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June 23, 2023

Deputy Commissioner Robin Wimberly:

The City of Philadelphia entered into a Settlement agreement with community members in *Smith v. City of Philadelphia*, 2:00 CV 03623 (E.D. Pa. Sep. 23, 2002), in response to the Philadelphia Police Department's racially disparate treatment and violence toward residents of the predominantly Black West Philadelphia community during the May 31, 2020 protests sparked by the police killing of George Floyd. On May 31, 2020, the PPD repeatedly attacked protestors of police brutality and residents in West Philadelphia's 52nd Street area. PPD officers used military-style weapons, including rubber bullets, tear gas, and pepper spray, against these individuals as some were peacefully protesting and others were simply bystanders in and near their homes.

Pursuant to the Consent Decree, the City committed to hosting a bi-annual forum where Deputy Commissioner Wimberly would report use of force incidents in PSA 181 and 182 over the prior six months to community members. The consent decree provided that the report "given at this meeting will include a written summary of data on stops, frisks, arrests, and any incident for which a Use of Force Report is required under PPD's Directive 10.2" and there would then be "questions from community members in attendance".

On June 1, 2023, members of the West Philadelphia community met at Holy Apostles and the Mediator Church for this report. This letter memorializes several commitments made by Deputy Wimberly at that meeting.

- PPD will provide the data in writing on all Use of Force incidents and arrests resulting from vehicle stops.
- PPD committed to reviewing the recently adopted Use of Force policies of the Baltimore and Camden Police Departments to consider whether similar adjustments of the Philadelphia police Departments' Use of Force policy may be appropriate.



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- PPD will provide clarity on the new process for obtaining block party permits.
- DC Wimberly indicated that as a result of the police misconduct that occurred on May 31, 2020, in West Philadelphia, two police officers were fired and one police officer was subsequently rehired. Please confirm in writing whether any additional officers were fired or otherwise disciplined.

We expect that PPD will provide a response regarding each point to Plaintiff's counsel by June 30, 2023.

Finally, DC Wimberly committed that future meetings will not be scheduled on the same day as the Inspector's Townhall. Please provide a proposed date for the winter meeting. We request that this meeting be held at Mosaic Community Church and will confirm the date with the event coordinator for the church.

Respectfully submitted,  
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# Policy 1115

Subject	
<b>USE OF FORCE</b>	
Date Published	Page
<b>24 November 2019</b>	<b>1 of 11</b>

*By Order of the Police Commissioner*

## POLICY

The purpose of this policy is to establish when a member may use force, and members' duties before, during, and after the Use of Force. The decision to use force requires careful attention and continual assessment of the situation, threats, options, and risks, with the goal of resolving the encounter peacefully.

**While members must at all times comply with the minimum legal requirements governing the Use of Force, they must also comply with even stricter standards set forth by Department policy.**

## CORE PRINCIPLES

1. **Sanctity of Human Life.** Members shall make every effort to preserve human life in all situations.
2. **Value and Worth of All Persons.** All human beings have equal value and worth and members shall respect and uphold the value and dignity of all persons at all times.
3. **Peaceful Resolutions.** Members shall avoid the Use of Force unless it is not possible to do so.
4. **De-Escalation.** Members shall use De-Escalation Techniques and tactics to reduce any threat or gain compliance to lawful commands without the Use of Force or with the lowest level of force possible (See Policy 1107, *De-Escalation*).
5. **Avoiding Escalation.** Members shall not do or say anything that escalates an encounter unless necessary to achieve a lawful purpose.
6. **Assessment.** Members shall continuously assess each situation and change the member's response as the circumstances change. Members may be justified in using force in one instance, but not justified in using force an instant later. This duty to assess includes the continuous assessment of circumstances before and after the member uses force.
7. **Use of Force: Reasonable, Necessary, and Proportional.** Members shall use only the force Reasonable, Necessary, and Proportional to respond to the threat or resistance to effectively and safely resolve an incident, and will immediately reduce the level of force as the threat or resistance diminishes.
8. **Reporting Use of Force.** Each member who uses force, or observes another member or members use force, shall immediately notify their supervisor, and will accurately and completely report the Use of Force by the end of their tour of duty (See Policy 725, *Use of Force Reporting, Review, and Assessment*).

9. **Duty to Intervene.** Members shall intervene to prevent the abusive conduct or the use of excessive force by another member (See Policy 319, *Duty to Intervene*).
10. **Duty to Provide Medical Assistance.** After any Use of Force incident, members shall immediately render aid to any injured person consistent with the member's training and request medical assistance. If restrained, persons are not to be positioned facedown as it may cause positional asphyxia, and placing restrained persons on their back may lead to radial nerve damage to the wrists and forearms. Restrained persons are to be placed in a seated position or on their sides.
11. **Accountability.** Members shall be held accountable for uses of force that violate law or policy.
12. **Retaliatory Force.** Members are prohibited from using force against persons engaged in First Amendment protected activities or to punish persons for fleeing, resisting arrest or assaulting a member, or for any other reason (See Policy 804, *First Amendment Protected Activity*).

## **DEFINITIONS**

**Active Aggression** — Active Aggression is when a person attacks or attempts to attack a member or another person. Strikes, kicks, or attempted strikes or kicks with hands, fists, the head, elbows, knees, or an instrument, constitute Active Aggression.

**Aggravated Aggression** — Aggravated Aggression is when a person presents an Imminent Threat of death or Serious Physical Injury to the member or another person based on the Totality of the Circumstances. Aggravated Aggression represents the least encountered but most serious threat to a member or other person. Even when confronted with Aggravated Aggression, the member is required to make every reasonable effort to de-escalate and to continuously assess the member's Use of Force.

**Chemical Agents** — Substances designed to irritate the eyes and mucous membranes (CS gas, PepperBall, Mk-9 Pepper Fogger, smoke, etc.).

**Chokehold/Neck Hold** — A Chokehold or Neck hold is any hold or contact with the neck that may inhibit breathing by compression of the airway in the neck, may inhibit blood flow by compression of the blood vessels in the neck, or that applies pressure to the front, side, or back of the neck. Chokeholds/Neck Holds are prohibited unless the use of Deadly Force/Lethal Force is justified.

**Conducted Electrical Weapon (CEW)** — A weapon designed to discharge electrical impulses in two modes:

**Drive Stun** — Pulling the trigger on the CEW with the cartridge removed or discharged, and placing the electrodes upon the skin/clothing of the person. Drive Stunning does not cause neuro-muscular incapacitation but causes severe pain.

**Probes Deployment** — Probes Deployment is the primary way that CEWs are used. With a cartridge attached, pulling the trigger fires two probes with barbs on the end that can penetrate the clothing or skin of a person. The two probes are connected to the CEW by wires and upon contact, if an electrical circuit is established, the CEW delivers pulsed electricity into the person, and overrides the person's voluntary motor function. Probes Deployment also causes significant pain.

**Deadly Force/Lethal Force** — Any force likely to cause death or Serious Physical Injury, whether the member intended to cause death or Serious Physical Injury or not. Deadly Force/Lethal Force includes, but is not limited to:

- The discharge of a firearm at a person;
- Strikes with any hard object such as a baton, flashlight, radio, weapon stock/handle, or Improvised Impact Weapon to the head, neck, sternum, spine, groin, or kidneys;
- Intentionally striking a person's head against a hard, fixed object such as a roadway, concrete floor, wall, or iron bars;
- Knee strikes or kicks to a person's head;
- Any strikes to a person's throat;
- "Knee drops" against a prone or supine person's head, neck, or torso;
- Chokeholds/Neck Holds;
- Shooting someone in the head, neck, chest, or back, with a Less-Lethal Launcher at close range.
- The use of any force on a person whose health, age, condition, or circumstances make it likely death or Serious Physical Injury will result.

**De-Escalation Techniques** — De-Escalation Techniques are actions taken by members that are designed to eliminate the need to use force in order to resolve any event or situation. De-Escalation Techniques include: talking to a person using a tone of voice and language that is not aggressive or confrontational; creating space or placing barriers between the member and the person; waiting the person out when circumstances permit; permitting a person to move about when safe; permitting a person the opportunity to make statements or ask questions; slowing down the pace of an incident; tactical re-positioning and requesting additional resources. The guiding principles for de-escalation are patience, flexibility, and the desire to resolve each situation peacefully (See Policy 1107, *De-Escalation*).

**Imminent Threat** — A person presents an Imminent Threat when the person has the means and ability to harm the member or another person, and the member reasonably believes the person intends to deliver that harm.

**Improvised Impact Weapon (IIW)** — An Improvised Impact Weapon (IIW) is a device or object that is not a department approved weapon, but is nonetheless used as an impact weapon (e.g., flashlight, radio, or stick). Such weapons may be unpredictable, ineffective, or exert unexpectedly high levels of damage (e.g., board with protruding nail). Consequently, members shall use Improvised Impact Weapons only in rare, emergency conditions where members lack an authorized Baton or other approved less-lethal alternatives, and use of an Improvised Impact Weapon is reasonable and necessary to defend against a person displaying Active or Aggravated Aggression.

**Less-Lethal Force** — Force that, when employed as designed, intended, and consistent with policy and training, is not likely to cause death or Serious Physical Injury. Devices of Less-Lethal Force may include, but not be limited to, a DS-3027 bean bag, FN-303, Pepper Ball rounds, batons/impact weapons, O.C. spray, and CEW. The way a Less-Lethal Force device is used and the circumstances in which it is used could constitute Deadly Force/Lethal Force.

**Less-Lethal Launchers/Munitions** — A delivery tool that, when used as designed and intended, is less likely to cause death or Serious Physical Injury than a conventional lethal weapon such as a firearm. Less-Lethal Launchers/Munitions are only approved for use by certified members.

**Physical Force** — A member uses Physical Force any time a member coercively touches, directly or indirectly, any person. Physical Force includes holds, grabs, blows, and strikes as well as the use of instruments, such as batons, devices, such as CEWs, tools such as O.C. spray, canines, or firearms, whether

lethal or less-lethal.

**Reasonable, Necessary, and Proportional** — The review of every Use of Force shall be to determine whether it was reasonable, necessary, and proportional in light of the Totality of the Circumstances that were known, or should have been known, to the member, and in light of the mandates of BPD Policies.

**Reasonable** — A member uses Reasonable Force when the member uses no more force than required to perform a lawful purpose.

**Necessary** — Force is necessary only when no reasonably effective alternative exists. When force is Necessary, members shall use force in a manner that avoids unnecessary injury or risk of injury to members and civilians.

**Proportional** — Proportionality measures whether the force used by the member is rationally related to the level of resistance or aggression confronting the member.

**NOTE:** Members who use force that is not Reasonable, Necessary, and Proportional will be subject to corrective action, possible discipline, possible criminal prosecution, and/or civil liability.

**Resistance** — Members may face the following types of Resistance to lawful directives:

**Active Resistance** — Active Resistance is when a person moves to avoid detention or arrest but does not attack or attempt to attack the member or another person. Attempts to leave the scene, fleeing, hiding from detection, physical resistance to being handcuffed, or pulling away from the member's grasp are all examples of Active Resistance. Verbal statements, bracing, or tensing alone do not constitute Active Resistance. A person's reaction to pain caused by a member or purely defensive reactions to force does not constitute Active Resistance.

**Passive Resistance** — Passive Resistance is when a non-assaultive person fails to comply with the member's commands without attempting to flee. Passive Resistance may include, but not be limited to, going limp, standing stationary and not moving based upon lawful direction, and/or verbally signaling an intention to avoid or prevent being taken into custody.

**Serious Physical Injury** — Serious Physical Injury is when there is disfigurement or substantial disruption or harm to one or more body parts, organs, or systems. The term includes, for example, brain injury, with or without unconsciousness, gunshot wounds, cardiac arrhythmia, difficulty breathing, cardiac or respiratory arrest, broken bones, dislocations, torn ligaments or tendons, or significant bleeding. This list is not exhaustive and is intended only to provide representative examples for guidance.

**Temporary Pain** — Any pain or complaint of pain that is brief, does not result in injury, and is delivered as a means to gain compliance. Temporary Pain may result from the application of, but is not limited to, elbow grips, wrist grips, shoulder grips, pressure point techniques, and/or forcible takedowns.

**Totality of Circumstances** — The Totality of Circumstances consists of all facts and circumstances surrounding any event. The facts and circumstances may include but are not limited to:

- Whether an offense has occurred;
- The nature of the offense;
- The seriousness of the offense;
- The size and strength of the person;
- The number of persons;

- The availability of weapons;
- Whether the person is exhibiting signs of mental illness or is experiencing a behavioral health crisis;
- Whether a person suffers from a medical or behavioral health disability, physical or hearing impairment, is impaired by alcohol or drug use, or may be non-compliant due to a language barrier;
- Other force options;
- Availability of non-force options, including tactical repositioning, going to cover, or other De-Escalation Techniques;
- Environmental factors;
- Availability of back up and specialized units.

**Use of Force** — Any Use of Force or show of force that falls within Level 1, Level 2, or Level 3 force as defined in this policy. Use of Force Levels are:

**Level 1 Use of Force** — Includes:

- Using techniques that cause Temporary Pain or disorientation as a means of gaining compliance, hand control or escort techniques (e.g., elbow grip, wrist grip, or shoulder grip), and pressure point compliance techniques. Force under this category is not reasonably expected to cause injury,
- Pointing a firearm, Less-Lethal Launcher, or CEW at a person,
- “Displaying the arc” with a CEW as a form of warning, and
- Forcible takedowns that do not result in actual injury or complaint of injury.

NOTE: Escorting, touching, or handcuffing a person with minimal or no resistance does not constitute a Level 1 Use of Force.

EXCEPTION #1: SWAT team members and members assigned to work on a federal task force will not be required to report the pointing of a firearm at a person as a Use of Force during the execution of SWAT team or federal task force duties.

EXCEPTION #2: Pointing of a firearm at a person by any member, if done solely while entering and securing a building in connection with the execution of an arrest or search warrant, will not be a Use of Force. A permanent-rank supervisor must still complete a Form 93, Weapons-Pointing Report detailing the incident (See Policy 725, *Use of Force Reporting, Review, and Assessment*).

**Level 2 Use of Force** — Includes:

- Force that causes or could reasonably be expected to cause an injury greater than Temporary Pain or the use of weapons or techniques listed below — provided they do not otherwise rise to a Level 3 Use of Force:
- Discharge of a CEW in Drive-Stun or Probes Deployment, in the direction of a person, including where a CEW is fired at a person but misses,
- Use of OC spray or other Chemical Agents,
- Weaponless defense techniques including, but not limited to, elbow or closed fist strikes, open hand strikes, and kicks,
- Discharge of a Less-Lethal Launcher/Munitions in the direction of a person,
- Canine-inflicted injuries that do not rise to a Level 3 Use of Force,
- Non-weapon strikes to the head, neck, sternum, spine, groin, or kidney area, and
- Striking of a person or a vehicle with a vehicle that does not rise to Level 3 Use of Force.



**Level 3 Use of Force** — Includes:

- Strikes to the head, neck, sternum, spine, groin, or kidney area with an impact weapon,
- Firearm discharges by a BPD member,
- Applications of more than three (3) CEW cycles in a single encounter, regardless of the mode or duration of the application, and regardless of whether the applications are by the same or different members,
- CEW application for longer than 15 seconds whether the application is a single continuous application or from multiple applications,
- Uses of Force resulting in death, Serious Physical Injury, loss of consciousness, or requiring hospitalization, and
- Uses of Deadly Force/Lethal Force.

**NOTE:** Hospitalization refers to admission to the hospital, and does not include treatment and release in the emergency department, no matter how long the stay.

**DIRECTIVES****Use of Force**

1. Sworn members have the authority to use Reasonable force when Necessary to accomplish lawful ends. This authority is limited by the laws of the State of Maryland, federal law, the United States Constitution, and the provisions of this policy. Members must conform their actions to the law, the Constitution, and BPD policies. When members use force, they shall exercise the utmost restraint. When practical, members should announce that force will be utilized prior to the application of such force.
2. Members shall prevent or stop the illegal, inappropriate, or excessive Use of Force by other members. Failure to intervene may subject a member to disciplinary action (See Policy 319, *Duty to Intervene*).
3. Members may only use weapons and/or force techniques that are allowed by policy and on which the member is trained, unless warranted by the Totality of Circumstances.

**De-Escalation**

Members shall, unless it is not possible to do so, avoid the Use of Force by using De-Escalation Techniques, including verbal persuasion and warnings, slowing down the pace of an incident, waiting out persons, using barriers, creating distance (and thus the reactionary gap) between the member and the threat, and requesting additional resources such as specialized units, CIT trained members, behavioral health care providers, or negotiators, before resorting to force, and to reduce the need for force. De-Escalation Techniques mitigate the threats and gives officers time to utilize extra resources, and increases time available to call more officers or specialty units (See Policy 1107, *De-Escalation*).

1. Members shall talk to the person; attempt to convince the person to comply; reduce any threat presented by withdrawing to a position that is tactically advantageous; or take actions that allow the member greater distance and time, in order to de-escalate a situation or deploy a lesser force option or no force at all.

2. Members shall perform their work in a manner that avoids unduly jeopardizing their own safety or the safety of others through poor tactical decisions including, but not limited to, immediately approaching a person without proper evaluation of the situation, failing to leave sufficient space between the member and the person, closing the reactionary gap, or escalating a situation.
3. Members shall not use tactics that unnecessarily escalate an encounter or create a need for force.
4. Members shall de-escalate force immediately as resistance decreases.
5. If the member has no alternative to using force, the member shall use only the amount of force that is Reasonable, Necessary and Proportional to respond to the threat or resistance and shall immediately reduce the level of force as the threat or resistance lessens or stops.

### Critical Thinking

Prior to using force, members shall use a critical thinking and decision-making framework to analyze and respond to incidents. This framework will allow members to uphold the sanctity of life and protect themselves by decelerating and stabilizing a situation to minimize the likelihood of a Use of Force incident. Using this framework, members will:

1. Assess the situation, threats, and risks;
2. Gather relevant facts about the incident;
3. Consider police powers and BPD policy;
4. Identify options and determine the best course of action; and
5. Act, review, and re-assess the situation.

### Restrained Persons

1. Members shall not use force against persons who are handcuffed or otherwise restrained, except in exceptional circumstances where the Totality of Circumstances makes it Reasonable and Necessary to prevent injury or escape. Members are cautioned that force that may be Proportional against an unrestrained person may not be Proportional when used on a restrained person. As with any Use of Force, members shall be required to use De-Escalation Techniques and critical thinking in order to avoid the Use of Force.
2. Members shall not use force against a handcuffed or restrained person if the person's actions only present a risk of property damage.
3. Members shall **not** position a restrained person face-down as it may cause positional asphyxia, placing persons on their back can cause radial nerve damage to the wrist and forearm area. Restrained persons are to be seated or placed on their side.

### Use of Deadly Force/Lethal Force

1. The use of Deadly Force/Lethal Force shall always be the last resort.
2. Members shall not use Deadly Force/Lethal Force unless they have exhausted de-escalation

(See Policy 1107, *De-Escalation*) and Less-Lethal Force options have been tried and failed, or are not safe based on the Totality of Circumstances.

3. A member may use Deadly Force/Lethal Force when they reasonably believe such action is immediately necessary to protect a member or another person from an Imminent Threat of death or Serious Physical Injury.
4. Prior to the decision to employ Deadly Force/Lethal Force members shall consider environmental considerations such as field of fire, backdrop, bystanders, potential for ricochet, possibility of over-penetration, and other risks to life.
5. Where safety permits, a member should identify himself/herself as a law enforcement officer and state his/her intention to use Deadly Force/Lethal Force before using a firearm or employing Deadly Force/Lethal Force.
6. A member may use Deadly Force/Lethal Force to prevent the escape of a fleeing person if force is authorized and no Reasonable force alternative exists that is within BPD policy, the member has given a verbal warning to the person (if time, safety, and circumstances permit), and there is probable cause to believe that:
  - 6.1. The person has committed or is in the process of committing a felony involving the infliction or threatened infliction of Serious Physical Injury or death, and
  - 6.2. The escape of the person would pose an Imminent Threat of death or Serious Physical Injury to the member or another unless the person is apprehended without delay, and
  - 6.3. Members have identified themselves as law enforcement officers, have stated their intention to use Deadly Force/Lethal Force, and have given the person a reasonable opportunity to comply voluntarily, if time, safety, and the circumstances permit.

### Restrictions on the Use of Deadly Force/Lethal Force

1. Deadly Force/Lethal Force shall not be used to subdue persons whose conduct is a threat only to property.
2. Deadly Force/Lethal Force shall not be used against persons whose conduct is a threat only to themselves.
3. **The following are prohibited** unless the use of Deadly Force/Lethal Force is authorized and no reasonable alternatives exist:
  - 3.1. Discharge of a firearm at a person.
  - 3.2. Strikes with any hard object, such as a baton, flashlight, radio, weapon stock/handle, or IIW to the person's head, neck, sternum, spine, groin, or kidneys.
  - 3.3. Intentional strikes of a person's head against a hard, fixed object including, but not limited to, a roadway, concrete floor, wall, or iron bars.
  - 3.4. Kneeing or kicking a person's head, neck, back, or torso, including "knee drops" onto a prone or supine person.

- 3.5. Intentionally deploying a CEW to the neck, chest, groin or face of a person.
  - 3.6. Application of Chokeholds/Neck Holds.
  - 3.7. Discharge of a Less-Lethal Launcher to the chest, neck, or head at close range.
  - 3.8. The use of any force on a person whose health, age, condition, or circumstances make it likely that death or Serious Physical Injury will result.
4. Firing warning shots is prohibited.
  5. Firing into crowds is prohibited.
  6. Members shall not fire any weapon from or at a moving vehicle, except:
    - 6.1. To counter an immediate threat of death or Serious Physical Injury to the member or another person, by a person in the vehicle using means other than the vehicle.
    - 6.2. To counter a situation where the member or another person is unavoidably in the path of the vehicle and cannot move to safety. Members shall not position themselves in the path of a moving vehicle where they have no option but to use Deadly Force/Lethal Force.

NOTE: Refer to Policy 409, *Firearms Regulations*, for instructions on the use of firearms.

## **REQUIRED ACTION**

### **Duty to Intervene**

Members shall intervene to stop any member from using excessive force. Intervention may be verbal and/or physical (see Policy 319, *Duty to Intervene*).

**NOTE: Failure to intervene may subject a member to disciplinary action. Members must immediately, or as soon as safety allows, notify a permanent-rank supervisor after such an intervention.**

### **Duty to Provide Medical Assistance**

1. When there is a visible injury, complaint of injury, signs of medical distress, or when medical attention is requested by any person, members shall immediately render aid consistent with their training and shall request that a medic respond to the scene, or transport the person directly to the nearest hospital emergency room. The member shall then notify their supervisor and the Communications Section.
2. If a person has been subjected to impact by any type of Less-Lethal Force including CEW, impact weapons or impact projectile, he/she will be provided with medical treatment. If the person refuses medical treatment or leaves the location (e.g., persons of an unlawful gathering dispersed by Less-Lethal Force that may voluntarily leave without aid), members must document the actions taken to identify and render aid to the person in the Use of Force Review.

### Children and Youth

1. As with any encounter, members are expected to continually assess the situation, employ De-Escalation Techniques, and seek peaceful resolutions during incidents involving children and youth.
2. Members will, when feasible, recognize and employ developmentally-appropriate and trauma-informed tactics including, but not limited to, using a calm and natural demeanor, and avoiding threatening language. Members will also account for any fear-based reactions children and youth may experience during an encounter.
3. When force against a child or young person is necessary, take into account personalized factors of the child or young person including, apparent age, body size, and relative strength of the member relative to the child or young person; and risk posed by the child or young person; and,
4. In the case of injury resulting from a Use of Force, in addition to the requirements to render aid, summon medical care and notify a supervisor, the member will notify the child or young person's parent, guardian, or other responsible adult.

### Reporting

1. All members will adhere to the Use of Force guidelines found in Policy 725, *Use of Force Reporting, Review, and Assessment*.
2. Members of the BPD must notify a permanent-rank supervisor immediately, or as soon as practicable, following a Use of Force. The supervisor will notify the Shift Commander by the end of the shift during which the force occurred. The notification will contain basic information concerning the incident. Any member with knowledge that another member used force must also immediately report that Use of Force to a permanent-rank supervisor. In all instances, the permanent-rank supervisor will conduct a thorough review of the Use of Force, and document this review by completing a BlueTeam entry before the conclusion of the supervisor's tour of duty.
3. The failure of any commander, supervisor or member to fulfill any of the requirements of this policy will not prevent, inhibit or otherwise affect the ability of the Department to conduct an investigation of any misconduct arising from a Use of Force incident or to otherwise discipline a member for any violation of this policy.

**ASSOCIATED POLICIES**

Policy 302,	<i>Rules and Regulations</i>
Policy 319,	<i>Duty to Intervene</i>
Policy 409,	<i>Firearms Regulations</i>
Policy 414,	<i>Less-Lethal Munitions and Chemical Agents</i>
Policy 710,	<i>Level 3 Use of Force Investigations / Special Investigation Response Team (SIRT)</i>
Policy 719,	<i>Conducted Electrical Weapon</i>
Policy 724,	<i>Performance Review Board</i>
Policy 725,	<i>Use of Force Reporting, Review, and Assessment</i>
Policy 824,	<i>Body-Worn Camera</i>
Policy 1107,	<i>De-Escalation</i>
Policy 1111,	<i>Batons / Impact Weapons</i>
Policy 1114,	<i>Persons in Police Custody</i>
Policy 1118,	<i>Oleoresin Capsicum Spray</i>
Policy 1602,	<i>Canine Procedure</i>

**RECISSION**

Remove and destroy/recycle Policy 1115, *Use of Force*, dated 2 March 2018.

**COMMUNICATION OF POLICY**

This policy is effective on the date listed herein. Each employee is responsible for complying with the contents of this policy.

# WRITTEN DIRECTIVE



<b>SUBJECT:</b>	Use of Force
<b>ORDER TYPE:</b>	Standard Operating Procedure
<b>ISSUED DATE:</b>	12/31/2021
<b>EFFECTIVE DATE:</b>	12/31/2021
<b>DISTRIBUTION:</b>	All Bureaus-Sworn and Civilian
<b>CALEA STANDARDS:</b>	4.1.1, 4.1.2, 4.1.3 ,4.1.4 ,4.1.5 ,4.1.6, 4.1.7 ,4.2.2 ,4.2.3 ,4.2.4 4.3.4(LE)

## PURPOSE

The primary purpose of this directive is to ensure officers respect the sanctity of life when making decisions regarding use of force. Sworn law enforcement officers have been granted the extraordinary authority to use force when necessary to accomplish lawful ends. That authority is grounded in the responsibility of officers to comply with the laws of the State of New Jersey regarding the use of force and to comply with the provisions of this directive. Equally important is law enforcement’s obligation to prepare individual officers in the best way possible to exercise that authority.

In situations where law enforcement officers are justified in using force, the utmost restraint should be exercised. Use of force may never be considered routine. In exercising this authority, officers must respect the sanctity of all human life, act in all respects to preserve human life, do everything possible to avoid unnecessary uses of force, and minimize the force that is used, while still protecting themselves and the public.

## POLICY

This directive establishes guidelines for officers regarding use of force. This directive applies to all uses of force, whether officers are on- or off-duty. This directive complements the Critical Decision-Making model (CDM) that is the core of the Department’s use of force training. CDM provides officers with an organized way of making decisions about how they must act in any situation, including situations that may involve potential uses of force.

The Fourth Amendment requires that an officer’s use of force be “objectively reasonable.” *Graham v. Connor*, 490 U.S. 386 (1989). Under this standard, an officer may only use force that a reasonable officer would when facing similar circumstances. The objectively reasonable standard acknowledges the complex decisions that officers are forced to make under rapidly evolving and often unpredictable circumstances, but it does not provide specific guidance on what to do in any given situation.

The Constitution provides a “floor” for government action. This Department aspires to go beyond *Graham* and its minimum requirements. Sound judgment and the appropriate exercise of discretion will always be the foundation of police officer decision making in the broad range of use of force situations. It is not possible to entirely replace judgment and discretion with

detailed policy provisions. Nonetheless, this directive is intended to ensure that de-escalation techniques are used whenever feasible, that force is only used when necessary, and that the amount of force used is proportionate to the situation that officers encounter. The Department's core use of force principles are as follows:

**Core Principle 1: The Sanctity of Human Life and Serving the Community.**

In serving the community, law enforcement officers (hereinafter "officers") shall make every effort to preserve and protect human life and the safety of all persons. Officers shall respect and uphold the dignity of all persons at all times in a non-discriminatory manner.

**Core Principle 2: Force as a Last Resort and Duty to De-Escalate.**

Force shall only be used as a last resort when necessary to accomplish lawful objectives that cannot reasonably be achieved through verbal commands, critical decision making, tactical deployment or de-escalation techniques. Force shall never be used as a retaliatory or punitive measure.

**Core Principle 3: Duty to Use Only Objectively Reasonable, Necessary, and Proportional Force.**

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.

**Core Principle 4: Duty to Use Deadly Force Only as an Absolute Last Resort and Duty to Avoid Actions Which Create a Substantial Risk of Death or Serious Bodily Injury.**

Deadly force shall only be used as an absolute last resort and in strict compliance with this Policy. Other actions by law enforcement that create a substantial risk of death or serious bodily injury must be avoided or employed only under the strictest of conditions.

**Core Principle 5: Duty to Intervene and Report.**

Every officer, regardless of rank, title, seniority, or status, has an affirmative duty to take steps to prevent any use of force that is illegal, excessive, or otherwise inconsistent with such policies, regulations, and laws, if possible, before a fellow officer uses excessive, illegal, or otherwise inappropriate force. Every officer has a duty to immediately report any improper use of force.

**Core Principle 6: Duty to Render Medical Assistance.**

After any use of force, and when the environment is safe, officers shall promptly render medical assistance to any injured person consistent with the officer's training and shall promptly request emergency medical assistance for that person, if needed or requested. Officers also have a duty to monitor individuals for potential medical intervention after any officer uses force.



### **Core Principle 7: Duty to Report and Review Uses of Force.**

Every use of force must be reported and receive a meaningful command level review as set forth in a written department policy that includes review by the law enforcement executive. The law enforcement executive shall also conduct an annual review and analysis of the overall use of force by the department.

### **DEFINITIONS**

Active Assailant. A person who is using or imminently threatening the use of force, with or without a weapon, in an aggressive manner that poses a substantial risk of causing bodily injury to an officer or another person. A threatening assailant becomes an active assailant when the threat becomes imminent.

Active Resistor. A person who is uncooperative, fails to comply with directions from an officer, and instead actively attempts to avoid physical control. This type of resistance includes, but is not limited to, evasive movement of the arm, flailing arms, tensing arms beneath the body to avoid handcuffing, and flight.

Administrative Review. A documented review of an incident or occurrence prepared by or for the Chief of Police or his/her designee. The review must indicate whether policy, training, equipment, or disciplinary issues should be addressed.

Appropriate Medical Aid. may include increased observation to detect obvious changes in condition, flushing chemical agents from the eyes, applying first aid consistent with the officer's training, evaluation by paramedics, or for more serious or life-threatening incidents, immediate aid by medical professionals.

Bodily Injury. Physical pain or temporary disfigurement, or any impairment of physical condition. Bodily harm and bodily injury have the same definition for the purposes of this Policy. See N.J.S.A. 2C:11-1(a); N.J.S.A. 2C:3-11(e).

Canine Apprehension. There are two types of apprehension techniques taught in police-service dog training: bite-and-hold and circle-and-bark. Bite-and-hold is defined as under the direction of its handler the dog while off leash finds a suspect, bites, and holds the suspect until commanded by the handler to release the hold. Circle-and-bark is defined as the dog while on leash under the direction of its handler finding a suspect and, if the suspect remains still, circling and barking until the handler takes control.

Civil Disturbance. An assembly of persons engaged in or creating an immediate threat of collective violence, destruction of property, looting, or other criminal acts. Such a gathering may also be referred to as a riot.

Chokehold. A technique that involves applying direct pressure to a person's trachea (windpipe) or airway (front of the neck) with the effect of reducing the intake of air. This includes a carotid restraint or any lateral neck restraint, where direct pressure is applied to the carotid artery restricting the flow of blood to the brain causing temporary loss of consciousness.

Compliance Techniques. Physical techniques that involve the use of non-impact pressure to sensitive areas of the body (areas of skin covering bone) to elicit and maintain control of a person. Compliance techniques include joint manipulation and pressure point techniques, but do not include any technique that restricts blood flow to carotid arteries, causing a person to lose oxygen to the brain, or any striking.

Conducted Energy Device (CED). A CED means any device approved by the Attorney General that is capable of firing darts/electrodes that transmit an electrical charge or current intended to temporarily disable a person.

Constructive Authority. Constructive authority is not considered a use of force because it does not involve physical contact with the subject. Rather, constructive authority involves the use of the officer's authority to exert control over a subject. Examples include verbal commands, gestures, warnings, and unholstering a weapon. Pointing a firearm at a subject is an example of constructive authority to be used only in appropriate circumstances outlined in Section 3.4 of this Policy.

Control Instruments. Tools (such as a baton) applied with non-impact pressure to joints and sensitive areas of the body (areas of skin covering bone) to elicit and maintain control of a person.

Cooperative Person. A person who responds to and complies with an officer's directions.

Critical Decision-Making Model. The Critical Decision-Making Model is an organized way of making decisions about how an officer will act in any situation, including those that may involve potential uses of force.

Deadly Force. Force that an officer uses with the purpose of causing, or that a reasonable officer knows creates a substantial risk of causing death or serious bodily injury. Discharging a firearm, constitutes deadly force, unless the discharge occurred during the course of a law enforcement training exercise, routine target practice at a firing range, a lawful animal hunt, or the humane killing of an injured animal. A threat to cause death or serious bodily injury by the display of a weapon or otherwise, so long as the officer's purpose is limited to creating an apprehension that deadly force will be used, if necessary, does not constitute deadly force.

De-escalation. De-escalation refers to the action of communicating verbally or non-verbally in an attempt to reduce, stabilize, or eliminate the immediacy of a threat. De-escalation may also be used to create the time needed to position additional resources to resolve the situation with the least amount of force necessary.

Employee. Any employee of the Camden County Police Department, full or part-time, sworn, and nonsworn.

Enhanced Mechanical Force. An intermediate force option between mechanical force and deadly force, generally requiring a greater level of justification than that pertaining to physical or mechanical force, but a lower level of justification than that required for the use of deadly force. Unlike deadly force, enhanced mechanical force does not require an imminent threat of death or serious bodily injury. Examples include conducted energy devices and less-lethal devices and ammunition.

Feasible. Reasonably capable of being accomplished or carried out, given the totality of the circumstances, in a manner that maintains the safety of the public and officers.

Holding Techniques. Holding techniques include a firm grip or grab of an arm, wristlocks, come along holds (i.e., escort holds that are not elevated to compliance techniques), controlled takedowns, and pins against the ground or objects, as well as any combination of the above.

Imminent Danger. Threatened actions or outcomes that are immediately likely to occur during an encounter absent action by the officer. The period of time involved is dependent on the circumstances and facts evident in each situation and is not the same in all situations. The threatened harm does not have to be instantaneous, for example, imminent danger may be present even if a subject is not at that instant pointing a weapon at the officer but is carrying a weapon and running for cover to gain a tactical advantage.

Impact Weapons. Weapons designed to establish control by means of applying mechanical impact to a person to disable elements of his or her musculoskeletal structure. Impact weapons include batons and less lethal ammunition. The Department trains officers to avoid the use of flashlights, radios, firearms, or any item not specifically designed as an impact weapon, unless immediately necessary and no other practical options are available.

Law Enforcement Executive. A law enforcement agency's highest-ranking sworn law enforcement officer, typically the chief of police. In situations where the highest-ranking officer is recused from a matter, then "law enforcement executive" refers to the next highest-ranking officer without a conflict.

Law Enforcement Officer. Any person who is employed as a sworn member of any state, county, or municipal law enforcement agency, department, or division of those governments who is statutorily empowered to act for the detection, investigation, arrest, conviction, detention, or rehabilitation of persons violating the criminal laws of this State. The term law enforcement officer shall include sworn members of the New Jersey State Police, the Division of Criminal Justice and the USE OF FORCE POLICY | December 2021 v Juvenile Justice Commission. It shall also include College and University Police Officers pursuant to N.J.S.A. 18A:6-4.2 et seq., State Parole Officers pursuant to N.J.S.A. 2A:154-4, State Correctional Police Officers pursuant to N.J.S.A. 2A:154-4, County Correctional Police Officers pursuant to N.J.S.A. 2A:154-3, Special Law Enforcement Officers of all classes pursuant to N.J.S.A. 40A:14-146.8 et seq., Humane Law Enforcement Officers appointed pursuant to N.J.S.A. 4:22-14.1 or 4:22-14.4, Auxiliary Police Officers appointed pursuant to N.J.S.A. App.A:9-45(c), and Constables appointed pursuant to N.J.S.A. 40A:9-120.

Mechanical Force. Mechanical force involves the use of a device or substance, other than a firearm, to overcome a subject's resistance to the exertion of the officer's authority. Examples include use of an asp, baton, or other object, oleoresin capsicum (OC) spray or the physical apprehension by canines.

Oleoresin Capsicum. Also known as OC Spray or Pepper Spray, this is an inflammatory chemical agent that causes an intense burning sensation of the skin, eyes, and mucous membranes. Direct exposure to a person's eyes will likely result in the eyes closing, tearing, and swelling. When inhaled, a person experiences choking, gagging, gasping for breath, or, on rare occasion, unconsciousness. As a result of these symptoms, a person may experience nausea or temporarily impaired thought processes or may become disoriented or lose his or her balance.

Passive Resistor. A person who is non-compliant in that they fail to comply in a non-movement way with verbal or other direction from an officer.

Peaceful Demonstration. A nonviolent assembly of persons organized primarily to engage in free speech activity. These may be scheduled events that allow for law enforcement planning or spontaneous. They include, but are not limited to, marches, protests, and other assemblies intended to attract attention.

Physical Contact. Physical contact involves routine or procedural contact with a subject necessary to effectively accomplish a legitimate law enforcement objective. Examples include guiding a subject into a police vehicle, holding the subject's arm while transporting, routinely handcuffing a subject, and maneuvering or securing a subject for a frisk. Physical contact alone does not constitute force.

Physical Force. Physical force involves contact with a subject beyond that which is generally used to effect an arrest or other law enforcement objective. Physical force is employed when necessary to overcome a subject's physical resistance to the exertion of the officer's authority, or to protect persons or property. Examples include taking a resisting subject to the ground, using wrist or arm locks, striking the subject with the hands or feet, or other similar methods of hand-to-hand confrontation, such as certain pain compliance techniques.

Positional Asphyxiation. Positional asphyxiation is insufficient intake of oxygen as a result of body position that interferes with the subject's ability to breathe. It can occur during the process of subduing and restraining a person by placing the person in a posture that prevents or impedes the mechanism of normal breathing. If the person cannot escape from the position, death may occur very rapidly. Restraint in the prone position presents a significant risk of asphyxia, particularly when a person is handcuffed and left in a face-down position. As soon as handcuffed and restrained, a person should be raised immediately to a seated or standing position that does not impede the mechanism of normal breathing.

Proportional Force. The minimum amount of force, of both type (e.g., physical, mechanical, enhanced mechanical, or deadly) and intensity, that is necessary to control a situation and achieve a legitimate law enforcement objective. The law permits officers to overcome unlawful force or resistance; thus, the term proportional force is not intended to mean a type and intensity of force that is exactly equal to the type and intensity of force being used by the subject. The term proportional force is intended to highlight that the level of force a law enforcement officer utilizes shall be no more than is necessary to overcome the unlawful force or resistance being confronted by the officer.

Reasonable Belief. A reasonable belief is an objective assessment based upon an evaluation of how a reasonable officer with comparable training and experience would react to, or draw inferences from, the facts and circumstances confronting and known by the officer at the scene.

Serious Bodily Injury. Serious bodily injury means bodily injury 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. Serious bodily injury and serious bodily harm have the same definition the purposes of this Policy. See N.J.S.A. 2C:11-1(b); N.J.S.A. 2C:3-11(d).

Strategic Redeployment. Repositioning by an officer to increase space and time to react to a subject. It includes gaining time to de-escalate by withdrawing from the immediate vicinity of the subject if doing so will not create a threat to the safety of the public or the officer in doing so.

Substantial Risk. A substantial risk is one that is foreseeably likely to occur. That is, the risk is one that a reasonable officer in the same circumstances should anticipate as the likely outcome.

Tactical Communication. Verbal communication techniques that are designed to avoid or minimize the use of force. Such techniques include giving clear, simple instructions or directions, using active listening techniques to engage the suspect, and explaining the consequences of failure to comply with directions or instructions, including that force may be used.

Tactical Positioning. Making advantageous uses of position, distance, and cover to reduce the risk of injury to an officer and avoid or reduce the need to use force.

Tactical Team. A group of officers who are specially selected, trained, and equipped to handle high-risk incidents, including, but not limited to, those involving snipers, barricaded persons, warrant services, apprehensions, act of terrorism, and other situations or activities as deemed necessary by command leadership. Commonly used names for tactical teams include Special Weapons and Tactics (S.W.A.T.), Special Response Team (S.R.T.), Technical Emergency and Mission Specialists (T.E.A.M.S.), Entry Teams, Rapid Deployment Teams, and Fugitive Teams.

Threatening Assailant. A person who is threatening the use of force against an officer or another person, with or without a weapon, in an aggressive manner that may cause bodily injury. Examples may include a person armed with a weapon who fails to disarm, and an unarmed person who advances on an officer or any other person in a threatening manner thereby reducing the officer's time to react, putting the officer in reasonable fear of a physical attack.

Time as a Tactic. A method to avoid forcing an immediate resolution to a situation if it can be safely done, including establishing a zone of safety around a person that creates an opportunity for an assessment and action, when feasible, thereby decreasing the need to resort to force.

Verbal Control Technique. Consists of persuasion, advice, instruction, and warning in the form of verbal statements or commands that may result in compliant behavior. Whenever it is safe and feasible, officers must attempt to de-escalate confrontations by utilizing verbal control techniques prior to, during, and after the use of physical force.

## PROCEDURES

### 1. **Core Principle One: The Sanctity of Human Life and Serving the Community.**

In serving the community, officers shall make every effort to preserve and protect human life and the safety of all persons. Officers shall also respect and uphold the dignity of all persons at all times in a non-discriminatory manner.

- 1.1 A respectful and cooperative relationship with the community is essential for effective law enforcement. That relationship can be undermined when force is used unnecessarily or unequally.
- 1.2 Every officer shall respect the sanctity of human life and the dignity of every person, and act to preserve every life, whenever possible, and avoid unnecessary injury to members of the public or themselves.
- 1.3 In carrying out their duties as guardians of public safety, officers shall at all times treat every person equally without regard to the individual's actual or perceived race, creed, color, national origin, ancestry, age, marital status, civil union status, domestic partnership status, affectional or sexual orientation, genetic information, sex, gender identity or expression, disability, nationality, familial status, or any other protected characteristic under N.J.S.A. 10:5-1 et seq.

### 2. **Core Principle Two: Force as a Last Resort and Duty to De-Escalate.**

Force shall only be used as a last resort when necessary to accomplish lawful objectives that cannot reasonably be achieved through verbal commands, critical decision making, tactical deployment or de-escalation techniques. Force shall never be used as a retaliatory or punitive measure.

- 2.1 Authority to use force. Officers are granted the unique authority to use force for lawful purposes, including, but not limited to, the following:
  - effectuating a lawful arrest or detention;
  - carrying out a lawful search;
  - overcoming resistance directed at the officer or others;
  - preventing physical harm to the officer or to another person (including intervening in a suicide or other attempt of self-inflicted injury);
  - protecting the officer or a third party from unlawful force; or
  - preventing property damage or loss.

2.2 Prohibitions on certain force. Officers may not use or threaten to use force for any following reasons:

- to punish a person or to retaliate against them for past conduct;
- as a lesson to prevent a person from resisting or fleeing in the future; or
- to resolve a situation more quickly, unless delay would risk the safety of the person involved, officers, or others, or would significantly interfere with other legitimate law enforcement objectives.

2.3 Force as a last resort. Officers shall exhaust all other reasonable means to gain compliance before resorting to force, if feasible. Thus, if a safe alternative would achieve law enforcement's objective, force shall not be used. Officers shall, therefore, use verbal commands, critical decision making, tactical deployment and de-escalation techniques to gain voluntary compliance, when feasible. Importantly, officers shall never engage in unnecessary, overly aggressive, or otherwise improper actions that create a situation where force becomes necessary.

2.4 Critical decision making. Critical decision-making and tactical deployment techniques include tactical communication and tactical positioning, such as strategic redeployment and time as a tactic. Critical decision-making and tactics require officers to do the following:

- begin critical assessment and planning prior to arriving at the scene;
- collect available information;
- assess situations, threats, and risks;
- identify options for conflict resolution;
- determine the best course of action; and
- act, review, and re-assess the situation as it evolves.

2.5 De-escalation. De-escalation is the action of communicating verbally or non-verbally in an attempt to reduce, stabilize, or eliminate the immediacy of a threat. De-escalation may also be used to create the time needed to allow the situation to resolve itself or to position additional resources to resolve the situation with the least amount of force necessary. Officers will employ de-escalation techniques when feasible, which include, but are not limited to, the following:

- communication techniques to calm an agitated subject (e.g., regulating tone and pitch, such as speaking slowly in a calm voice);

- techniques to promote rational decision making, such as ensuring that only one officer addresses the person, and the other officers remain detached as safety permits as to not escalate the situation; and splitting up individuals at the scene who may be arguing;
- active listening techniques, such as sharing the officer's name, asking the subject their name, and exhibiting a genuine willingness to listen;
- slowing down the pace of the incident by taking deep breaths, slowing speech, and/or applying strategic or critical thinking;
- using calming gestures and facial expressions (e.g., arms extended with palms out and avoid angry expressions);
- practicing procedural-justice techniques, such as explaining the officer's actions and responding to questions;
- verbal persuasion and advisements (e.g., explaining, without threats, how the person would benefit from cooperation, and the subject's rights or what the officer wants the subject to do); and
- avoiding the unnecessary display of weapons, including firearms, Conducted Energy Devices (CEDs), batons, or OC Spray.

2.6 Warning and opportunity to comply. Officers should generally not use force immediately when encountering noncompliance with verbal directions. Instead, whenever feasible, before using force, officers shall:

- provide clear instructions and warnings;
- attempt to determine whether the person has a special need, mental condition, physical limitation, developmental disability, or language barrier (See Section 2.7);
- state the consequences of refusing to comply with a mandatory directive, including that force will be used unless the person complies; and
- give the suspect a reasonable opportunity to comply.

2.7 Compliance factors. Dealing with persons in a behavioral or mental health crisis or other factors affecting compliance. Officers should consider an individual's mental, physical, developmental, intellectual disability, or other conditions, such as age of the suspect, which affect the person's ability to communicate or comply. This includes, when feasible, considering the following factors related to the individual:

- behavioral or mental health crisis;



- drug interaction;
- medical condition;
- mental impairment;
- physical limitation;
- developmental disability, including autism spectrum disorder;
- cognitive impairment or intellectual disability;
- hearing loss or impairment;
- communication disorder, including speech impairment;
- language barrier;
- visual impairment;
- age; or
- other factors beyond the individual's control.

2.8.1. Whenever an officer determines that one of the above listed factors exists and is influencing the person's failure to comply with an officer's command, when feasible, the officer shall consider whether specific techniques or resources would help resolve the situation without the need to utilize force. Techniques for responding include, but are not limited to, the following:

- obtaining information about the person from available sources including family members, caregivers or others who know the individual;
- decreasing exposure to the potential threat by moving to a safer position. This may involve creating distance, seeking cover, tactical repositioning, concealment, and/or placing barriers between an uncooperative person and the officer;
- slowing down the pace of the incident by the officer slowing their speech, taking deep breaths, and/or applying strategic and critical thinking;
- keeping the non-compliant person confined to a limited area and calling for a supervisor, back-up officers, and specially trained resources to assist in resolving the incident. These specially trained resources may include Crisis Intervention Team trained officers, behavioral or mental health care providers, negotiators, qualified bilingual officers, or officers equipped with less-lethal devices;
- using time as a de-escalation strategy, thereby creating an opportunity to calm the non-compliant person;
- using simplified speech and shorter verbal directions or instructions;
- eliminating or reducing sensory distractions (bright flashing lights, sirens, or other loud noises); and

- any reasonable strategy that lessens the emotional anger, frustration, combativeness of a subject or others who may be present may be appropriate.

2.8.2. Importantly, officers should not default to attempting to resolve the incident immediately if slowing down the pace is viable and can be accomplished without creating an immediate threat to the public or placing officers in unreasonable danger.

3. **Core Principle Three: Duty to Use Only Objectively Reasonable, Necessary, and Proportional Force.**

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.

3.1 Limitations on use of force. In situations where officers are justified in using force, officers shall use only that degree of force that is reasonable, necessary, and proportional considering the totality of the circumstances, including the subject's mental and physical condition, the nature of the offense, and most importantly the level of resistance or threat known to the officer at the time.

3.2 Considerations when using force. The decision to use force and the appropriate amount of force requires careful attention to the facts and circumstances of each incident. The officer must, as time permits and is feasible, consider the following non-exhaustive list of factors when determining whether and how much force to apply:

- immediacy and severity of the threat to officers or the public;
- the conduct of the individual being confronted, as reasonably perceived by the officer at the time;
- characteristics of the officer and subject (e.g., age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects);
- the effects of drugs or alcohol;
- the individual's mental state or capacity;

- the proximity of weapons or dangerous improvised devices;
- the degree to which the subject has been effectively restrained and their ability to resist despite being restrained;
- the availability of other options and possible effectiveness;
- the seriousness of the suspected offense or reason for contact with the individual. For example, in dealing with minor offenses, such as motor vehicle or and local ordinance violations practicing procedural-justice techniques, such as explaining the officer's actions and responding to questions before resorting to force, is particularly important;
- the officer's training and experience; and
- the potential for injury to officers, suspects, and the public.

3.2.1 It is important to note that law enforcement encounters are never static and rapidly evolve. Thus, officers must continuously assess the effectiveness, proportionality, and necessity of their actions, including their tactical positioning, in order to decrease the likelihood of force being needed for self-protection. Officers may increase the time available to evaluate the threat by positioning an object between themselves and the subject, being aware of their surroundings, and waiting for backup, when it is available.

3.3 Level of Resistance. The level of resistance that an officer encounters is a key factor in determining the appropriate amount of force that may be used in response. Although it is not possible to determine in advance what the appropriate level of force is for every encounter, one factor that is consistent is the amount of resistance the officer is facing at the time. The less resistance an officer faces, the less force the officer should use. Consistent with training, the following general rules apply in determining the appropriate level of force:

- **Cooperative Person.** When dealing with a cooperative person, officers may rely on police presence and/or verbal control techniques but should not use force.
- **Passive Resistor.** When dealing with a passive resistor, officers may rely on police presence, verbal control techniques, holding techniques, lifting/carrying, wrist locks and other manual pain compliance techniques. Greater force, such as strikes, punches, CEDs, or less lethal devices shall not be used.

- **Active Resistor.** When dealing with an active resistor, in addition to the options available for passive resisters, officers may use physical strikes with hands or feet, OC spray, batons or asps applied with non-impact pressure, and taking the person to the ground. Intentional strikes to the head or face, which are only allowed in an act of self-defense, are not permitted when dealing with an active resistor. Police canines shall not be utilized against an active resistor.
- **Threatening Assailant.** In general, when dealing with a threatening assailant, officers may use all types of force options other than deadly force. This includes striking with batons or asps, less lethal ammunition, and CEDs. Although a range of force options is generally available, the officer shall only use force that is proportional to the threat faced. Any strikes to the head or neck with a baton or asp are considered deadly force and can only be used when deadly force is allowed.
- **Active Assailant.** Active Assailant. In general, when dealing with an active assailant, officers have all force options available, though deadly force shall only be used as a last resort in accordance with Core Principle Four of this Policy.

3.3.1 An individual's status evolves from a resistor to an assailant when they use force, threaten to use force, or otherwise act in an aggressive manner that increases the likelihood that they may cause physical injury to an officer or to another person. However, flight from an officer does not, on its own, qualify a person as an assailant. When dealing with an individual who poses a threat to the officer, the individual could be considered either a threatening assailant or an active assailant. To determine the individual's status for appropriate officer response, the officer must assess whether the threat poses an imminent danger. If the threat is imminent, then that individual is considered an active assailant and all use of force options are available with deadly force being an absolute last resort in accordance with Core Principle Five of this Policy.

3.3.2 Officers face a dynamic environment in which interactions with individuals can escalate very quickly from one level of resistance to another. For example, a passive resistor may become an active assailant in an instant. In responding to the level of resistance, the officer may use the level of force that corresponds to the level of resistance the officer is facing and need not use lesser levels of force that will not address the threat that the officer faces at the time. If the individual's resistance diminishes, the officer shall immediately reduce the level of force used against the

individual. If the individual stops resisting entirely, the officer must immediately cease using force.

3.4 Displaying of Firearms. Special requirements must be met before an officer may display a firearm. Unholstering or pointing a firearm are tactics that should be used with great caution. The presence of an officer's firearm, under the right circumstances, can discourage resistance and ensure officer safety in potentially dangerous situations without the need to resort to force. At the same time, however, unnecessarily, or prematurely drawing a firearm could limit an officer's options in controlling a situation, could create greater anxiety on the part of citizens, and may result in an unwarranted or accidental discharge of the firearm.

- Unholstering a firearm. Consistent with training, officers may unholster or otherwise display a firearm only when circumstances create a reasonable belief: (i) that the officer is permitted to point a firearm at a person, or (ii) that unholstering or displaying the firearm may itself help establish or maintain control in a potentially dangerous situation.
- Pointing a firearm. Consistent with training, officers may point a firearm at a person only when circumstances create a reasonable belief that it may be necessary for the officer to use deadly force. When the officer no longer reasonably believes that deadly force may be necessary, the officer shall, as soon as practicable, secure or holster the firearm.
- Reporting the pointing of a firearm. Pointing a firearm, though not a use of force, constitutes a seizure that must be reported as a Show of Force on the Attorney General's Use of Force Reporting Portal.
- Clarification of reporting requirements for tactical teams. An officer engaged in the operation of a tactical team shall be required to report the pointing of a firearm only when the pointing involves a sustained active engagement with a person in order to gain that person's compliance. A member of a tactical team who quickly "sweeps" a room during an operation need not report each person at whom a firearm was momentarily pointed during the sweep.

3.5 Defensive Tactics & Pain Compliance Techniques. Pain compliance techniques may be effective in controlling a passive or active resistor. Officers may only apply pain compliance techniques for which the officer has received department approved training and only when the officer reasonably believes that the use of such a technique is necessary to further a legitimate law enforcement purpose. Officers

utilizing any pain compliance technique should consider the totality of the circumstances including, but not limited to, the following:

- the potential for injury to the officer(s) or others if the technique is not used;
- the potential risk of serious injury to the individual being controlled;
- whether the pain compliance technique is effective in achieving an appropriate level of control or a different technique should be employed;
- the nature of the offense involved;
- the level of resistance of the individuals(s) involved;
- whether immediate resolution is necessary;
- the application of any pain compliance technique shall be immediately discontinued once the officer determines that compliance has been achieved or other more appropriate alternatives can reasonably be utilized; and
- officers shall only use striking techniques directed at a subject's face as a means of self-defense, or in the defense of others. Striking at a subject's face using fists, elbows, knees, and feet, shall not be used as a means of pain compliance.

3.6 Positional asphyxiation. Officers must recognize the heightened risk of positional asphyxiation and compression asphyxiation during restraint and be alert to any actions that must be immediately taken to avoid or minimize the risk of asphyxiation. Positional asphyxia can occur when a person is restrained, handcuffed, or left unattended in any position that impedes their ability to breathe normally, particularly in a prone position. If the person cannot escape from the position, death may occur very rapidly. Thus, in the course of using force officers shall be alert to the following heightened risk factors for positional asphyxiation:

- alcohol or drug intoxication;
- possible mental health episode or incident;
- a substantially overweight individual;
- possible suffering of respiratory muscle fatigue (exhaustion);
- possible airway obstruction; and
- unconsciousness.

3.6.1 Officers shall take the following actions to reduce the risk of positional asphyxiation:

- As soon as handcuffed and restrained, a person should be immediately rolled to the side and taken to an upright position that does not impede the mechanism of normal breathing. This requirement is especially important when the subject is handcuffed face down in the prone position;
- Care should be taken not to put sustained pressure on the neck or back, as breathing can be restricted even if the person is placed in the recovery position. This includes sitting, kneeling, or standing on a person's chest, back, or neck for a prolonged period of time;
- Officers shall continuously monitor the person's condition while being restrained, as death can occur suddenly and develop beyond the point of viable resuscitation within seconds;
- Whenever possible during team restraint, a "Safety Officer," with the responsibility to monitor the health and welfare of the person during restraint, should be designated;
- The arrested person must not be transported in the prone position; and
- The arrested person should be monitored prior to, during, and at the conclusion of the transport.

3.6.2 Officers shall continually monitor the condition of the subject(s) in their custody for the following warning signs of positional asphyxiation:

- verbal complaints of being unable to breathe properly, although be aware that a person suffering breathing difficulties may not be able to complain about their crisis;
- visual signs that the subject is struggling or exhibiting increased effort to breathe;
- gurgling/gasping sounds with foam or mucus coming from the nose or mouth;
- display of a heightened level of aggression during restraint, which may be a physiological response to fighting for air, such that any increased resistance during restraint of a person should be regarded with caution;
- sudden behavioral changes, such as going from being violent and noisy to passive, quiet, and tranquil, or alternatively, suddenly becoming more aggressive;
- blue discoloration of facial skin (cyanosis);

- swelling, redness or blood spots to the face or neck; and
- any loss or a reduced level of consciousness.

3.7 Conducted energy devices and less-lethal devices. Conducted Energy Devices (CEDs) and other authorized less-lethal devices and ammunition are forms of Enhanced Mechanical Force which may be utilized against a Threatening Assailant or an Active Assailant, but only within the parameters outlined in this Policy and in the department's CED policy. CEDs and other authorized less-lethal devices and ammunition shall not be utilized against a passive resistor or an active resistor. Officers shall always strive to use only that degree of force that is objectively reasonable, necessary, and proportional considering the totality of the circumstances.

3.7.1 An officer authorized to use a CED or a less-lethal device pursuant to this Policy may fire, discharge, or utilize drive stun mode of the device during an actual operation, consistent with the department's CED policy, only against:

- an active assailant;
- a threatening assailant who will not voluntarily submit to custody after having been given a reasonable opportunity to do so considering the exigency of the situation and the immediacy of the need to employ law enforcement force;
- a person who is attempting to cause death or serious bodily injury to themselves; or
- a fleeing suspect, if clear and convincing evidence exists to believe the suspect has committed a crime in which the suspect caused or attempted to cause death or serious bodily injury.

3.7.2 Officers shall reevaluate the situation and reassess the need to use force before any second or subsequent firing or discharge or utilization of drive stun mode of the device against the same person. Any second or subsequent firing or discharge or utilization of drive stun mode of the device must be necessary and justified by the circumstances at that moment.



- 3.7.3 CEDs shall not be utilized in the following manner:
- against a person who is a passive resistor or an active resistor;
  - against a person in drive stun mode unless the officer reasonably believes based on the subject's conduct that discharging the CED in drive stun mode is immediately necessary to protect the officer, the suspect, or another person from imminent danger of death or serious bodily injury;
  - against a person in drive stun mode more than twice unless deadly force would be authorized and permitted pursuant to this Policy;
  - against a handcuffed subject unless deadly force would be authorized and permitted pursuant to this Policy;
  - against the operator of a moving vehicle unless deadly force would be authorized and permitted pursuant to this Policy;
  - to prevent a subject from damaging property; or
  - against a person simultaneously with two or more CEDs.
- 3.7.4 CEDs must be capable of making a digital recording of the encounter each time the device is utilized, unless the officer carrying the CED is equipped with a body worn camera (BWC), as that term is defined in the BWC Policy issued by the Attorney General. The officer shall activate the BWC prior to utilization of the CED, unless exigent circumstances make it unsafe or not feasible for the officer to do so.
- 3.7.5 CED spark displays shall be considered constructive authority but must be reported as a Show of Force in the Attorney General's Use of Force Reporting Portal.
- 3.7.6 Police administrators and officers authorized to utilize CEDs, and other authorized less lethal devices and ammunition are also required to adhere to the instructions contained in the department's CED policy.
- 3.8 Use of force for crowd management. The following restrictions and limitations on the use of force should be observed during peaceful demonstrations and civil disturbances. The generally applicable rules in this Policy apply to both peaceful demonstrations and civil disturbances and in all cases, weapons or other devices

should be carried and deployed only by trained and authorized officers and deployed consistent with this Policy.

- 3.8.1 Prior to using force against people in a crowd, officers shall:
- provide clear instructions and warnings in a manner that can be heard by persons in the crowd, such as through a bullhorn or speaker system when available;
  - state the consequences of refusing to comply with a mandatory directive, including that arrests will occur and force may be used unless persons comply; and
  - give a reasonable opportunity to comply.
- 3.8.2 Force shall not be used against crowds engaged in peaceful demonstrations. The visible presence or deployment of canines for crowd control purposes is prohibited in peaceful demonstrations. Canines may be used for explosive detection or similar security sweeps at such gatherings.
- 3.8.3 Force may be used against specific individuals in a crowd for lawful purposes in accordance with the other provisions of this Policy. Restrictions apply to the use of certain types of force in a crowd as follows:
- OC spray: (i) may be used against specific individuals who are active resisters, threatening assailants or active assailants as defined in Section 3.3 above; (ii) shall not be used where bystanders would be unreasonably affected; and (iii) shall not be used against passive resisters, or indiscriminately against groups of people.
  - CEDs: (i) may be used against specific individuals who are threatening assailants or active assailants as defined in Section 3.3 above; (ii) may be used only when the individual can be accurately targeted; and (iii) shall never be fired indiscriminately into crowds; (iv) spark displays shall not be used to disperse and/or intimidate any person, group, or crowd.
  - Less-lethal ammunition: (i) may be used during civil disturbances only against specific individuals who are threatening or active assailants; and (ii) shall not be used during a civil disturbance against groups of individuals.
- 3.8.4 Force may be used against groups of people only if authorized by the Incident Commander (IC) and only when other means of gaining compliance with lawful directives have been attempted and shown to be ineffective or are not feasible.

- 3.8.5 High-volume OC delivery systems are designed for, and may be used in, civil disturbances against groups of people engaged in unlawful acts resulting in, or creating an immediate risk of, bodily injury or significant property damage.
- 3.8.6 CS (2-chlorobenzalmalononitrile) chemical agents are primarily offensive weapons that shall be used with the utmost caution. Thus, CS:
- may be deployed only by specially trained individuals who are part of a special tactical unit authorized to deploy such agents;
  - may be deployed only with the specific and express approval of the IC;
  - may be deployed defensively to prevent injury when lesser force options are either not available or would likely be ineffective; and
  - may be deployed only after an announcement is made and when avenues of egress are available to the crowd.
- 3.8.7 Canines shall not be deployed against a crowd, except to respond to a threat of death or serious bodily injury to a member of the public or to an officer.
- 3.8.8 CN (phenacyl chloride) shall not be used in any instance.

4. **Core Principle Four: Duty to Use Deadly Force Only as an Absolute Last Resort and Duty to Avoid Actions Which Create a Substantial Risk of Death or Serious Bodily Injury.**

Deadly force shall only be used as an absolute last resort and in strict compliance with this Policy. Other actions by law enforcement that create a substantial risk of death or serious bodily injury must be avoided or employed only under the strictest of conditions.

- 4.1 Deadly Force. Deadly force is force that an officer uses with the purpose of causing, or that a reasonable officer knows creates a substantial risk of causing, death, or serious bodily injury. Discharging a firearm constitutes deadly force, unless the discharge occurred during the course of a law enforcement training exercise, routine target practice at a firing range, a lawful animal hunt, or the humane killing of an injured animal.

4.2 Types of deadly force. Deadly force includes the following potentially lethal actions:

- applying a chokehold, carotid artery restraint, or similar technique that involves pressure on the neck;
- sitting, kneeling, or standing on a person's chest, back, or neck for a prolonged period of time;
- intentionally driving a vehicle at or in the direction of a person with the intent to strike the individual; and
- using a baton or other weapon to intentionally strike an individual in the head or neck area.

4.3 Requirements to use deadly force. Strict requirements must be met before an officer may use deadly force. There are, however, occasions when deadly force is necessary to protect officers and the public. An officer may use deadly force only when the officer reasonably believes that such action is immediately necessary to protect the officer or another person from imminent danger of death or serious bodily injury. Officers must adhere to the following:

- as discussed in Core Principle Three, when feasible, officers shall attempt to deescalate situations, issue verbal warnings, or use non-lethal force with the goal of resolving encounters without using deadly force;
- officers shall not use deadly force if a reasonably available alternative will avert or eliminate an imminent danger of death or serious bodily injury and achieve the law enforcement purpose safely;
- when feasible, prior to using deadly force the officer shall identify themselves as a law enforcement officer and give a clear verbal warning to the suspect that the officer will use deadly force; and
- officers shall not use deadly force when the use of deadly force creates a substantial risk of injury to innocent persons.

4.3 Force to apprehend a fleeing suspect. In addition to all of the requirements in Section 4.3, an officer may only use deadly force to apprehend a fleeing suspect in the rare case when the suspect's escape would create an imminent danger of death or serious bodily injury to the officer or a member of the public if the suspect is not immediately apprehended.

4.5 Prohibited uses of deadly force. There are specific circumstances in which the use of deadly force is prohibited. In general, officers may not discharge their weapons or use other deadly force, as outlined above, in the following manner:

- to signal for help;
- to issue a warning shot;
- to prevent property damage or loss;
- to prevent the destruction of evidence. For example, under no circumstances shall an officer use a chokehold, or any lesser contact with the neck area, in order to prevent the destruction of evidence by ingestion;  
or
- against a person who poses a threat only to themselves and not to others.

4.6 Deadly force against individuals in a moving vehicle. Strict additional requirements must be met before an officer may use deadly force against a driver or passenger of a moving vehicle. Moving vehicles create tremendous risk to officers engaged in enforcement operations, particularly officers attempting to arrest fleeing suspects. Officers must abide by the following guidelines:

- during such operations, officers shall never intentionally position themselves in the path of a moving vehicle or a vehicle that is likely to move;
- officers shall make every effort to move out of the path of a vehicle in order to maintain their safety;
- officers shall not grab onto moving vehicles or the drivers or occupants of moving vehicles. If a vehicle begins to move while an officer is engaged with the driver or an occupant, the officer shall, if feasible, disengage from the contact with the driver or occupant to avoid being dragged, carried, or struck by the moving vehicle; and while any firearm discharge entails some risk, discharging a firearm at a moving vehicle entails an even greater risk to innocent persons and passengers because of the risk that the fleeing suspect may lose control of the vehicle. Due to this greater risk, and considering that firearms are not generally effective in bringing moving vehicles to a rapid halt, an officer shall not fire at the driver or occupant of a moving vehicle, unless no other means are available at the time to avert or eliminate the danger and one of the following circumstances exists: (i) when there is imminent danger of death or serious bodily injury to the officer or another person, created by a person in the vehicle using means other than the vehicle, such as when shots are being fired from the vehicle; or (ii) when the suspect is driving their vehicle toward persons other than the officer in a manner creating an imminent threat of death or serious

bodily injury, such as in a terrorist attack; or (iii) when the officer is being dragged or carried by the vehicle, cannot disengage from the vehicle, and is in imminent danger of death or serious bodily injury.

4.7 Shooting from a moving vehicle. Strict additional requirements must be met before an officer may shoot from a moving vehicle. Every discharge of a firearm by an officer creates risk to the public and to other responding officers. Firearms discharges from moving vehicles by law enforcement officers have proven to be inaccurate and ineffective, generally creating unacceptable levels of risk. Due to these risks, law enforcement officers shall not discharge a firearm from a moving vehicle except in the following extraordinarily rare circumstance:

- when the suspect is driving a vehicle toward persons other than the officer in a manner creating an imminent threat of death or serious bodily injury, such as in a terrorist attack; and
- no other means are available at that time to avert or eliminate the danger.

4.8 Limitations on vehicular pursuits. Vehicular pursuits present officers with difficult decisions that involve balancing the duty to enforce the law and apprehend violators with the risks created by pursuing motor vehicles, often being operated at high speeds by irresponsible drivers in densely populated areas. The decision to pursue a motor vehicle must be objectively justifiable after giving due consideration to a number of factors. Although impossible to create a policy that addresses every potential scenario, officers and supervisors shall conduct vehicular pursuits only within the parameters outlined in the department's vehicle pursuit policy. Due to the risks to both officers and the public, supervisors are expected to exercise an enhanced level of control over vehicular pursuits.

4.8.1 Vehicular pursuits shall only be initiated if the pursuing officer reasonably believes that:

- the violator has committed, or is engaged in a conspiracy or attempt to commit, a crime of the first degree or one of the violent or serious crimes of the second degree enumerated in the department's vehicle pursuit policy; or
- the violator poses an imminent threat to the safety of the public or other police officers. This determination shall be made based upon the violator's actions or operation of the vehicle prior to the initiation of the attempted motor vehicle stop. The violator's subsequent actions, including speeding or evasive driving during the pursuit itself, although often supporting the

criminal charge of Eluding, N.J.S.A. 2C:29-2(b), shall not constitute an authorization to initiate or continue a pursuit.

- 4.8.2 There shall be a strong presumption against the initiation of vehicular pursuits based solely upon motor vehicle violations. Officers involved in vehicular pursuits must immediately notify both the supervisor and police communications, state the reason for the pursuit, and provide the information required by the department's vehicle pursuit policy.
- 4.8.3 Vehicular pursuits shall be monitored by a supervisor and shall be terminated if directed to do so by a supervisor, or if the supervisor has not affirmatively authorized the continuation of the pursuit after being notified and given an opportunity to assess the situation.

5. **Core Principle Five: Duty to Intervene and Report.**

Every officer, regardless of rank, title, seniority, or status, has an affirmative duty to take steps to prevent any use of force that is illegal, excessive, or otherwise inconsistent with such policies, regulations, and laws, if possible, before a fellow officer uses excessive, illegal, or otherwise inappropriate force. Every officer has a duty to immediately report any improper use of force.

- 5.1 Duty to intervene. A law enforcement officer's duty to intervene is rooted in the commitment to protect public safety at all times. Interventions that prevent improper use of force will lead to fewer citizen complaints, fewer officer disciplinary matters, higher morale, and a healthier working environment. Preventing misconduct preserves the integrity of all officers and the law enforcement profession as a whole. Intervening to prevent improper use of force can assist fellow officers by preventing them from engaging in conduct that may be illegal, inappropriate, and in violation of this Policy.
  - 5.1.1. Thus, all officers who observe another officer about to use force that is illegal, excessive, or otherwise inconsistent with this Policy must, if feasible, do whatever they can to interrupt the flow of events before the fellow officer engages in an improper use of force. Officers can serve each other and the public by simply saying or doing the right thing to prevent a fellow officer from resorting to force illegally or inappropriately.

- 5.1.2. Officers shall use signaling, verbal intervention, or physical intervention, if necessary, to stop any improper use of force. It is important to note that the duty to intervene does not stop at one officer. It is the responsibility of all officers to ensure use-of-force compliance. If officers observe a situation where another officer is attempting to intervene in an improper use of force, officers shall assist in that effort.
- 5.1.3. Duty to report illegal and inappropriate uses of force by other officers. Any employee who observes or has knowledge of a use of force that is illegal, excessive, or otherwise inconsistent with this directive or department policies must (i) notify a supervisor as soon as possible and (ii) submit an individual written report to a supervisor before reporting off duty on the day the officer becomes aware of the misconduct.
- 5.1.4. Employees are prohibited from retaliating in any form against an employee who intercedes in or reports illegal or inappropriate uses of force.

6. **Core Principle Six: Duty to Render Medical Assistance.**

After any use of force, and when the environment is safe, officers shall promptly render medical assistance to any injured person consistent with the officer's training and shall promptly request emergency medical assistance for that person, if needed or requested. Officers also have a duty to monitor individuals for potential medical intervention after any officer uses force.

- 6.1 Duty to Render Medical Assistance and Monitor. An officer's duty to render medical assistance and monitor for potential medical intervention is particularly important following any use of force. When the force involves the use of OC spray, officers shall take immediate action to address the effects of the OC spray, consistent with training.
  - 6.1.1. The duty to render medical assistance and monitor applies to all officers on scene and continues throughout any transportation and custody of the individual.
  - 6.1.2. Officers shall pay particular attention to persons reasonably believed to be pregnant, children, the elderly, physically frail individuals, and those experiencing a mental health or substance use crisis.



7. **Core Principle Seven: Duty to Report and Review Uses of Force.**

Every use of force must be reported and receive a meaningful command level review that includes review by the Chief of Police. The Chief of Police shall also conduct an annual review and analysis of the overall use of force by the department.

7.1 Notification. Officers must immediately notify the Department of all use of force incidents greater than physical contact, and/or any firearm discharge. All uses of force greater than physical contact must immediately be reported to the Department's Real-Time Tactical Operations and Intelligence Center via radio transmission or landline. This requirement includes any intended discharge or unintended discharge of a firearm while an officer is on or off duty, but does not include discharges during recreation, training and/or qualification sessions. Documentation and reporting requirements required under this written directive must be followed.

7.1.1. The on-duty watch commander must immediately notify Internal Affairs of all law enforcement incidents. Law enforcement incidents are defined as:

- any use of force by an officer resulting in death;
- any use of force by an officer resulting in serious bodily injury;
- the death of any civilian during an encounter with an officer;
- the serious bodily injury of any civilian during an encounter with an officer;
- any use of deadly force (including the discharge of a firearm as defined in Section 4.1) by an officer, regardless of whether such force resulted in injury;
- the death of any civilian while in the custody of law enforcement;
- The serious bodily injury of any civilian while in the custody of law enforcement.

7.1.2. Internal Affairs is responsible for notifying the Camden County Prosecutor's Office of all law enforcement incidents. This notification must occur before any investigation of the incident is undertaken, other than to establish situational awareness, secure the scene and to render medical assistance as required.

- 7.1.3. The Camden County Prosecutor's Office is responsible for the necessary notifications to the Attorney General's Office of Public Integrity and Accountability (OPIA) Director or their designee.
- 7.2. Reporting. All officers are responsible, always, for accurately and completely describing the facts and circumstances concerning any use of force incident, including articulating specific facts to explain an officer's own decision to use force. The Department will impose discipline for any substantial omissions or misrepresentations.
- 7.2.1. Every use of force greater than physical contact must be documented and reported. Whenever an officer uses a degree of force greater than physical contact, the officer must complete the following reports prior to the end of their shift (where the officer is unable to complete the required reports—a supervisor shall complete the reporting requirements within 48 hours), and submit them through the appropriate Departmental chain of command:
- A State of New Jersey Use of Force Portal—Use of Force Report; *and*
  - A Department Blue Team—Use of Force Report; *and*
  - An investigation report and/or supplementary report regarding the nature of the underlying incident (and indicating that the officer has completed Use of Force Reports), with the following conditions: (i) In accordance with New Jersey Attorney General's Supplemental Directive Amending Attorney General's Directive 2006-5, supervisors must not require officers deploying force that results in death or serious bodily harm, being investigated by the Attorney General's Office, a county prosecutor's office, or DCJ to submit investigation or supplemental reports. Officers are still required to submit Use of Force reports. (ii) Only the New Jersey Attorney General's Office, a county prosecutor's office, or DCJ can order such reports. An officer's statements to these entities can suffice as their report of the incident. (iii) Officers not directly involved in the use of force, but who have indirect involvement (*e.g.*, secondary responders, assisting responders, witnesses, etc.), may be required to submit investigation reports upon approval of the lead investigating agency (*i.e.*, New Jersey Attorney General's Office, Camden County Prosecutor's Office, or DCJ).
  - A Conducted Energy Device Deployment Review Report (if a CED is used).
  - An Informational Report (if a CED is used); *and*
  - A Police Use of Deadly Force—Attorney General Notification Report (if applicable).

- 7.2.2. The following additional reporting requirements apply to an officer's actions that do not involve force greater than physical contact. An officer who takes any of the following actions, if not otherwise reportable, must create a written incident report and/or supplementary report capturing the relevant facts and circumstances for each of the following situations:
- Every instance where an officer unintentionally discharges a CED or firearm, regardless of the reason.
  - A firearm discharge to destroy an aggressive animal presenting an immediate threat to human life requires, a State of New Jersey electronic use of force report, in addition to the investigation report.
  - Every instance where an officer takes an official action that results in or is alleged to involve force not greater than physical contact.
- 7.3. Command Level Review. Real-time command level reviews are required for all use of force incidents. The meaningful command level review of the incident shall be undertaken in real-time by the immediate supervisor and the on-duty watch commander. The review shall include an examination of all available sources of information about the incident, including (i) any video of the incident, reports, officer or other witness statements, medical records, and records of injuries, (ii) an analysis of whether force was used lawfully, compliant with this written directive, and applied in a nondiscriminatory fashion—ensuring officers are treating every person equally without discrimination based on race, ethnicity, nationality, religion, disability, gender, gender identity, sexual orientation, or any other protected characteristic.
- 7.3.1. When the Chief of Police, Assistant Chief of Police, or Deputy Chief of Police uses force, the County Prosecutor's Office shall be notified and, consistent with this Policy, shall determine the process for the meaningful command level review of the incident, which may include staff from the County Prosecutor's Office.
- 7.3.2. Supervisors have the following responsibilities: (i) Ensure all required reports and related documents are complete and submitted, review them for accuracy and completeness, and either reject and return for immediate corrections or approve. (ii) Review all relevant documents and information, including body-worn camera video and photographs, to assess the underlying incident and complete an

Administrative Review Report. (iii) Log into Blue Team, review the submitted Blue Team Report, and either reject and return for corrections or approve; and (iv) Assemble all reports and relevant documents and immediately submit them to the Watch Commander.

7.3.3. Watch Commanders have the following responsibilities: (i) Ensure a supervisor responds to the scene of any use of force incident without unnecessary delay to gather facts, preserve evidence and ensure department protocols are being strictly adhered to. (ii) Review all submitted reports, body-worn camera video, photographs, and any other relevant information or documents. (iii) Log into Blue Team review the submitted Blue Team Report, and either reject and return for corrections or approve. (iv) Complete the Use of Force Command Review Report and forward it to Executive Command personnel. (v) Scan and attach the Use of Force Command Review Report and all submitted documents to the Blue Team report; and (vi) Forward the Blue Team Report with attachments to the Internal Affairs Unit in Blue Team and forward all paper documents to the Internal Affairs Office (2nd Floor) via inter-office mail.

7.4. Internal Affairs Review. Use of force incidents will be reviewed by Internal Affairs according to set procedure. Once a Use of Force Administrative Review Packet has been completed and submitted, or in the case of incidents requiring investigation by the county prosecutor or attorney general—such investigation has concluded or been approved for bifurcated investigation, the following procedure will be followed:

7.4.1. Review the Use of Force Administrative Review Packet to ensure all relevant documents are attached and signed, including:

- Command Review Report
- Sergeant Administrative Review
- Incident Report
- Use of Force Card
- Use of Force Report
- Blue Team Report
- CAD Ticket
- Arrest Report (if applicable)

- Tickets/Summons
  - Impound Report
  - Victim Notification Report
  - Medical Discharge Forms (if applicable)
  - Victim Notification Form
  - Photographs
  - Any other additional documentation
- 7.4.2. Review the Command Review Report for the Watch Commander's findings and whether the officer(s) involved followed Department policy and procedures;
- 7.4.3. Review the Sergeant's Administrative Review for its findings and whether the officer(s) utilized the Critical Decision-Making model;
- 7.4.4. Review the Incident Report to gain a situational understanding of the reason force was utilized;
- 7.4.5. Review the officer's body-worn camera footage to ensure the force was necessary, proportionate, and reasonable;
- 7.4.6. Compare the officer's actions as displayed on the body-worn camera footage with the officer's Incident or Additional Information Report, Use of Force Report, and BlueTeam Report (repeat for all officers who utilize force in each incident);
- 7.4.7. Review all other body-worn camera footage, including from responding officers, to gain a full panoramic view of the incident;
- 7.4.8. Upload and link all documents into IAPro, along with all body-worn camera footage, Audio Log Transmissions, Blue Team Reports, witness officers involved, and Administrative Review forms;
- 7.4.9. If there are no issues identified with the incident or the Administrative Review Packet, the incident is routed (via IAPro) and the hard copy of the Review Packet is provided to the Internal Affairs Commander for review;
- 7.4.10. If there are any issue(s) identified with any application of force, documentation, or body-worn cameras, the Watch Commander (who reviewed the incident) and the reviewing supervisor are contacted and made aware of the issue(s) and provided a date as to when the issue(s) must be resolved and corrected;

7.4.11. Any employee whose action(s) or use of force in an official capacity result in death or serious bodily injury to any person, must be promptly removed from operational assignment(s) pending the outcome of the investigation.

7.5. Investigation. If any criminal or rule violations are identified, an Internal Affairs complaint is generated and investigated as follows:

- Minor rule infractions may be forward to Command Level for corrective action.
- Administrative misconduct must be investigated within the Office of Internal Affairs, any such investigation is secondary to the county prosecutor or attorney general's investigation; however, a bifurcated investigation may be authorized by the Chief of Police with the consent of the county prosecutor.
- Law enforcement incidents as defined in 7.1.1. of this directive must be investigated at the direction of the Camden County Prosecutor. DCJ may supersede the investigation where there may be a conflict or if the matter is better handled at the state level.
- Criminal misconduct must be investigated at the direction of the Camden County Prosecutor. DCJ may supersede the investigation where there may be a conflict or if the matter is better handled at the state level.

7.5.1. At the conclusion of the investigation the Professional Standards Division Commander shall review and make a recommendation of what action, if any, should be undertaken, including commendation of the officer, policy changes, remedial training, administrative action, disciplinary action or, if appropriate, referral for criminal prosecution.

7.5.2. If training issues are identified, the issues are brought to the attention of the Administration, Personnel & Logistics Bureau Commander. Once the issue is confirmed, the Professional Development and Training Division shall be contacted via an EIS Request for Training. The agency trainers should examine and analyze the use of force incident, including any body-worn or other video evidence, with the officer as a training tool. This examination should analyze the circumstances that led to the use of force as well as the force that was used, so that the officer can gain insight into which tactics and decisions were effective and whether different tactics or decisions could have been used to improve the outcome.

7.5.3. The Administration, Personnel & Logistics Bureau Commander, shall review each use of force investigation and approve or reject the recommendations. Upon review the Chief of Police shall determine final approval or rejection. The Chief's decision shall be memorialized and retained in the use-of-force investigative file.

7.6 Annual Review and Analysis. The Chief of Police shall conduct an annual review of use of force incidents. The review shall include, at a minimum, the following:

- analytical reports from the Attorney General's Use of Force Portal;
- an audit of body worn cameras and other videos on a risk-based and randomly selected basis;
- any internal affairs complaints;
- 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.
- an analysis of the uses of force to identify any broad patterns or trends that could indicate policy ineffectiveness, training needs, equipment upgrade needs, and/or policy modification needs; and
- an analysis of the uses of force to identify any pattern or practice of behavior by particular officers that could warrant intervention, remediation, and/or re-training.

7.6.1. Examples of some analytical categories may include, but are not limited to:

- Use of force by time of day and day of week;
- Use of force by type of location (e.g., business, residential, or industrial);
- Use of force by type of incident;
- Use of force by officer/detective involved;
- Use of force by division, bureau, unit;
- Use of force by person's actions;
- Use of force by type (e.g., deadly force);
- Use of force resulting in injury to personnel;
- Use of force resulting in injury to actors;

- Use of force resulting in arrests;
- Percentage of use of force vs. total number of custodial arrests.

7.6.2. Based on that thorough review and analysis, the Chief of Police shall determine whether changes in departmental structure, policy, training, or equipment are appropriate. The Chief of Police shall then provide a written report documenting the annual review to the County Prosecutor. Each County Prosecutor's Office and each statewide law enforcement agency shall make its report to the OPIA.

### **OTHER PROVISIONS**

**All personnel are responsible for adhering to the requirements of this written directive** until rescinded or amended by written order of the Chief of Police. Employees have an ongoing and continuous responsibility to seek guidance and verify their understanding of this and all directives including orders, policies, procedures, and rules. This directive shall take effect 12/31/2021 and remain in force and effect unless and until it is repealed, amended, or superseded by Order of the Chief of Police. All directives not expressly altered by this order remain in full force and effect.

**The provisions of this directive shall be severable.** If any phrase, clause, sentence, or provision of this directive is declared by a court of competent jurisdiction to be invalid, the remainder of the directive shall not be affected.

**Non-enforceability by third parties.** This Directive is issued pursuant to the Chief of Police's authority to ensure the uniform and efficient enforcement of the laws and administration of criminal justice by department members. This Directive imposes limitations that may be more restrictive than the limitations imposed under the United States and New Jersey Constitutions, and federal and state statutes and regulations. Nothing in this Directive shall be construed in any way to create any substantive right that may be enforced by any third party.

By Order of \_\_\_\_\_

X

/Gabriel Rodriguez/

Gabriel Rodriguez #12  
Chief of Police