)

(c)-(e) (No change.)

CHAPTER 72 DIVISION OF PAROLE

SUBCHAPTER 1. GENERAL PROVISIONS

10A:72-1.1 Definitions

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

...
 "Parole Communication Center" means the centralized communication center within the State Parole Board that coordinates communication functions of the Division of Parole on a 24-hour, seven-day-a-week basis.
 ...

SUBCHAPTER 2. COMMUNITY PLAN AND SUPERVISION

10A:72-2.4 Violations of parole

(a) (No change.)

(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.-2. (No change.)

3. The imposition of a special condition requiring:

i. (No change.)

ii. Assignment to and successful completion of the Global Positioning System (GPS) monitoring program, wherein GPS monitoring serves to address violations of conditions of supervision;

iii.-iv. (No change.)

(c)-(d) (No change.)

SUBCHAPTER 4. USE OF FIREARMS AND 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(s) 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 Investigators, Parole Officers, or Police Officers; or

2. A basic police recruit training program certified by the P.T.C.; and

3. (No change in text.)

10A:72-4.3 On-duty firearm(s)

(a) The authorized on-duty firearm(s) shall be the responsibility of the parole officer at all times.

(b) The parole officer shall not draw or exhibit their firearm(s), except for one of the following circumstances:

1. For maintenance of the firearm(s);

2. To secure the firearm(s);

3. During training exercises, range practice, qualification or requalification with the firearm(s); or

4. When circumstances create a reasonable belief that it may be necessary to use the firearm(s) in the performance of the parole officer's duties.

(c)-(e) (No change.)

(f) The parole officer entering any residential or correctional facility of the Department of Corrections shall store their firearm(s) 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 their firearm(s) in the designated area at the county correctional facility or at an approved Board-authorized weapons storage unit.

(h) When an authorized firearm(s) 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, through the chain of command, or the designee of the Chairperson, within three hours from the time the parole officer is aware that the firearm(s) 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 their supervisor and the Director, Division of Parole, or designee, through the chain of command, or the designee of the Chairperson, *[within 24 hours from]* immediately upon the parole officer becoming aware that the State-issued official photo identification card or badge is missing.

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

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, necessary, and proportional considering 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, in proportion to the individual's level of resistance to accomplish the law enforcement objective but as soon as the suspect submits, the parole officer shall reduce the degree of force used.

(c) All use of force employed by parole officers shall adhere to the following core principles:

1. Parole officers shall make every effort to preserve and protect human life and the safety of all persons;

2. Force shall only be used as a last resort and when there is a reasonable belief that other non-force techniques will not accomplish the lawful objectives;

3. Force shall never be employed as a retaliatory or punitive measure;

4. Parole officers shall use the least amount of force that is objectively reasonable, necessary, and proportional to safely achieve the legitimate law enforcement objective under the circumstances;

5. Deadly force shall only be used as an absolute last resort;

6. Every parole officer has an affirmative duty to take steps to prevent any use of force that is illegal, excessive, or otherwise inconsistent with policies, regulations, and laws, if possible, before a fellow parole officer uses excessive, illegal, or otherwise inappropriate force. Any such improper use of force shall be immediately reported;

7. Parole officers shall promptly render medical assistance to any injured person consistent with the parole officer's training and shall promptly request emergency medical assistance for that person, if needed or requested. Parole officers also have a duty to monitor individuals for potential medical intervention of any parole officers uses force; and

8. Every use of force must be reported and receive a meaningful command-level review, which includes a review by the Director, Division of Parole, or designee.

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.-6. (No change.)

7. To overcome resistance directed at a parole officer;

8. To execute a lawful search; or

9. (No change in text.)

10A:72-4.6 Deadly force; when authorized

(a) (No change.)

(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.-2. (No change)

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; and

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.

(c)-(g) (No change.)

10A:72-4.7 Use of force against persons other than parolees

Recodify existing (b)-(c) as (a)-(b) (No change in text.)

(c) Non-deadly force may be used upon or toward persons other than parolees only under the following circumstances:

1.-4. (No change.)

5. To prevent an escape, or flight from arrest for a crime;

6. To execute a lawful search;

7. To overcome resistance directed at a parole officer; and/or

8. (No change in text.)

(d) (No change in text.)

10A:72-4.12 Reports

(a) A parole officer shall immediately contact their supervisor and shall complete a use of force report or show of force report when the parole officer participated in an incident in which:

1. (No change.)

2. Physical force was utilized on an individual;

3. Mechanical force was utilized on an individual. Mechanical force includes, but is not limited to, the following:

i. The discharge of oleoresin capsicum (OC) spray toward an individual; or

ii. The striking of an individual with an impact weapon;

4. Deadly force was utilized on an individual;

5. An action that results in, or is alleged to have resulted in, serious bodily injury or death of another;

6. An animal-involved use of force incident in which a parole officer utilized force to mitigate the threat or attack of a charging animal; and

7. The utilization of constructive authority by the pointing of a firearm at an individual.

(b) A parole officer shall immediately contact their supervisor and shall complete a use of force report or show of force report when the parole officer witnesses, or reasonably believes, that another officer or an officer from another law enforcement agency has used force in violation of any law, policy, rule, or regulation.

(c) (No change in text.)

(d) The parole officer shall, within 24 hours, complete a use of force report or show of force report and submit the report for review to the Assistant District Parole Supervisor who is the immediate supervisor of the parole officer and to the District Parole Supervisor.

(e) The Assistant District Parole Supervisor and the District Parole Supervisor shall assess the reported use of force or show of force incident to ensure that the parole officer utilized only the force deemed reasonably necessary to accomplish the law enforcement objective and to determine if force was utilized in a non-discriminatory manner.

(f) In assessing the reported use of force or show of force incident, the Assistant District Parole Supervisor and the District Parole Supervisor shall examine all available sources of information to include, but not be limited to, the following:

1. All required reports including reports completed by external law enforcement agencies;

2. Video recordings, if available, of the incident; and

3. Medical records, if available, and record of injuries.

(g) Within three working days, following the incident in which force was utilized or a show of force was made, the Assistant District Parole Supervisor and the District Parole Supervisor shall prepare a use of force or show of force review report and submit the same with a copy of the use of force report or show of force report completed by the parole officer to the Director, Division of Parole, or designee, and the Director, Office of Professional Services (OPS).

(h) The District Parole Supervisor shall also report, in writing, any misconduct issues, rule infractions, or policy violations by the parole officer to the Director, OPS.

(i) The Director, Division of Parole, or designee, shall review the use of force or show of force review reports submitted by the Assistant District Parole Supervisor and the District Parole Supervisor and the use of force report or show of force report prepared by the parole officer to determine whether additional action shall be taken. The Director, Division of Parole, or designee, shall complete a use of force or show of force executive review report and be responsible to initiate and complete any recommended actions.

(j) The Director, OPS, shall submit an annual use of force/show of force summary report to the Chairperson, or designee, that shall include a detailed analysis of all reported use of force and show of force incidences and actions taken in response to same.

(k) The Chairperson, or designee, shall review the annual use of force/show of force summary report. The review shall include, at a minimum, the following:

1. Analytical reports from the Attorney General's Use of Force Portal;

2. An audit of body-worn cameras and other videos on a risk-based and randomly selected basis;

3. Any internal affairs complaints; and

4. An analysis of the uses of force to ensure that force is being applied without discrimination based on race, ethnicity, nationality, religion, disability, gender, gender identity, sexual orientation, or any other protected characteristic.

(l) Based on the review at (k) above, the Chairperson, or designee, shall assess whether modifications are warranted in the following, but not limited to, areas:

1. Structure of the Division of Parole;
2. Written directives;
3. Equipment; and/or
4. Training.

(m) The Chairperson, or designee, shall complete a report summarizing their findings and submit the same to the Director, Office of the Attorney General's Public Integrity and Accountability, or designee.

(n) The Chairperson, the Director, Division of Parole, and the Director, OPS, or their respective designee, shall be immediately notified by a parole officer if the parole officer is involved in one of the following incidents:

1. Any use of force resulting in the death of an individual;
 2. Any use of force resulting in serious bodily injury to an individual;
 3. Any use of deadly force, including the discharge of a firearm(s), regardless of whether such force resulted in injury;
 4. The death of an individual during an encounter with a parole officer(s); and
 5. The death of an individual while in the custody of a parole officer(s).
- (o) Upon the Director, OPS, being advised of an incident specified at (n) above, the Director, OPS, shall immediately notify the prosecutor's office in the county in which the incident occurred.

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

10A:72-5.1 Authorized off-duty firearm, ammunition, and holster

(a) Parole officers shall be authorized to carry 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 Investigators, Parole Officers, or Police Officers; or a basic police recruit training program certified by the P.T.C.; and
2. (No change.)
- (c)-(f) (No change.)
- (g) Holsters shall hold the firearm firmly when inverted.
- (h)-(k) (No change.)

10A:72-5.4 Use of force while off duty

(a)-(e) (No change.)

(f) All use of force employed by parole officers shall adhere to the following core principles:

1. Parole officers shall make every effort to preserve and protect human life and the safety of all persons;
2. Force shall only be used as a last resort and when there is a reasonable belief that other non-force techniques will not accomplish the lawful objectives;
3. Force shall never be employed as a retaliatory or punitive measure;
4. Parole officers shall use the least amount of force that is objectively reasonable, necessary, and proportional to safely achieve the legitimate law enforcement objective under the circumstances;
5. Deadly force shall only be used as an absolute last resort;
6. Every parole officer has an affirmative duty to take steps to prevent any use of force that is illegal, excessive, or otherwise inconsistent with policies, regulations, and laws, if possible, before a fellow parole officer uses excessive, illegal, or otherwise inappropriate force. Any such improper use of force shall be immediately reported;
7. Parole officers shall promptly render medical assistance to any injured person consistent with the parole officer's training and shall promptly request emergency medical assistance for that person, if needed or requested. Parole officers also have a duty to monitor individuals for potential medical intervention if any parole officers uses force; and
8. Every use of force must be reported and receive a meaningful command-level review, which includes a review by the Director, Division of Parole, or designee.

10A:72-5.5 Use of non-deadly force while off duty

(a) Whenever non-deadly force is used off duty, the parole officer shall only use that force that is objectively reasonable, necessary, and proportional considering the totality of the circumstances as known by the parole officer at the time the parole officer uses force.

(b)-(c) (No change.)

10A:72-5.6 Use of deadly force while off duty

(a) (No change.)

(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.-2. (No change.)

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; and

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.

(c)-(e) (No change.)

SUBCHAPTER 6. SEARCH AND URINE MONITORING OF PAROLEES AND INMATES

10A:72-6.9 Searches of facilities

(a) All residential community-based treatment program facilities under contract with the Board to provide services to parolees in a drug-free environment conducive to parolee rehabilitation and parolees housed in residential community-based treatment program facilities under contract with the Board and their property may be searched by designated parole officers for the purpose of controlling and deterring the introduction and concealment of contraband.

(b) A residential community-based treatment program facility work, training, visit, and living areas, as well as other areas that parolees may have access to, and parolees housed in the facility and their property may be searched on a random basis. Searches shall be unannounced and may be limited to a specific area(s) within the facility or specific parolees housed in the facility and their property.

(c) A search of a residential community-based treatment program facility and parolees housed in the facility and their property pursuant to this section shall be performed only with the prior approval of the Director, Division of Parole, or designee.

(d) Prior to a pre-planned operational search of a residential community-based treatment program facility and the parolees housed in the facility and their property, the appropriate District Parole Supervisor, or designee, shall submit to the Director, Division of Parole, or designee, a plan of operation for the intended search. The plan shall include, but not be limited to, the residential community-based treatment program facility to be searched, the basis for the intended search, the date and time of the intended search, the area(s), objects, and property within the residential community-based treatment program facility to be searched, the potential number of parolees to be searched, the number of parole officers to participate in the search, the parole officer to be designated the leader of the operation, and the method in which the search is to be performed.

(e) Upon submission of the plan of operation to the Director, Division of Parole, or designee, and upon the plan of operation being approved, the parole officer designated the leader of the operation and designated parole officers may proceed to conduct the search of the residential community-based treatment program facility and parolees housed in the facility and their property in accordance with the plan of operation.

(f) A search of a residential community-based treatment program facility, parolees housed in the facility, objects, and property may be performed by the use of scanning/testing devices.

(g) A search of a residential community-based treatment program facility, parolees housed in the facility, objects, and property shall be recorded by a body-worn camera when the following body-worn camera qualifying event occurs:

1. The parole officer is investigating the commission of a criminal offense;
2. The parole officer is responding to an emergency; or
3. The parole officer reasonably believes that they will be required to use constructive authority or force.

(h) A search of a residential community-based treatment program facility, parolees housed in the facility, objects, and property may be performed by the utilization of a canine specifically trained and certified to discover and indicate to the handler(s), who is specifically trained and certified as a canine handler, the presence of various substances and/or material.

(i) The parole officer designated the leader of the operation shall within two business days of the authorized search being completed submit a report to the Director, Division of Parole, or designee. The report shall provide a summary of the search performed, the results of the search, the type and amount of any contraband recovered, the location where the contraband was recovered, the identity of any parolee(s) found to be in possession of contraband, the disposition of the contraband, significant events occurring during the search and any issues that arose during the course of the conducting of the search.

(j) The search of any parolee housed in a residential community-based treatment program facility under contract with the Board or their property shall be recorded in the Chronological Supervision Report pursuant to N.J.A.C. 10A:72-6.6.

SUBCHAPTER 8. TRANSPORTATION OF PAROLEES IN CUSTODY

10A:72-8.3 Emergencies

(a) The parole officer shall immediately notify the Parole Communication Center of the State Parole Board if an emergency arises during the transportation of a parolee.

(b) If time or other considerations make it impossible to contact the Parole Communication Center, the local police authorities shall be notified by the parole officer without prior clearance.

SUBCHAPTER 10. CURFEW AND GLOBAL POSITIONING SYSTEM (GPS) MONITORING

10A:72-10.1 Criteria

(a) This subchapter applies to the following:

1. (No change.)

2. The imposition of a special condition of curfew for those offenders serving a mandatory period of parole supervision pursuant to N.J.S.A. 2C:43-7.2.c; and

3. (No change in text.)

(b) The District Parole Supervisor, or designee, may effectuate the general condition of curfew or impose a special condition that the offender abide by an assigned curfew or participate in GPS monitoring if:

1. There is a specific and articulable reason and a clear purpose for the imposition of the curfew or GPS monitoring; and

2. The imposition of the curfew or GPS monitoring will act as an aid to the offender's reentry efforts; or is deemed necessary to protect the public from recidivism by the offender.

10A:72-10.2 Specifications

(a) The curfew or GPS monitoring period established pursuant to N.J.A.C. 10A:72-10.1(b) shall comply with the following specifications:

1. The curfew period shall specify the hours when the offender is restricted to their approved residence;

2. The curfew or GPS monitoring period shall specify a beginning and ending date for the curfew or GPS monitoring period;

3. The start and end time of the curfew period shall be reasonable and commensurate with the stated justification;

4. The curfew period shall not be imposed in a manner that would interfere with the offender's verifiable employment and/or educational requirements;

5. The curfew or GPS monitoring period shall be imposed for a maximum of 180 days;

6. A District Parole Supervisor, or designee, shall review the curfew or GPS monitoring period no less than 90 days after imposition to determine if it remains warranted; and

7. Any extension of the curfew or GPS monitoring period beyond the 180 days shall require an additional review by the District Parole Supervisor, or designee, and shall conform with the procedures at N.J.A.C. 10A:72-10.3.

(b) An offender subject to GPS shall comply with the following conditions:

1. Initially meet with the assigned monitoring parole officer for installation of the GPS monitoring equipment;

2. Ensure that the GPS tracking device is charged to its capacity on a daily basis and maintain the GPS tracking device in a charged mode whenever the offender leaves their residence;

3. Provide immediate notice to the assigned monitoring parole officer if the GPS tracking device becomes inoperable;

4. Not tamper with, remove, or damage or attempt to tamper with, remove, or damage any of the GPS monitoring equipment installed at the offender's residence, attached to the offender's person, or required to be carried by the offender;

5. Be responsible for the cost of repair and/or replacement of any of the GPS monitoring equipment that is lost or damaged, when the loss or damage to the GPS monitoring equipment occurs due to the offender's conduct;

6. Maintain and exercise continuous physical control over the GPS tracking device whenever the offender leaves their residence;

7. Provide access to the offender's residence at reasonable times to enable the assigned monitoring parole officer to perform required maintenance and/or diagnostics of the GPS monitoring equipment; and

8. Provide immediate access to the offender's residence whenever the assigned monitoring parole officer is required to investigate a report of non-compliance with a condition of the monitoring program.

10A:72-10.3 Procedure

(a) The offender shall be served in-person with written notice of the imposition of the curfew or GPS monitoring condition. The written notice shall include the basis for the imposition of the condition.

(b) The offender shall be provided with a written informational statement that details the procedure for the imposition of the curfew or GPS monitoring condition and provided with written notice of the conditions of the GPS monitoring program.

(c) Upon the offender being served with written notice of the imposition of the curfew or GPS monitoring condition, the offender shall indicate, in writing, whether they contest the allegations, the conclusions to be drawn from the allegations, or the justification supporting the imposition of the curfew or GPS monitoring condition.

(d) If the offender does not contest the allegations, the conclusions to be drawn from the allegations, or the justification supporting the imposition of the curfew or GPS monitoring condition, the offender shall be advised that the curfew or GPS monitoring condition shall be effectuated immediately.

(e) If the offender contests the allegations, the conclusions to be drawn from the allegations, or the justification supporting the imposition of the curfew or GPS monitoring condition and exigent circumstances do not exist as to require the immediate effectuation of the curfew or GPS monitoring condition, the following procedures shall apply:

1. The offender shall be advised that they will have five business days to submit a written statement or documentation to the District Parole Office to be considered before the curfew or GPS monitoring condition becomes effective;

2. The offender shall be advised that if the offender fails to submit a written statement or documentation within five business days, the curfew or GPS monitoring condition shall become effective immediately upon the expiration of the five business days;

3. If the offender submits a written statement or documentation within five business days, the curfew or GPS monitoring condition shall not be effectuated until such time as a *[board]* ***Board*** panel authorizes the effectuation of the curfew or GPS monitoring condition;

4. The District Parole Office shall forward a copy of the written notice of the imposition of the curfew or GPS monitoring condition to a Board

panel. If the offender contests the imposition of the curfew or GPS monitoring condition and has submitted a written statement or documentation to the District Parole Office, a copy of the written statement or documentation and an assessment of the written statement or documentation by the District Parole Supervisor, or designee, 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-day-time-period. However, the failure to comply with the five-business-day-time-period shall result in the immediate effectuation of the curfew or GPS monitoring condition; and

6. (No change.)

(f) If the offender contests the allegations, the conclusions to be drawn from the allegations or the justification supporting the imposition of the curfew or GPS monitoring condition and the District Parole Office believes that exigent circumstances do exist as to require the immediate effectuation of the curfew or GPS monitoring condition, the following procedures shall apply:

1. The District Parole Supervisor, or designee, shall review the offender's case within 24 hours of the determination to impose the curfew or GPS monitoring condition to determine whether exigent circumstances do exist as to require immediate effectuation of the curfew or GPS monitoring condition and shall verbally advise the offender and the assigned parole officer of their determination. If the District Parole Supervisor, or designee, determines that exigent circumstances exist, the District Parole Supervisor, or designee, shall also provide written notice to the offender as to the basis for the determination;

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

3. (No change.)

4. The District Parole Office shall forward a copy of the written notice of the imposition of the curfew or GPS monitoring condition and, if exigent circumstances were found to exist by the District Parole Supervisor, or designee, 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 GPS monitoring condition and has submitted a written statement or documentation to the District Parole Office, a copy of the written statement or documentation and an assessment of the written statement or documentation by the District Parole Supervisor, or designee, shall be forwarded by the District Parole Office to the Board panel for consideration;

5.-6. (No change.)

10A:72-10.4 Board panel review

(a) Upon receipt of the written notice of the imposition of the curfew or GPS monitoring condition, the basis for the imposition of the curfew or GPS monitoring condition, the written statement or documentation of the offender and an assessment of the written statement or documentation by the District Parole Supervisor, or designee, 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 GPS 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 the District Parole Office shall be advised that the curfew or GPS 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 GPS 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)-(d) (No change.)

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 their non-appearance, the curfew or GPS 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.

SUBCHAPTER 16. REQUESTS TO RESIDE OUTSIDE OF THE UNITED STATES OF AMERICA (USA)

10A:72-16.1 General provisions

(a)-(c) (No change.)

(d) The following offenders are not eligible to apply to reside outside of the USA:

1. (No change.)

2. An offender who has an active special condition of Global Positioning System monitoring; or

3. (No change.)

(e) (No change.)

10A:72-16.5 Request procedure

(a)-(k) (No change.)

(l) Once the Director, Division of Parole, or designee, has completed their review, as specified at (j) above, and has determined that the offender has satisfied the requirements to reside outside of the USA, the District Parole Supervisor, or designee, shall submit the documentation set forth at (f) above to a Board panel designated by the Chairperson.

(m)-(n) (No change.)

10A:72-16.10 Violations

(a) (No change.)

(b) If the District Parole Supervisor has a reasonable, articulable belief that the offender should be ordered to return to the USA, the District Parole Supervisor shall refer the offender's case to the Director, Division of Parole, or designee.

1. If the Director, Division of Parole, or designee, agrees with the District Parole Supervisor's assessment, the Director, Division of Parole, or designee, shall present the offender's case to a Board panel, as designated by the Chairperson.

2.-5. (No change.)

(c)-(g) (No change.)

TRANSPORTATION

(a)

CAPITAL PROGRAM MANAGEMENT DIVISION OF RIGHT-OF-WAY AND ACCESS MANAGEMENT

Notice of Readoption

Tourist Oriented Directional Signs Program (TODS)

Readoption: N.J.A.C. 16:41D

Authority: N.J.S.A. 27:1A-5, 27:1A-6, and 27:7-21.12.

Authorized By: Francis K. O'Connor, Commissioner, Department of Transportation.