



MIDDLESEX COUNTY PROSECUTOR'S OFFICE POLICIES AND PROCEDURES



SUBJECT: USE OF FORCE POLICY	DATE OF ISSUE: 05-31-2022	EFFECTIVE DATE: 06-03-2022
RELATED DIRECTIVES/POLICY: > N.J. ATTORNEY GENERAL DIRECTIVES NO. 2021-14 AND NO. 2022-4 > N.J. ATTORNEY GENERAL'S "USE OF FORCE POLICY" (DATED APRIL 2022) AND ADDENDUM A (DATED DECEMBER 2020) > MCPO POLICY #09-31, TITLED "VEHICULAR PURSUIT POLICY" AND ADDENDUM B (DATED APRIL 2022) TO THE N.J. ATTORNEY GENERAL'S "USE OF FORCE POLICY", ALSO TITLED "VEHICULAR PURSUIT POLICY" REVISION DATES: 9/1/2009, 1/1/2022, 5/31/2022		POLICY NUMBER: 09-38
		Page 1 of 7

I. BACKGROUND

New Jersey's law enforcement officers are entrusted with promoting public safety and, in some instances, are authorized to use force – including deadly force – to fulfill that responsibility. Law enforcement agencies' use of force policies are designed to give clear guidance to officers in those limited circumstances in which the exercise of that exceptional power is appropriate. Both officers and community members alike benefit when such policies are evidence-based and provide as much clarity as possible. While no policy document can anticipate all the unique situations that a law enforcement officer may encounter, careful development, training and enforcement of such policies can help ensure that state-sanctioned force is only used as a last resort, when necessary to accomplish legitimate law enforcement objectives.

II. POLICY

Since the Middlesex County Prosecutor's Office (MCPO) operates under the authority of the Attorney General's Office all MCPO detectives must comply and be consistent with Attorney General Directive No. 2021-14, which is titled "Directive Updating Statewide Use of Force Policy", dated December 28, 2021, Attorney General Directive No. 2022-4, dated April 2020, which is titled "Directive Updating Statewide Vehicular Pursuit Policy and Use of Force Policy" and Attorney General "Use of Force Policy", dated April 2022, all of which are attached hereto, along with Addendum A to the Attorney General "Use of Force Policy", titled "Conducted Energy Devices and Other Less-Lethal Devices and Ammunition", dated December 2020. Should there be a conflict between the Attorney General Directives or the Attorney General "Use of Force Policy" or Addendum A, and related MCPO policies, the Attorney General Directives and Policy and Addendum shall prevail. Furthermore, related MCPO policies are intended to supplement, not supplant, the requirements as outlined in the Attorney General Directives, Policies, and related Addendums.



MIDDLESEX COUNTY PROSECUTOR'S OFFICE POLICIES AND PROCEDURES



SUBJECT: USE OF FORCE POLICY	DATE OF ISSUE: 05-31-2022	EFFECTIVE DATE: 06-03-2022
RELATED DIRECTIVES/POLICY: > N.J. ATTORNEY GENERAL DIRECTIVES NO. 2021-14 AND NO. 2022-4 > N.J. ATTORNEY GENERAL'S "USE OF FORCE POLICY" (DATED APRIL 2022) AND ADDENDUM A (DATED DECEMBER 2020) > MCPO POLICY #09-31, TITLED "VEHICULAR PURSUIT POLICY" AND ADDENDUM B (DATED APRIL 2022) TO THE N.J. ATTORNEY GENERAL'S "USE OF FORCE POLICY", ALSO TITLED "VEHICULAR PURSUIT POLICY"		POLICY NUMBER: 09-38
REVISION DATES: 9/1/2009, 1/1/2022, 5/31/2022		
Page 2 of 7		

I. ACTION

TABLE OF CONTENTS		
A.	COMPLIANCE WITH ATTORNEY GENERAL DIRECTIVES NO. 2021-14, DATED DECEMBER 2021, TITLED "DIRECTIVE UPDATING STATEWIDE USE OF FORCE POLICY", AND NO. 2022-4, DATED APRIL 2022, TITLED "DIRECTIVE UPDATING STATEWIDE VEHICULAR PURSUIT POLICY AND USE OF FORCE POLICY". INCLUDED IN THESE ATTORNEY GENERAL DIRECTIVES IS THE REVISED "USE OF FORCE POLICY" (DATED APRIL 2022) AND ADDENDUM A (DATED DECEMBER 2020) TITLED "CONDUCTED ENERGY DEVICES AND OTHER LESS-LETHAL DEVICES AND AMMUNITION", ATTACHED THERETO, AND MCPO POLICIES	pp. 2-3
B.	ATTORNEY GENERAL'S "USE OF FORCE POLICY" – TABLE OF CONTENTS	pp. 3-4
C.	DUTY TO INTERVENE AND REPORT ILLEGAL AND INAPPROPRIATE USE OF FORCE BY OTHER LAW ENFORCEMENT OFFICERS	pp. 4-5
D.	DEFENSIVE TACTICS AND PAIN COMPLIANCE TECHNIQUES	p. 5
E.	DUTY TO REPORT AND REVIEW USES OF FORCE	pp. 5-7
F.	ATTORNEY GENERAL'S "USE OF FORCE POLICY – ADDENDUM A" TITLED "CONDUCTED ENERGY DEVICES AND OTHER LESS-LETHAL DEVICES AND AMMUNITION"	p. 7

A. COMPLIANCE WITH ATTORNEY GENERAL DIRECTIVES NO. 2021-14, DATED DECEMBER 2021, TITLED "DIRECTIVE UPDATING STATEWIDE USE OF FORCE POLICY", AND NO. 2022-4, DATED APRIL 2022, TITLED "DIRECTIVE UPDATING STATEWIDE VEHICULAR PURSUIT POLICY AND USE OF FORCE POLICY" IS MANDATED. INCLUDED IN THESE ATTORNEY GENERAL DIRECTIVES IS THE REVISED "USE OF FORCE POLICY" (DATED APRIL 2022) AND ADDENDUM A (DATED DECEMBER 2020), TITLED "CONDUCTED ENERGY DEVICES AND OTHER LESS-LETHAL DEVICES AND AMMUNITION", WHICH ARE ATTACHED HERETO:

1. A.G. DIRECTIVES AND POLICIES:

- a. In December 2021, the Attorney General issued *Directive No. 2021-14*, titled "*Directive Updating Statewide Use of Force Policy*" and Attorney General's



MIDDLESEX COUNTY PROSECUTOR'S OFFICE POLICIES AND PROCEDURES



SUBJECT: USE OF FORCE POLICY	DATE OF ISSUE: 05-31-2022	EFFECTIVE DATE: 06-03-2022
RELATED DIRECTIVES/POLICY: > N.J. ATTORNEY GENERAL DIRECTIVES NO. 2021-14 AND NO. 2022-4 > N.J. ATTORNEY GENERAL'S "USE OF FORCE POLICY" (DATED APRIL 2022) AND ADDENDUM A (DATED DECEMBER 2020) > MCPO POLICY #09-31, TITLED "VEHICULAR PURSUIT POLICY" AND ADDENDUM B (DATED APRIL 2022) TO THE N.J. ATTORNEY GENERAL'S "USE OF FORCE POLICY", ALSO TITLED "VEHICULAR PURSUIT POLICY" REVISION DATES: 9/1/2009, 1/1/2022, 5/31/2022		POLICY NUMBER: 09-38
		Page 3 of 7

"Use of Force Policy". Included in the *Use of Force Policy* was *Addendum A* titled "*Conducted Energy Devices and Other Less-Lethal Devices*".

- b. In April 2022, the Attorney General issued *Directive No. 2022-4*, titled "*Directive Updating Statewide Vehicular Pursuit Policy and Use of Force Policy*" as well as the updated *Attorney General "Use of Force Policy"*.
- c. The procedures outlined and mandated by these *Attorney General Directives* and corresponding policies and *addendums* are fully set forth therein.

NOTES:

- > *Addendum A* to the December 2020 version of the *Attorney General's Use of Force Policy*, which is titled "*Conducted Energy Devices and Other Less-Lethal Devices and Ammunition*" did not have any changes incorporated into the April 2022 version of the *Attorney General's "Use of Force Policy"*.
- > *Addendum B* to the April 2022 version of the *Attorney General's "Use of Force Policy"*, which is titled "*Vehicular Pursuit Policy*", has been incorporated into *MCPO Policy #09-31*, which is also titled "*Vehicular Pursuit Policy*".

2. **MCPO POLICIES:** All *MCPO* detectives are required to comply with *Addendum A* of *Attorney General Directive No. 2021-14* (December 2020) and all aspects of *Attorney General Directive No. 2022-4* and the corresponding *Attorney General's "Use of Force Policy"* as well as related *MCPO* Policies.

B. ATTORNEY GENERAL'S "USE OF FORCE POLICY" - TABLE OF CONTENTS:

CORE PRINCIPLES		p. ii
DEFINITIONS		pp. iii-vii
CORE PRINCIPLE ONE	THE SANCTITY OF HUMAN LIFE AND SERVING THE COMMUNITY	p. 1
CORE PRINCIPLE TWO	FORCE AS A LAST RESORT AND DUTY TO DE-ESCALATE	pp. 2-5



MIDDLESEX COUNTY PROSECUTOR'S OFFICE POLICIES AND PROCEDURES



SUBJECT: USE OF FORCE POLICY	DATE OF ISSUE: 05-31-2022	EFFECTIVE DATE: 06-03-2022
RELATED DIRECTIVES/POLICY: > N.J. ATTORNEY GENERAL DIRECTIVES NO. 2021-14 AND NO. 2022-4 > N.J. ATTORNEY GENERAL'S "USE OF FORCE POLICY" (DATED APRIL 2022) AND ADDENDUM A (DATED DECEMBER 2020) > MCPO POLICY #09-31, TITLED "VEHICULAR PURSUIT POLICY" AND ADDENDUM B (DATED APRIL 2022) TO THE N.J. ATTORNEY GENERAL'S "USE OF FORCE POLICY", ALSO TITLED "VEHICULAR PURSUIT POLICY" REVISION DATES: 9/1/2009, 1/1/2022, 5/31/2022		POLICY NUMBER: 09-38
		Page 4 of 7

CORE PRINCIPLE THREE	DUTY TO USE OBJECTIVELY REASONABLE, NECESSARY, AND APPROPRIATE FORCE (See also § D of this <i>MCPO Policy</i> for additional requirements associated with Core Principle Three)	pp. 6-13
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	pp. 14-17
CORE PRINCIPLE FIVE	DUTY TO INTERVENE AND REPORT (See also § C of this <i>MCPO Policy</i> for additional requirements associated with Core Principle Five)	p. 18
CORE PRINCIPLE SIX	DUTY TO RENDER MEDICAL ASSISTANCE	p. 19
CORE PRINCIPLE SEVEN	DUTY TO REPORT AND REVIEW USES OF FORCE (See also § E of this <i>MCPO Policy</i> for additional requirements associated with Core Principle Seven)	pp. 20-22

C. DUTY TO INTERVENE AND REPORT ILLEGAL AND INAPPROPRIATE USE OF FORCE BY OTHER LAW ENFORCEMENT OFFICERS: Pursuant to *Core Principle Five* of the *Attorney General's Use of Force Policy*:

1. *MCPO* detective(s) who observe or have knowledge of a use of force that is illegal, excessive, or otherwise inconsistent with the *Attorney General's Use of Force Policy* or *MCPO* policies, must:
 - immediately intervene if such conduct is observed; and
 - notify a supervisor as soon as possible of his or her observations; and
 - submit an individual written report concerning his or her observations and the actions he or she took to intervene. This report shall be forwarded to a supervisor before going off duty on the day the detective observes and/or becomes aware of the alleged misconduct. This report shall then be forwarded by the receiving supervisor to the Chief of County Detectives through the chain of command, without delay.



MIDDLESEX COUNTY PROSECUTOR'S OFFICE POLICIES AND PROCEDURES



SUBJECT: USE OF FORCE POLICY	DATE OF ISSUE: 05-31-2022	EFFECTIVE DATE: 06-03-2022
RELATED DIRECTIVES/POLICY: > N.J. ATTORNEY GENERAL DIRECTIVES NO. 2021-14 AND NO. 2022-4 > N.J. ATTORNEY GENERAL'S "USE OF FORCE POLICY" (DATED APRIL 2022) AND ADDENDUM A (DATED DECEMBER 2020) > MCPO POLICY #09-31, TITLED "VEHICULAR PURSUIT POLICY" AND ADDENDUM B (DATED APRIL 2022) TO THE N.J. ATTORNEY GENERAL'S "USE OF FORCE POLICY", ALSO TITLED "VEHICULAR PURSUIT POLICY" REVISION DATES: 9/1/2009, 1/1/2022, 5/31/2022		POLICY NUMBER: 09-38
		Page 5 of 7

2. The *MCPO*, its supervisors and detectives are prohibited from retaliating in any form against a detective who intercedes in or reports illegal or inappropriate uses of force, perceived or otherwise.

D. **DEFENSIVE TACTICS AND PAIN COMPLIANCE TECHNIQUES:** Pursuant to § 3.5 of the *Attorney General's Use of Force Policy*, the *MCPO* shall host annual training conducted by certified instructors in the use of defensive tactics and pain compliance techniques as authorized by the Chief of County Detectives. All *MCPO* detectives are required to attend. The *MCPO Police Training Coordinator* is responsible for coordinating this training and attendance shall be documented in each of the participant's training files.

E. **DUTY TO REPORT AND REVIEW USES OF FORCE:** Pursuant to § 7 of the *Attorney General's Use of Force Policy*, every use of force must be reported and receive a substantive command level review. If the Chief of County Detectives uses force, the Prosecutor shall be notified, and he or she shall determine the process for the substantive command level review of the incident.

1. **COMMAND LEVEL REVIEW COMMITTEE:**

- a. The Chief of County Detectives will designate a specific Lieutenant(s) and/or Captain(s) to serve on this Committee on an annual basis.
- b. The Committee will be responsible for reviewing all reports submitted by the detective who used force, and if applicable, videos, statements made by witnesses to the incident and the person(s) to whom the force was applied. The Committee may seek additional information from any of the involved parties as part of their review process unless such action would potentially jeopardize any potential criminal prosecution or the safety of another. The Committee may also seek additional information from personnel who are certified instructors or who have expertise in the type of force utilized to assist in determining if the force applied was consistent with accepted techniques. The Committee will issue written findings to the Chief of County Detectives as to the appropriateness of application of the force and whether, in their assessment, said force was consistent with applicable Attorney General



MIDDLESEX COUNTY PROSECUTOR'S OFFICE POLICIES AND PROCEDURES



SUBJECT: USE OF FORCE POLICY	DATE OF ISSUE: 05-31-2022	EFFECTIVE DATE: 06-03-2022
RELATED DIRECTIVES/POLICY: > N.J. ATTORNEY GENERAL DIRECTIVES NO. 2021-14 AND NO. 2022-4 > N.J. ATTORNEY GENERAL'S "USE OF FORCE POLICY" (DATED APRIL 2022) AND ADDENDUM A (DATED DECEMBER 2020) > MCPO POLICY #09-31, TITLED "VEHICULAR PURSUIT POLICY" AND ADDENDUM B (DATED APRIL 2022) TO THE N.J. ATTORNEY GENERAL'S "USE OF FORCE POLICY", ALSO TITLED "VEHICULAR PURSUIT POLICY" REVISION DATES: 9/1/2009, 1/1/2022, 5/31/2022		POLICY NUMBER: 09-38
		Page 6 of 7

Directives/Policies and *MCPO* Policies. The review will be based upon the facts of the case made known to the Committee and all associated reports and electronic evidence. If the Committee believes that the application of force violated any of the provisions of the Attorney General Directives/Policies or *MCPO* Policies, the Committee will delineate the specific violations found and make written recommendations to the Chief of County Detectives of what action(s), if any, should be undertaken, including, remedial training, administrative action, disciplinary action, and if appropriate, referral for criminal prosecution and termination. The Committee's recommendations are not binding. The Chief of County Detectives will make the final determination, based upon the written findings submitted by the Committee. A copy of the Committee's findings will be placed into the employee's Professional Standards' file and any disciplinary action will be placed into the employee's personnel file. The Committee is also responsible for confirming that all use of force reports have been entered into the Use of Force Portal established by the Attorney General's Office.

2. **ANNUAL REVIEW:** The Chief of County Detectives shall conduct an annual review and analysis of use of force incidents involving *MCPO* detectives for the prior calendar year. The review shall include, at a minimum, the following:
 - Analytical reports from the Attorney General's Use of Force Portal.
 - An audit of BWC's and any other digital evidence on a risk-based and randomly selected basis.
 - Complaints of any kind including but not limited to internal affairs complaints.
 - The aforementioned analysis of the uses of force shall be conducted to ensure that force is being applied objectively and not based on race, ethnicity, nationality, religion, disability, gender, gender identity, sexual orientation, or any other protected characteristic.



MIDDLESEX COUNTY PROSECUTOR'S OFFICE POLICIES AND PROCEDURES



SUBJECT: USE OF FORCE POLICY	DATE OF ISSUE: 05-31-2022	EFFECTIVE DATE: 06-03-2022
RELATED DIRECTIVES/POLICY: > N.J. ATTORNEY GENERAL DIRECTIVES NO. 2021-14 AND NO. 2022-4 > N.J. ATTORNEY GENERAL'S "USE OF FORCE POLICY" (DATED APRIL 2022) AND ADDENDUM A (DATED DECEMBER 2020) > MCPO POLICY #09-31, TITLED "VEHICULAR PURSUIT POLICY" AND ADDENDUM B (DATED APRIL 2022) TO THE N.J. ATTORNEY GENERAL'S "USE OF FORCE POLICY", ALSO TITLED "VEHICULAR PURSUIT POLICY" REVISION DATES: 9/1/2009, 1/1/2022, 5/31/2022		POLICY NUMBER: 09-38
		Page 7 of 7

The Chief of County Detectives shall then produce a report with the results of this review and analysis to a written report and forward a copy of that report to the Prosecutor for his or her review. Upon approval by the Prosecutor, the Chief of County Detectives shall take remedial steps to prevent future violations and to protect the citizenry.

F. ATTORNEY GENERAL'S "USE OF FORCE POLICY – ADDEDNUM A" (DATED DECEMBER 2020) TITLED "CONDUCTED ENERGY DEVICES AND OTHER LESS-LETHAL DEVICES AND AMMUNITION"

TABLE OF CONTENTS:

SECTIONS	TITLE	PAGE #'S
1	SCOPE	p. 1
2	POLICY	p. 2
3	DEFINITIONS	pp. 3-5
4	AUTHORIZED OFFICERS	p. 6
5	AUTHORIZATION TO USE CEDs	p. 7
6	UNAUTHORIZED USES OF CEDs	p. 8
7	DEPLOYMENT TECHNIQUES FOR CEDs	p. 9-10
8	HANDLING OF INJURED SUSPECTS FOLLOWING CED USE	p. 11
9.	APPROVED CEDs	p. 12
10.	AUTHORITY TO USE LESS-LETHAL DEVICES AND AMMUNITION	pp. 13-14
11.	TRAINING AND QUALIFICATION FOR CEDs AND LESS-LETHAL DEVICES	p. 15
12.	REPORTING AND EVALUATION	pp. 16-17

***ATTORNEY GENERAL
DIRECTIVE NO. 2021-14,
TITLED “DIRECTIVE UPDATING
STATEWIDE USE OF FORCE
POLICY”,
DATED DECEMBER 28, 2021***



State of New Jersey
OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
PO BOX 080
TRENTON, NJ 08625-0080

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

ANDREW J. BRUCK
Acting Attorney General

ATTORNEY GENERAL LAW ENFORCEMENT DIRECTIVE NO. 2021-14

TO: All Law Enforcement Chief Executives and County Prosecutors
FROM: Andrew J. Bruck, Acting Attorney General
DATE: December 28, 2021
SUBJECT: Directive Updating Statewide Use of Force Policy

On December 21, 2020, Attorney General Gurbir S. Grewal issued Law Enforcement Directive No. 2020-13, which revised New Jersey's Use of Force Policy (UOF Policy) for the first time in two decades. Given the significance of the revisions, AG Directive 2020-13 included an effective date of December 31, 2021 and required that all of New Jersey's 38,000 state, county, and local law enforcement officers complete several training programs in the interim. Over the past year, the Attorney General's Office identified a handful of provisions in the UOF Policy that require correction before it goes into effect at the end of this year. This Directive implements those revisions.

For the reasons stated in this Directive, and pursuant to the authority granted to me under the New Jersey Constitution and the Criminal Justice Act of 1970, N.J.S.A. 52:17B-97 to -117, which provides for the general supervision of criminal justice by the Attorney General as chief law enforcement officer of the state in order to secure the benefits of a uniform and efficient enforcement of the criminal law and the administration of criminal justice throughout the state, I hereby direct all law enforcement and prosecuting agencies operating under the authority of the laws of the state of New Jersey to implement and comply with the Use of Force Policy as revised by this Directive (the December 2021 UOF Policy), and to take any additional measures necessary to update their policies accordingly.

I. Revisions to UOF Policy

A. *Revisions to Definitions Section.* The "definitions" section is updated by revising three terms and adding one new term.



1. **Active resistor.** The term “active resistor” is revised to include two situations in correctional facilities: when four or more inmates or detainees fail to comply with an order from a correctional police officer, or when a single inmate or detainee fails to comply with an order related to handcuffing inside a cell or secured tier. This revision reflects the unique circumstances of the custodial environment, where inmates and detainees can exploit the physical layout of the facility to defy orders issued by correctional officers, creating heightened risks for those officers. As with other situations involving noncompliance with verbal directions, these types of incidents are subject to Section 2.6, which requires whenever feasible that officers take certain actions before deploying force, including providing the individual with a clear warning and opportunity to comply.
 2. **Law enforcement officer.** The term “law enforcement officer” is revised to clarify that the term includes two additional types of officers: college and university police officers, pursuant to N.J.S.A. 18A:6-4.2 et seq, and state parole officers, pursuant to N.J.S.A. 2A:154-4.
 3. **Peaceful demonstrator.** The term “peaceful demonstration” is revised to clarify that the term does not apply to situations in correctional facilities where an inmate or detainee fails to comply with an order from a correctional police officer.
 4. **Tactical team.** The term “tactical team” is inserted, incorporating the definition used in the statewide Body Worn Camera Policy (BWC Policy), issued pursuant to Law Enforcement Directive No. 2021-5.
- B. ***Application of UOF Policy to Correctional Institutions.*** A new Section 1.4 is inserted to clarify that all law enforcement agencies, including those operating within correctional facilities, are subject to the UOF Policy.
- C. ***Reporting Requirement for Pointing of Firearms by Tactical Teams.*** A new Subsection 3.4(c) is inserted to clarify reporting requirements for the pointing of firearms by tactical teams. The new subsection makes clear that an officer engaged in the operation of a tactical team is 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. The new subsection clarifies that 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.
- D. ***Command-Level Review When Force is Used by Agency’s Chief Law Enforcement Officer.*** Subsection 7.5(a) is revised to make clear that when the chief law enforcement executive of an agency uses force, the County Prosecutor’s Office must be notified of the incident, and that the County Prosecutor’s Office shall determine the process for the command level review required by Section 7.5.
- E. ***Review of Noncompliant Vehicular Pursuits.*** Two new subsections are added to Addendum B of the UOF Policy (Vehicular Pursuit Policy): a new Subsection 12.1(e), which requires prosecutorial review of non-compliant vehicular pursuits, and a new Subsection 12.2(e), which requires that law enforcement executives’ annual review of vehicular pursuits include an analysis of noncompliant incidents and the steps taken to address the noncompliance.
- F. ***Non-Substantive Edits.*** The following revisions address minor technical edits or typos that appeared in the December 2020 UOF Policy.

1. Section 3.3(c): Deleted reference to Section 4.2.
2. Section 3.3(e): Corrected reference to Core Principle Four.
3. Section 3.3.1: Corrected reference to Core Principle Four.
4. Section 3.7.4: Updated reference to current version of BWC Policy.
5. Section 4.2(d): Corrected typo, replacing "discharge" with "head."

II. Other Provisions

- A. ***Non-enforceability by third parties.*** This Directive is issued pursuant to the Attorney General's authority to ensure the uniform and efficient enforcement of the laws and administration of criminal justice throughout the State. This Directive imposes limitations on law enforcement agencies and officials 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.
- B. ***Severability.*** The provisions of this Directive and the Use of Force policy shall be severable. If any phrase, clause, sentence or provision of either this Directive or the Use of Force Policy is declared by a court of competent jurisdiction to be invalid, the validity of the remainder of either document shall not be affected.
- C. ***Questions.*** Any questions concerning the interpretation or implementation of this Directive or the Use of Force Policy shall be addressed to the Executive Director of OPIA, or their designee.
- D. ***Effective date.*** This Directive shall take effect on December 31, 2021 and remain in force and effect unless and until it is repealed, amended, or superseded by Order of the Attorney General. Accompanying this Directive is the December 2021 Use of Force Policy, which reflects the changes made by this Directive.



Andrew J. Bruck
Acting Attorney General

ATTEST:



Thomas J. Eicher
Director
Office of Public Integrity & Accountability

Dated: December 28, 2021

***ATTORNEY GENERAL
DIRECTIVE NO. 2022-4,
TITLED “DIRECTIVE UPDATING
STATEWIDE VEHICULAR
PURSUIT POLICY AND USE OF
FORCE POLICY”,
DATED APRIL 2022***



State of New Jersey

OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
PO BOX 080
TRENTON, NJ 08625-0080

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

MATTHEW J. PLATKIN
Acting Attorney General

ATTORNEY GENERAL LAW ENFORCEMENT DIRECTIVE NO. 2022-4

TO: All Law Enforcement Chief Executives and County Prosecutors

FROM: Matthew J. Platkin, Acting Attorney General

DATE: April 29, 2022

SUBJECT: Directive Updating Statewide Vehicular Pursuit Policy and Use of Force Policy

On December 21, 2020, Law Enforcement Directive No. 2020-13 was issued, which revised New Jersey's Use of Force Policy (UOF Policy). The revised UOF Policy included a revised statewide Vehicular Pursuit Policy, included as Addendum B. These policies became effective on December 31, 2021. Since that date, the Office of Public Integrity & Accountability (OPIA), in cooperation with law enforcement leaders from throughout the state, has been monitoring the impact of the policies on police procedures and public safety. Based upon recommendations from law enforcement chief executives, county prosecutors and OPIA staff, I have determined that several revisions to the policy are appropriate in order to address crime trends, particularly an increase in violent crime, stolen vehicles and bias crimes. This Directive implements those revisions.

For the reasons stated in this Directive, and pursuant to the authority granted to me under the New Jersey Constitution and the Criminal Justice Act of 1970, N.J.S.A. 52:17B-97 to -117, which provides for the general supervision of criminal justice by the Attorney General as chief law enforcement officer of the state in order to secure the benefits of a uniform and efficient enforcement of the criminal law and the administration of criminal justice throughout the state, I hereby direct all law enforcement and prosecuting agencies operating under the authority of the laws of the state of New Jersey to implement and comply with the Use of Force Policy as revised by this Directive (the April 2022 UOF Policy), including the revised Addendum B (the April 2022 Vehicular Pursuit Policy), and to take any additional measures necessary to update their policies accordingly.



I. Revisions to Vehicular Pursuit Policy

- A. ***Additions to the List of Criminal Offenses for which Vehicular Pursuit may be Authorized.*** Section 3.2(a) of the Vehicular Pursuit Policy is updated by adding six new crimes to the list of offenses for which a vehicular pursuit may be authorized, subject of course to all of the restrictions currently embedded in the Vehicular Pursuit Policy to promote officer and public safety.
1. **Possession of a Firearm, Explosive or Destructive Device for an Unlawful Purpose**, N.J.S.A. 2C:39-4(a) through (c).
 2. **Unlawful Possession of a Weapon (Machine Guns and Handguns)**, N.J.S.A. 2C:39-5(a) and (b).
 3. **Burglary of a Dwelling**, N.J.S.A. 2C:18-2.
Vehicular pursuits are authorized for the burglary of a dwelling. Vehicular pursuits are not authorized for the burglary of a commercial building, motor vehicle, shed or any other structure described in N.J.S.A. 2C:18-1. Vehicular pursuits shall continue to be authorized for any burglary during which the actor is armed with a weapon or injures a victim (second degree burglaries).
 4. **Theft of a Motor Vehicle**, N.J.S.A. 2C:20-3; N.J.S.A. 2C:20-2(b)(2)(b).
The Policy authorizes vehicular pursuits for theft of a motor vehicle until at least December 31, 2022. I have directed OPIA to review the available data as of that date, including stolen vehicle trends, effectiveness of pursuits, and resulting accidents, and determine whether this provision should remain or be modified. Absent additional action, this provision will remain in force after December 31, 2022.
 5. **Receiving Stolen Property (Motor Vehicle Only)**, N.J.S.A. 2C:20-7; N.J.S.A. 2C:20-(b)(2)(b).
The Policy authorizes vehicular pursuits for receiving stolen property (motor vehicle only) until at least December 31, 2022. I have directed OPIA to review the available data as of that date, including stolen vehicle trends, effectiveness of pursuits, and resulting accidents, and determine whether this provision should remain or be modified. Absent additional action, this provision will remain in force after December 31, 2022.
 6. **Bias Intimidation**, N.J.S.A. 2C:16-1.
- B. ***Clarifies Definition of Imminent Threat.*** Section 3.2(b) of the Policy is revised to clarify the definition of an “imminent threat to the safety of the public or other officers,” which may authorize a vehicular pursuit. The update makes clear that, “an imminent threat exists when an officer reasonably believes that the actions of the violator are immediately likely to result in death or serious bodily injury to another person absent action by the officer.”
- C. ***Activation of Law Enforcement Recording Equipment.*** Section 5.6 of the Policy is revised to require that “while closing the distance between two vehicles, officers shall activate the motor vehicle recorder (MVR) and body worn camera (BWC), if equipped and activation is possible without activating emergency lights.”
- D. ***Timing for Reporting of Vehicular Pursuits not in Compliance with Policy.*** Section 12.1(e) of the Policy is revised to require quarterly reporting to the County Prosecutor (for municipal and county agencies) or the Office of Public Integrity & Accountability (for statewide agencies) of vehicular

pursuits that are determined to not be in compliance with the Attorney General's Use of Force Policy, or agency policy, following the mandatory command-level review of the vehicular pursuit.

E. ***Non-Substantive Edits.*** The following revisions address minor technical edits to the December 2021 Vehicular Pursuit Policy.

1. Section 1.3: Deleted reference to auto theft being removed from the Policy.
2. Section 7.2(a): Deleted reference to pursuits being authorized only for first degree or enumerated violent or serious second degree crimes.
3. Section 7.2(b): Added a reference to Section 3.2(b) of the Policy.

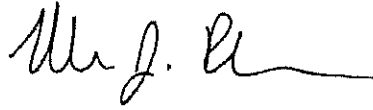
II. **Revision to Use of Force Policy**

Non-Substantive Edit. The following revision addresses a minor technical edit to the December 2021 Use of Policy.

1. Section 4.8.1: Deleted reference to pursuits being authorized only for first degree or enumerated violent or serious second degree crimes.

III. **Other Provisions**

- A. ***Non-enforceability by third parties.*** This Directive is issued pursuant to the Attorney General's authority to ensure the uniform and efficient enforcement of the laws and administration of criminal justice throughout the State. This Directive imposes limitations on law enforcement agencies and officials 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.
- B. ***Severability.*** The provisions of this Directive and the Use of Force policy shall be severable. If any phrase, clause, sentence or provision of either this Directive or the Use of Force Policy is declared by a court of competent jurisdiction to be invalid, the validity of the remainder of either document shall not be affected.
- C. ***Questions.*** Any questions concerning the interpretation or implementation of this Directive or the Use of Force Policy shall be addressed to the Executive Director of OPIA, or their designee.
- D. ***Effective date.*** This Directive shall take effect *immediately* and remain in force and effect unless and until it is repealed, amended, or superseded by Order of the Attorney General. Accompanying this Directive is the April 2022 Use of Force Policy and Vehicular Pursuit Policy (Addendum B), which reflect the changes made by this Directive.



Matthew J. Platkin
Acting Attorney General

ATTEST:



Thomas J. Eicher, Executive Director
Office of Public Integrity & Accountability
Dated: April 29, 2022

***ATTORNEY GENERAL
“USE OF FORCE POLICY”,
DATED APRIL 2022***

USE OF FORCE POLICY

Office of the Attorney General | State of New Jersey

April 2022 Version

Contents

Core Principles	ii
Definitions.....	iii
Core Principle One	1
Core Principle Two.....	2
Core Principle Three	6
Core Principle Four	14
Core Principle Five	18
Core Principle Six	19
Core Principle Seven	20

Appendices

- Addendum A Conducted Energy Devices and Other Less-Lethal Devices and Ammunition
- Addendum B Vehicular Pursuit Policy

Core Principles

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.

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.

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.

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.

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.

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.

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. In a correctional institution, any member of a group of four or more inmates or detainees who fails to comply with an order from a correctional police officer – or a single inmate or detainee who fails to comply with an order related to handcuffing inside a cell or secured tier – shall be considered an active resistor. See Section 2.6 (requiring that officers provide warning and an opportunity to comply before force is used against active resisters).

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).

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.

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.

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.

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.

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.

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.

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.

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

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.

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. For purposes of the application of the provisions of this Policy, inmates and detainees in a correctional institution who fail to comply with an order from a correctional police officer shall not be considered peaceful demonstrators.

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.

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.

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.
- 1.4** Every law enforcement and prosecuting agency operating under the authority of the laws of the state of New Jersey, including the New Jersey Department of Corrections and county correctional institutions, shall implement or adopt policies consistent with this Use of Force Policy, including the Policy's addenda.

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:

- (a) effectuating a lawful arrest or detention;
- (b) carrying out a lawful search;
- (c) overcoming resistance directed at the officer or others;
- (d) preventing physical harm to the officer or to another person (including intervening in a suicide or other attempt of self-inflicted injury);
- (e) protecting the officer or a third party from unlawful force; or
- (f) preventing property damage or loss.

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

- (a) to punish a person or to retaliate against them for past conduct;
- (b) as a lesson to prevent a person from resisting or fleeing in the future; or
- (c) 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:

- (a) begin critical assessment and planning prior to arriving at the scene;

- (b) collect available information;
- (c) assess situations, threats, and risks;
- (d) identify options for conflict resolution;
- (e) determine the best course of action; and
- (f) 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 should employ de-escalation techniques when feasible, which include, but are not limited to, the following:

- (a) communication techniques to calm an agitated subject (e.g., regulating tone and pitch, such as speaking slowly in a calm voice);
- (b) 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;
- (c) active listening techniques, such as sharing the officer's name, asking the subject their name, and exhibiting a genuine willingness to listen;
- (d) slowing down the pace of the incident by taking deep breaths, slowing speech, and/or applying strategic or critical thinking;
- (e) using calming gestures and facial expressions (e.g., arms extended with palms out and avoid angry expressions);
- (f) practicing procedural-justice techniques, such as explaining the officer's actions and responding to questions;
- (g) 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
- (h) 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:

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

2.7 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, that affect the person's ability to communicate or comply. This includes, when feasible, considering the following factors related to the individual:

- (a) behavioral or mental health crisis;
- (b) drug interaction;
- (c) medical condition;
- (d) mental impairment;
- (e) physical limitation;
- (f) developmental disability, including autism spectrum disorder;
- (g) cognitive impairment or intellectual disability;
- (h) hearing loss or impairment;
- (i) communication disorder, including speech impairment;
- (j) language barrier;
- (k) visual impairment;
- (l) age; or
- (m) other factors beyond the individual's control.

2.8 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:

- (a) obtaining information about the person from available sources including family members, caregivers or others who know the individual;
- (b) 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;
- (c) slowing down the pace of the incident by the officer slowing their speech, taking deep breaths, and/or applying strategic and critical thinking;
- (d) 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;
- (e) using time as a de-escalation strategy, thereby creating an opportunity to calm the non-compliant person;
- (f) using simplified speech and shorter verbal directions or instructions;
- (g) eliminating or reducing sensory distractions (bright flashing lights, sirens, or other loud noises); and

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

2.9 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.

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:
- (a) immediacy and severity of the threat to officers or the public;
 - (b) the conduct of the individual being confronted, as reasonably perceived by the officer at the time;
 - (c) 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);
 - (d) the effects of drugs or alcohol;
 - (e) the individual's mental state or capacity;
 - (f) the proximity of weapons or dangerous improvised devices;
 - (g) the degree to which the subject has been effectively restrained and their ability to resist despite being restrained;
 - (h) the availability of other options and possible effectiveness;
 - (i) 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;
 - (j) the officer's training and experience; and
 - (k) 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:

- (a) *Cooperative Person.* When dealing with a cooperative person, officers may rely on police presence and/or verbal control techniques, but should not use force.
- (b) *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.
- (c) *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.
- (d) *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.
- (e) *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 Four 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.

- (a) *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.
- (b) *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, except in the circumstances described in Section 3.4(c).
- (c) *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:

- (a) the potential for injury to the officer(s) or others if the technique is not used;
- (b) the potential risk of serious injury to the individual being controlled;
- (c) whether the pain compliance technique is effective in achieving an appropriate level of control or a different technique should be employed;
- (d) the nature of the offense involved;
- (e) the level of resistance of the individuals(s) involved;
- (f) whether immediate resolution is necessary;
- (g) 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
- (h) 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:

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

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

- (a) 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;
- (b) 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;

- (c) 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;
- (d) 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;
- (e) The arrested person must not be transported in the prone position; and
- (f) 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:

- (a) 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;
- (b) visual signs that the subject is struggling or exhibiting increased effort to breathe;
- (c) gurgling/gasping sounds with foam or mucus coming from the nose or mouth;
- (d) 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;
- (e) sudden behavioral changes, such as going from being violent and noisy to passive, quiet, and tranquil, or alternatively, suddenly becoming more aggressive;
- (f) blue discoloration of facial skin (cyanosis);
- (g) swelling, redness or blood spots to the face or neck; and
- (h) 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 Addendum A of this 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 Addendum A, only against:

- (a) an active assailant;
- (b) 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;
- (c) a person who is attempting to cause death or serious bodily injury to themselves; or

- (d) 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:

- (a) against a person in drive stun mode more than twice unless deadly force would be authorized and permitted pursuant to this Policy;
- (b) against a handcuffed subject unless deadly force would be authorized and permitted pursuant to this Policy;
- (c) against the operator of a moving vehicle unless deadly force would be authorized and permitted pursuant to this Policy;
- (d) to prevent a subject from damaging property; or
- (e) 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 Addendum A to this 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:

- (a) 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;

- (b) 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
- (c) 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:

(a) OC spray:

- (1) may be used against specific individuals who are active resisters, threatening assailants or active assailants as defined in Section 3.3 above;
- (2) shall not be used where bystanders would be unreasonably affected; and
- (3) shall not be used against passive resisters, or indiscriminately against groups of people.

(b) CEDs:

- (1) may be used against specific individuals who are threatening assailants or active assailants as defined in Section 3.3 above;
- (2) may be used only when the individual can be accurately targeted; and
- (3) shall never be fired indiscriminately into crowds.

(c) Less-lethal ammunition:

- (1) may be used during civil disturbances only against specific individuals who are threatening or active assailants; and
- (2) 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:

- (a) may be deployed only by specially trained individuals who are part of a special tactical unit authorized to deploy such agents;

- (b) may be deployed only with the specific and express approval of the IC;
- (c) may be deployed defensively to prevent injury when lesser force options are either not available or would likely be ineffective; and
- (d) 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.

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 animals.
- 4.2 Types of deadly force.** Deadly force includes the following potentially lethal actions:
- (a) applying a chokehold, carotid artery restraint, or similar technique that involves pressure on the neck;
 - (b) sitting, kneeling, or standing on a person's chest, back, or neck for a prolonged period of time;
 - (c) intentionally driving a vehicle at or in the direction of a person with the intent to strike the individual; and
 - (d) 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:
- (a) as discussed in Core Principle Three, when feasible, officers shall attempt to de-escalate situations, issue verbal warnings, or use non-lethal force with the goal of resolving encounters without using deadly force;
 - (b) 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;
 - (c) 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

- (d) officers shall not use deadly force when the use of deadly force creates a substantial risk of injury to innocent persons.

4.4 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:

- (a) to signal for help;
- (b) to issue a warning shot;
- (c) to prevent property damage or loss;
- (d) 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
- (e) 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:

- (a) during such operations, officers shall never intentionally position themselves in the path of a moving vehicle or a vehicle that is likely to move;
- (b) officers shall make every effort to move out of the path of a vehicle in order to maintain their safety;
- (c) 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
- (d) 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:

- (1) 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
- (2) 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
- (3) 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:

- (a) 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
- (b) 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 Addendum B of this 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:

- (a) the violator has committed, or is engaged in a conspiracy or attempt to commit, a crime enumerated in Section 3.2(a) of Addendum B; or
- (b) 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 Addendum B of this 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.

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.
- 5.2** 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.
- 5.3** 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.
- 5.4 Duty to report illegal and inappropriate uses of force by other officers.** Any officer who observes or has knowledge of a use of force that is illegal, excessive, or otherwise inconsistent with this directive or department policies must (a) notify a supervisor as soon as possible and (b) submit an individual written report to a supervisor before reporting off duty on the day the officer becomes aware of the misconduct
- 5.5** Law enforcement agencies, supervisors, and officers are prohibited from retaliating in any form against an officer who intercedes in or reports illegal or inappropriate uses of force.
- 5.6** Every department shall establish a written policy which requires intervention and protects officers who intervene from retaliation or other negative consequences. The departmental policy shall be consistent with this Policy and all applicable laws. Reporting procedures must comply with *Internal Affairs Policy & Procedures*. See AG Directive 2020-7.

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** 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.
- 6.2** The duty to render medical assistance and monitor applies to all officers on scene and continues throughout any transportation and custody of the individual.
- 6.3** 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.

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 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.

- 7.1 Reporting.** Notification of fatal and serious bodily injury law enforcement incidents shall be made in accordance with AG Directive 2019-4. As soon as any local, county, or state law enforcement agency learns of a law enforcement incident as defined below, the agency shall immediately notify the County Prosecutor's Office for the county in which the incident occurred, who shall in turn immediately notify the Attorney General's Office of Public Integrity and Accountability (OPIA) Director or their designee.
- 7.2** Law enforcement incidents are defined as:
- (a) any use of force by an officer resulting in death;
 - (b) any use of force by an officer resulting in serious bodily injury;
 - (c) 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;
 - (d) the death of any civilian during an encounter with an officer; and
 - (e) the death of any civilian while in the custody of law enforcement.
- 7.3** When an officer uses force as defined in Section 3 of this Policy and the result is not fatal, the officer shall complete a report in the Use of Force Portal established by the Attorney General's Office. The report shall be completed by the officer within 24 hours of the use of force, and preferably before the end the shift in which the force was used. If the officer who used force is unable to complete the report within 24 hours, it should be completed as soon the officer is able to do so, or by a supervising officer within 48 hours, in accordance with a written policy to be established by the department or agency.
- 7.4 Review of use of force.** Thorough and meaningful review of use of force incidents is vital to ensuring a positive law enforcement and community relationship.
- 7.5 Review of each individual use of force.** Every use of force must undergo the following procedures for a meaningful command level review pursuant to a written policy established by the law enforcement executive:
- (a) The meaningful command level review of the incident shall be undertaken by at least two levels of supervisors. These levels may include the immediate supervisor, internal affairs, training officers or command staff. At least one reviewer must be two

- (d) 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.

7.7 Based on that thorough review, the law enforcement executive shall determine whether changes in departmental structure, policy, training, or equipment are appropriate. The law enforcement executive 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.

levels or more above the officer who used force. When the chief law enforcement executive of an agency 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.

- (b) The review shall include an examination of all available sources of information about the incident, including any video of the incident, reports, officer or other witness statements, medical records and records of injuries;
- (c) The review shall include an analysis of whether force was used in a non-discriminatory fashion to ensure 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;
- (d) The reviewing supervisors shall 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;
- (e) The law enforcement executive, or a command level officer no more than one rank below the law enforcement executive for departments with more than 100 officers, shall review each use of force investigation and approve or reject the recommendations of the supervisors who conducted the review. The law enforcement executive's decision, or the decision of the designee, shall be memorialized and retained in the use-of-force investigative file; and
- (f) After the review is completed, supervisory and/or training officers 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.

7.6 Annual review of overall department use of force. The law enforcement executive shall also conduct an annual review of use of force incidents in their department. The review shall include, at a minimum, the following:

- (a) analytical reports from the Attorney General's Use of Force Portal;
- (b) an audit of body worn cameras and other videos on a risk-based and randomly selected basis;
- (c) any internal affairs complaints; and

***ADDENDUM A TO THE
ATTORNEY GENERAL
“USE OF FORCE POLICY”,
TITLED “CONDUCTED ENERGY
DEVICES AND OTHER LESS-
LETHAL DEVICES AND
AMMUNITION”,
DATED DECEMBER 2020.***

Use of Force Policy Addendum A

Conducted Energy Devices and Other Less-Lethal Devices and Ammunition

Contents

1	Scope	1
2	Policy.....	2
3	Definitions	3
4	Authorized Officers.....	6
5	Authorization to Use CEDs.....	7
6	Unauthorized Uses of CEDs	8
7	Deployment Techniques for CEDs	9
8	Handling of Injured Suspects Following CED Use.....	11
9	Approved CEDs	12
10	Authority to Use Less-Lethal Devices and Ammunition	13
11	Training and Qualification for CEDs and Less-Lethal Devices.....	15
12	Reporting and Evaluation	16

1 Scope

- 1.1** This Addendum to the Attorney General’s Use of Force Policy (Policy or Use of Force Policy) governs the use of conducted energy devices (CEDs) and other authorized less-lethal devices and ammunition. It does not address the use of oleoresin capsicum (“OC spray”), tear gas or other chemical agents, distraction devices (e.g., a “flash bang”) or the use of an asp or baton. This policy supersedes and replaces all other policies, directives, memorandums or guidance provided by the Office of the Attorney General or the Division of Criminal Justice (DCJ) on CEDs and other Less-Lethal Devices and Ammunition.
- 1.2** The terms CED, less-lethal device, and less-lethal ammunition are defined in Section 3 of this policy.
- 1.3** Any deployment of a conducted energy device or less-lethal device falls under the definition of “enhanced mechanical force” and will only be authorized if consistent with the Policy, including the provisions contained in this Addendum.

2 Policy

- 2.1 The Use of Force Policy formally recognizes four distinct types of force: physical force; mechanical force; enhanced mechanical force; and deadly force.
- 2.2 Enhanced Mechanical Force is 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 CEDs and less-lethal devices and ammunition.
- 2.3 As with any type of force, officers shall exhaust all other reasonable means to gain compliance before resorting to enhanced mechanical force, if feasible. Thus, if a safe alternative would achieve law enforcement's objective, enhanced mechanical 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. Officers shall never engage in unnecessary, overly aggressive, or otherwise improper actions that create a situation where force becomes needed.
- 2.4 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 the level of resistance or threat known to the officer at the time.
- 2.5 The decision to use force and the appropriate amount of force requires careful attention to the facts and circumstances of each incident.
- 2.6 Any deployment of a CED or less-lethal device against a person, except as authorized by this policy, is prohibited. Any intentional misuse or reckless abuse of any such device will not be tolerated and will result in administrative action, discipline, or criminal prosecution.

3 Definitions

- 3.1 Attorney General's Advisory Panel on Conducted Energy and Less-Lethal Devices.** The Attorney General will establish the Attorney General Advisory Panel for Conducted Energy and Less-Lethal Devices (Panel). The panel shall consist of subject matter experts from the New Jersey State Police, the Division of Criminal Justice, the Office of Public Integrity and Accountability, the Police Training Commission, the New Jersey State Association of Chiefs of Police, the County Prosecutors' Office Chiefs Association, the County Prosecutors Association of New Jersey, the Sheriff's Association of New Jersey, and other law enforcement officers and member(s) of the community appointed by the Attorney General or their designee.

The panel shall solicit and receive applications and review, test, and submit a report with recommendations to the Attorney General concerning whether a CED or less-lethal device or ammunition should be approved. Moreover, the Panel will provide specific guidance concerning when and how the device or ammunition may be deployed. Only CEDs and less-lethal devices or ammunition approved by the Attorney General or the Attorney General's designee shall be used in the State of New Jersey by law enforcement officers. Less-lethal devices and ammunition that are approved shall only be used consistent with rules and regulations established for each device. No law enforcement agency or officer shall deploy or use a CED or less-lethal device or ammunition pursuant to this policy unless the device or ammunition satisfies the specifications and characteristics approved by the Attorney General.

The Panel shall meet at least four times a year. On a regular basis, the Panel shall publish a list of all approved conducted energy and less-lethal devices, or ammunition. All approved conducted energy and less-lethal devices, ammunition, and deployment requirements are subject to review by the Panel and are subject to removal by the Attorney General. Such review should occur once every five years.

- 3.2 Bodily Injury.** Bodily injury means 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).
- 3.3 Conducted Energy Device (CED).** A conducted energy device 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.
- 3.4 Deadly Force.** Deadly force means 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.

- 3.5 Deadly Weapon.** Deadly weapon means any firearm or other weapon, device, instrument, material or substance, whether animate or inanimate, which in the manner it is used or is intended to be used, is known to be capable of producing death or serious bodily injury, or in the manner in which it is fashioned would lead the victim reasonably to believe it to be capable of producing death or serious bodily injury. See N.J.S.A. 2C:11-1(c).
- 3.6 Discharge.** Discharge means to cause an electrical charge or current to be directed at a person in contact with the darts/electrodes of a CED.
- 3.7 Drive stun mode.** Drive stun mode means to discharge a CED where the main body of the device is in direct contact with the person against whom the charge or current is transmitted.
- 3.8 Fire.** Fire means to cause the darts/electrodes of a CED to be ejected from the main body of the device and to come into contact with a person for the purpose of transmitting an electrical charge or current against the person.
- 3.9 Less-Lethal Ammunition.** Less-lethal ammunition also referred to as less-lethal impact projectiles, means ammunition approved by the Attorney General that is designed to stun, temporarily incapacitate or cause temporary discomfort to a person without penetrating the person's body. The term shall also include ammunition approved by the Attorney General which is designed to gain access to a building or structure and is used for that purpose. See N.J.S.A. 2C:3-11(f). Specific less-lethal ammunition and platforms that are currently approved can be found at the Attorney General's Approved List of Less-Lethal Ammunition. (December, 2010). Less-lethal ammunition may include different types such as: Kinetic Less-Lethal Flexible Projectiles; Kinetic Less-Lethal Non-Flexible Projectiles; Rubber Balls and Pellets; Baton Projectiles; Pad Projectiles, commonly referred to as "bean bag rounds;" Drag Stabilized Projectiles, commonly referred to as "sock rounds;" Fin-Stabilized Projectiles; and Encapsulated Projectiles.
- 3.10 Less-Lethal Device.** Less-lethal device means any less-lethal weapon that is reviewed by the Panel and approved by the Attorney General or the Attorney General's designee. The term does not include OC spray, aspms or batons.
- 3.11 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).

3.12 Spark Display. Spark display means a non-contact demonstration of a CED's ability to discharge electricity that is done as an exercise of constructive authority to convince an individual to submit to custody.

4 Authorized Officers

- 4.1** The law enforcement executive of each agency shall determine which officers, including Class II and Class III Special Law Enforcement Officers, shall be authorized to carry and use a conducted energy or a less-lethal device or ammunition. Class I Special Law Enforcement Officers shall not be authorized.

- 4.2** An officer shall not carry or use a CED or less-lethal device during an actual operation unless the officer has been expressly authorized to do so by the law enforcement executive, after the officer has successfully completed a training course approved by the Police Training Commission in the proper use and deployment of authorized conducted energy or less-lethal devices, as appropriate. The law enforcement executive shall be responsible to ensure that officers authorized to carry CEDs and less-lethal devices maintain the required certifications and qualifications.

5 Authorization to Use CEDs

- 5.1** An officer authorized to use a CED pursuant to this policy may fire, discharge, or utilize drive stun mode of the CED during an actual operation, only against:
- (a) an active assailant; or
 - (b) 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; or
 - (c) a person who is attempting to cause death or serious bodily injury to him/herself; or
 - (d) 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.
- 5.2** 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.
- 5.3** An officer shall not direct an electrical charge or current against a person who is restrained by handcuffs unless:
- (a) Deadly force would be authorized under the Use of Force Policy; and
 - (b) the use of physical or mechanical force is not feasible or would be ineffective.
- 5.4** Consistent with training, officers may point a CED at a person only when circumstances create a reasonable belief that it may be necessary for the officer to use enhanced mechanical force. When the officer no longer reasonably believes that enhanced mechanical force may be necessary, the officer shall, as soon as practicable, secure or holster the CED.
- 5.5** Unholstering, displaying, or pointing a CED shall be considered a display of constructive authority.
- 5.6** A spark display from a CED shall be considered a display of constructive authority. A spark display must be reported as a Show of Force on the Attorney General's Use of Force Reporting Portal.

6 Unauthorized Uses of CEDs

6.1 The following uses of CEDs are prohibited:

- (a) A CED shall not be used or threatened to be used to retaliate for any past conduct or to impose punishment;
- (b) A CED shall not be used against a person who is a passive resistor or an active resistor;
- (c) A CED shall not be fired or discharged for the sole purpose of preventing a person from committing property damage;
- (d) A CED shall not be deployed against the operator of a moving vehicle unless the use of deadly force against the operator of the motor vehicle would be authorized; and
- (e) Two or more CEDs shall not be discharged upon a person at the same time.

7 Deployment Techniques for CEDs

- 7.1 An officer issued a CED shall determine and record on an appropriate log, prior to field deployment, that the device, including the video recording function, is functional. If the officer is equipped with a body worn camera as defined in Attorney General Law Enforcement Directive No. 2015-1 that will be used to record the circumstances of the firing/discharge of the CED in lieu of an internal video camera, the officer shall determine and record on an appropriate log that the body worn camera is functional.
- 7.2 When feasible, the officer should warn the person against whom a CED is directed that the officer intends to fire the weapon.
- 7.3 An officer should not fire a CED if there is a substantial risk that the electrode/darts will strike an innocent person, unless firing the device in such circumstances is reasonably necessary to protect the innocent person(s) from death or serious bodily injury.
- 7.4 To ensure officer safety, when feasible, at least one law enforcement officer other than the one deploying the CED should be present, be armed with lethal ammunition, and be prepared to utilize deadly force in the event that the use of a CED for any reason fails. Deadly force would only be authorized in this situation as a last resort, if otherwise permitted by the Use of Force Policy.
- 7.5 During the deployment of a CED, the deploying officer shall, when feasible, continually evaluate the options selected against changing circumstances.
- 7.6 An officer trained and authorized to carry a CED shall be aware of and comply with any targeting recommendations made by the manufacturer.
- 7.7 A CED may be used in conjunction with a distraction device, non-flammable chemical agent, or less-lethal ammunition. If the individual has already received an electrical charge from a CED, officers shall, when feasible, provide the person a reasonable opportunity to submit to law enforcement authority and to comply with law enforcement commands, considering the physiological effects of the discharge, before deploying a distraction device, chemical agent, or less-lethal ammunition.
- 7.8 A CED shall not be directed against a person who is situated on an elevated surface (e.g., a ledge, scaffold, near a precipice, etc.) unless reasonable efforts have been made to prevent or minimize a fall-related injury (e.g., deploying a safety net).
- 7.9 A CED shall not be used in, on, or immediately adjacent to a body of water in which the targeted person could fall during any stage of the application of the electrical current generated or transmitted by the device.

- 7.10** A CED shall not be used in any environment where an officer knows or has reason to believe that a potentially flammable, volatile, or explosive material is present that might be ignited by an open spark, including but not limited to pepper spray with a volatile propellant, gasoline, natural gas, or propane.
- 7.11** While officers must at all times respect the seriousness and potential lethality of a CED, an officer shall use particular care when considering whether to use a CED against an individual who is particularly vulnerable due to age (either elderly or young), developmental disability, or a known or reasonably apparent medical condition (e.g., a pregnant female).
- 7.12** Law enforcement agencies are not permitted to use aerosol spray devices that emit a flammable substance to eliminate the possibility that the electric spark from a CED dart/electrode could inadvertently ignite a flammable substance contained in some OC sprays or similar aerosol spray devices, thereby resulting in injury or death.

8 Handling of Injured Suspects Following CED Use

8.1 Subjects against whom a CED has been deployed shall be transported to a medical facility for examination if any of the following circumstances exist:

- (a) the subject requests medical attention;
- (b) the subject had been rendered unconscious or unresponsive;
- (c) the subject, after being subjected to a discharge, does not appear to have recovered normally, as described in CED training;
- (d) the subject has exhibited signs of excited delirium, as described in CED training, prior to, during, or after the discharge of the CED;
- (e) the subject has suffered bodily injury requiring medical attention as a result of a fall, or otherwise reasonably appears to need medical attention;
- (f) the subject was exposed to three or more discharges from a CED during the encounter;
- (g) the subject has been exposed to a continuous discharge lasting 15 seconds or longer;
- (h) no personnel at the scene are qualified or authorized to remove the CED darts/electrodes from the subject's person;
- (i) an officer trained and authorized to remove darts/electrodes experiences difficulty in removing a dart/electrode; or
- (j) any part of a CED dart/electrode has broken off and remains imbedded.

8.2 An officer is authorized to remove a CED dart/electrode from a subject only if the officer has received training on dart/electrode removal, provided, however, that an officer is not authorized to remove a CED dart/electrode from any part of the person's head or neck, or where the dart/electrode is located in the area of the subject's genitalia, or female breast. In the absence of exigent circumstances requiring immediate action, a CED dart/electrode may only be removed from these areas of the subject's body by qualified medical personnel.

9 Approved CEDs

- 9.1** The Panel shall review and provide recommendations concerning the specifications and characteristics of CEDs that may be deployed and used pursuant to this policy. Those specifications will include the following requirements:
- (a) the device must be capable of making a date- and time-stamped digital record of each occurrence when the darts/electrodes are fired, and of each occurrence when an electrical current is discharged;
 - (b) the device must be capable of making a digital video recording of each such firing and electrical discharge, where the focus of the internal camera is centered on the person against whom the CED was targeted, except that an agency is authorized to purchase and deploy an approved CED that does not have the capability of making a digital video recording provided that such device may only be carried and used by an officer who is equipped with a BWC as defined in Attorney General Law Enforcement Directive No. 2015-1, and further provided that, notwithstanding any other provision of this policy, such device shall not be fired or discharged during an actual operation unless the officer has activated the body worn camera. Nothing herein shall be construed to preclude the officer from firing or discharging the device in the event that the officer's body worn camera malfunctions, or if the exigency of the situation made it unsafe or infeasible for the officer to activate the body worn camera before firing the device; and
 - (c) the device must safeguard all such digital data and video recordings to ensure that they can be accessed or erased only by appropriate supervisory personnel in accordance with rules, regulations, standing operating procedures or orders promulgated pursuant to this policy.
- 9.2** No law enforcement agency shall purchase, possess, deploy, fire, or discharge any CED pursuant to this policy unless the device has been approved by the Attorney General.

10 Authority to Use Less-Lethal Devices and Ammunition

- 10.1** An officer authorized to use a less-lethal device pursuant to this policy may fire or discharge the device during an actual operation, only against:
- (a) an active assailant;
 - (b) 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; or
 - (c) a person who is attempting to cause death or serious bodily injury to him/herself; or
 - (d) 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.
- 10.2** Officers shall reevaluate the situation and reassess the need to use force before any second or subsequent firing or discharge of a less-lethal device against the same person. Any second or subsequent firing or discharge of a less-lethal device must be necessary and justified by the circumstances at that moment.
- 10.3** Less-lethal instruments, ammunition, or impact projectiles shall not be used at a lesser or greater distance than that specified and approved by the Attorney General.
- 10.4** When it can be reasonably accomplished without increasing the danger to officers or others, an officer about to discharge a less-lethal device should advise other law enforcement officers at the scene prior to the discharge of the less-lethal weapon. This is to minimize the possibility that the firing of a less-lethal platform or ammunition would provoke other officers to discharge their weapons.
- 10.5** Weapons used for the deployment of less than lethal platforms or ammunition shall be dedicated exclusively for that purpose. These weapons shall be clearly marked so as to distinguish them from firearms intended for the use of lethal ammunition. The use of other than less-lethal ammunition in these designated weapons is prohibited unless it is immediately necessary to protect the life of a law enforcement officer or other person, and there is no other means available.
- 10.6** During the deployment of less-lethal devices or ammunition, the deploying officer and supervisor shall, when feasible, continually evaluate the options selected against changing circumstances.
- 10.7** Acceptable less-lethal impact projectiles/ammunition will be only those which are designed for single target-specific engagement from a minimum standoff distance as approved by the Attorney General.

- 10.8** Maximum effective distance/range for deployment of specific projectiles shall not exceed the specifications approved by the Attorney General.
- 10.9** Intentionally aiming approved less-lethal impact ammunition at the head, neck, chest, or groin shall be avoided unless deadly force is justified, necessary, and appropriate.
- 10.10** No ammunition designed to be skip-fired and/or non-target specific will be deemed to be acceptable.
- 10.11** Approved less-lethal devices or ammunition shall not be used in a crowd management situation except against specific threatening assailants or active assailants, in strict compliance with Section 3.8 of the Attorney General's Use of Force Policy.
- 10.12** Less-lethal devices or ammunition shall not be used to prevent a person from causing property damage.
- 10.13** A less-lethal device shall not be directed against a person who is situated on an elevated surface (e.g., a ledge, scaffold, near a precipice, etc.) unless reasonable efforts have been made to prevent or minimize a fall-related injury (e.g., deploying a safety net).
- 10.14** Suspects who are struck by less-lethal ammunition shall be transported to a medical facility for examination if they suffer bodily injury or request medical treatment.

11 Training and Qualification for CEDs and Less-Lethal Devices

- 11.1 No officer shall be authorized to carry or use a CED or less-lethal device during an actual operation until having completed a training course and qualification procedure approved by the Police Training Commission (or DCJ) in the proper use and deployment of CEDs or less-lethal devices. The training program shall include a component on techniques to de-escalate a confrontation with a person from a different culture or background. The training program also shall include a component on how to interact with a person in emotional or mental health crisis, including de-escalation techniques.
- 11.2 All law enforcement officers authorized to carry and use a CED or less-lethal device pursuant to this policy shall qualify, and thereafter re-qualify annually, in a training course and qualification procedure approved by the Police Training Commission (or DCJ).
- 11.3 CED and Less-Lethal training programs in each county shall operate under the direct control of the County Prosecutor's Office. For statewide law enforcement agencies, with the approval of the Director of DCJ, the CED and Less-Lethal training programs shall operate under the control of the law enforcement executive. The number of certified CED Instructors and Less-Lethal Instructors, who shall be responsible for the initial training and qualification of officers authorized to carry a CED or Less-Lethal Device, shall be determined by the appropriate County Prosecutor or statewide law enforcement agency executive. A County Prosecutor may designate any law enforcement officer to serve as an authorized CED or Less-Lethal Instructor within the countywide program under their jurisdiction.
- 11.4 For purposes of CED and Less-Lethal re-qualification ONLY, upon approval and designation of the respective County Prosecutor's Office, municipal police officers and/or county sheriff's officers may be trained as a "CED Re-Qualification Instructor" or "Less-Lethal Requalification Instructor" to administer re-qualification. Training of any CED or Less-Lethal Re-Qualification Instructor shall be identical to the training requirements for Certified CED Instructors or Certified Less-Lethal Instructors. Each respective County Prosecutor's Office shall maintain a list of all CED and Less-Lethal Re-Qualification Instructors. Re-Qualification Instructors shall not be authorized to conduct the initial training of officers authorized to carry a CED or Less-Lethal Device.
- 11.5 The Director of DCJ, with the approval of the Attorney General, shall have the authority to set additional training and qualification requirements for CED Instructors, Less-Lethal Instructors, and officers authorized to carry a CED or Less-Lethal device. On an annual basis, the Division shall compile and distribute a current list of all such training and qualification requirements.

12 Reporting and Evaluation

12.1 In all instances when a CED or less-lethal device is fired or discharged during an actual operation, the law enforcement officer who employed such force shall complete:

- (a) Any agency required reports made necessary by the nature of the underlying incident; and
- (b) A report in the Attorney General's Use of Force Reporting Portal.

12.2 In all instances when a CED or less-lethal device is fired at or discharged upon a person by a law enforcement officer, a higher-ranking supervisor shall investigate the circumstances and outcome of the device's use. The investigating supervisor shall report on the incident to the law enforcement executive, providing the law enforcement executive information on all relevant circumstances, deployment, and outcome, including whether the deployment avoided injury to an officer and avoided the need to use deadly force. Upon receipt, the law enforcement executive shall issue a report, including a finding on whether the firing and all discharges complied with the Attorney General's Use of Force Policy.

12.3 Review of CED and Less-Lethal Device Deployments:

- (a) For municipal and county law enforcement agencies, the law enforcement executive shall forward the report to the County Prosecutor within 10 business days of the firing/discharge, unless the County Prosecutor grants the law enforcement executive's request for a reasonable extension of time within which to forward the report, for good cause shown. The County Prosecutor shall review the matter for compliance with this Policy. If the County Prosecutor finds the firing or discharge of a CED or less-lethal device to not be in compliance with the Attorney General's Use of Force Policy, the matter shall be forwarded to the Director of the Office of Public Integrity and Accountability or their designee.
- (b) For statewide law enforcement agencies, the law enforcement executive shall forward the report to the Director of the Division of Criminal Justice within 10 business days of the firing/discharge, unless the Director grants the law enforcement executive's request for a reasonable extension of time within which to forward the report for good cause shown. The Director shall review the matter for compliance with this Policy. If the Director finds the firing or discharge of a CED or less-lethal device to not be in compliance with the Attorney General's Use of Force Policy, the matter shall be forwarded to the Director of the Office of Public Integrity and Accountability or their designee.

12.4 In all instances when a CED is fired at or discharged upon a person, a superior officer designated by the law enforcement executive shall immediately take custody of and secure the device. The superior officer shall safeguard and preserve the digital information in that

device concerning the incident. The law enforcement executive of each department that utilizes CEDs shall issue a rule, regulation, standing operating procedure or other appropriate order to establish a system to ensure that the internal digital recording systems of these devices are maintained, and that the data contained therein cannot be tampered with, and cannot be accessed or erased except by duly authorized supervisors. After the information is safeguarded, the device may be returned to service consistent with the department's policies. The information stored in the device concerning the use of force incident (i.e., data concerning the time the weapon was fired, the time of all electrical discharges, and video recordings of the firing of the weapon and all electrical discharges) shall be preserved and reported on in the report of the incident prepared pursuant to Section 12.2 of this policy.