

CLOSTER POLICE DEPARTMENT			
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SUBJECT: USE OF FORCE			
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BY THE ORDER OF: Chief John McTigue		05/29/13	All
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PURPOSE The purpose of this directive is to maintain compliance with guidelines and directives promulgated by the New Jersey Attorney General, the Bergen County Prosecutor, and existing statutory and case law.

POLICY It is the policy of the Closter Police Department that officers hold the highest regard for the dignity and liberty of all persons and place minimal reliance upon the use of force and instead use de-escalation tactics to the extent possible under the circumstances. This department respects and values the sanctity of human life and the application of deadly force is a measure to be employed only in the most extreme circumstances.

Officers have been granted the extraordinary authority to use force when necessary to accomplish lawful ends. That authority is grounded in the responsibility to comply with the laws of the State of New Jersey regarding the use of force and to comply with the provisions of this directive. In situations where officers are justified in using force, the utmost restraint should be exercised. The use of force should never be considered routine. In determining whether to use force, officers shall be guided by the principle that the degree of force employed in any situation should be only that, which is reasonably necessary. Officers should exhaust all other reasonable means before resorting to the use of force. It is the policy of the State of New Jersey and this agency that officers will use only that force that is objectively reasonable and necessary when force is required to accomplish lawful objectives.

Officers are required to take appropriate action in any situation where they are clearly convinced that other officers are using force in violation of state law or this directive. Officers are encouraged to do whatever they can to interrupt the flow of events before agency personnel do something illegal and before any official action is necessary. Officers can serve each other and the public by simply saying or doing the right thing to prevent fellow personnel from resorting to force illegally or inappropriately.

Officers whose actions are consistent with the law and the provisions of this directive will be strongly supported by the law enforcement community in any subsequent review of their conduct regarding the use of force. Conversely, officers whose actions are contrary to law and the provisions of this directive may be subject to disciplinary action, up to and including criminal prosecution and/or termination.

PROCEDURES

I. DEFINITIONS

A. Use of force options:

1. Constructive authority does not involve actual physical contact with a subject but, involves the use of officers' authority to exert control over a subject.
 1. Examples include verbal commands, gestures, warnings, and unholstering a weapon.
 2. Pointing a firearm at a subject is an element of constructive authority to be used only in appropriate situations.
2. 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 an agency vehicle, holding the subject's arm while transporting, handcuffing a subject and maneuvering or securing a subject for a frisk.
3. Physical force involves contact with a subject beyond which is generally utilized to affect an arrest or other law enforcement objective. Physical force is employed when necessary to overcome a subject's physical resistance to the exertion of an officer's authority or to protect persons or property. Examples include, wrestling a resisting subject to the ground, using wrist locks or arm locks, striking with the hands or feet, or other similar methods of hand-to-hand confrontation.
4. Mechanical force involves the use of some device or substance, other than a firearm, to overcome a subject's resistance to the exertion of an officer's authority. Examples include the use of a baton or other impact weapon, canine physical contact with a subject, or chemical or natural agent spraying.
5. Enhanced mechanical force is an intermediate force option between mechanical and deadly force, 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. See *Directive V4C3 Conducted Energy Devices (Tasers)* for procedures and restrictions when using a conducted energy device.
6. Deadly force is force, which officers use with the purpose of causing, or which an officer knows to create a substantial risk of causing, death or serious bodily harm. Purposely firing a firearm in the direction of another person or at a vehicle, building or structure in which another person is believed to be constitutes deadly force. A threat to cause death or serious bodily harm, by the production of a weapon or otherwise, so long as the purpose is limited to creating an apprehension that deadly force will be used, if necessary, does not constitute deadly force.

- B. Chokehold is a weaponless control technique designed to interfere with the normal breathing of another by manually constricting his/her windpipe. Chokeholds are prohibited except in extraordinary circumstances when deadly force is authorized.

- C. De-escalation is calmly communicating with an agitated person in order to understand, manage and resolve his/her concerns. Ultimately, these actions should help reduce the person's agitation and potential for future aggression or violence.
1. Approach people with caution; be alert and maintain a calm and casual demeanor.
 2. Your tone of voice should be soothing but, firm and businesslike.
 3. Avoid exciting the person, if possible.
 4. Be prepared that the person may not understand questions and/or instructions or be able to answer in an understandable manner.
 5. Ignore verbal abuse directed at you or others.
 6. Maintain professionalism.
- D. Emotionally disturbed person: A generic term used to describe a person with an emotional disturbance, behavioral disorder, or mental illness. There is a wide range of specific conditions that differ from one another in their characteristics and treatment. See *Directive V3C21 Emotionally Disturbed Persons* for procedures for dealing with an emotionally disturbed person.
- E. Employee shall mean all employees of the Closter Police Department regardless of sworn status, job title, or assignment.
- F. Excited delirium is a medical disorder generally characterized by observable behaviors, including extreme mental and physiological excitement, intense agitation, hyperthermia often resulting in nudity, hostility, exceptional strength, endurance without apparent fatigue, and unusual calmness after restraint accompanied by a risk of sudden death. Specific signs and characteristic symptoms may include but, are not limited to:
1. Constant or near constant physical activity;
 2. Irresponsiveness to police presence;
 3. Nakedness/inadequate clothing that may indicate self-cooling attempts;
 4. Elevated body temperature/hot to touch;
 5. Rapid breathing;
 6. Profuse sweating;
 7. Extreme aggression or violence;
 8. Making unintelligible, animal-like noises;
 9. Insensitivity to or extreme tolerance of pain;
 10. Excessive strength (out of proportion to the person's physique);
 11. Lack of fatigue despite heavy exertion;

12. Screaming and incoherent talk;
 13. Paranoid or panicked demeanor;
 14. Attraction to bright lights, loud sounds, glass or shiny objects.
- G. Imminent danger describes threatened actions or outcomes that may occur during an encounter absent action by personnel. 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. Imminent danger may be present even if a subject is not at that instant pointing a weapon at personnel but, is carrying a weapon and running for cover.
- H. Law enforcement officer (officer) is any personnel sworn to enforce the criminal laws of the State of New Jersey, who is certified by the Police Training Commission, or is currently employed by the Closter Police Department and is authorized to carry a firearm under N.J.S.A. 2C: 39-6.
- I. Meaningful review is a formal documented process to determine whether policy, training, equipment or disciplinary issues need to be addressed.
- J. Positional asphyxia happens when a person can't get enough air to breathe due to the positioning of his/her body. This happens when a person is placed in a position where his/her mouth and nose is blocked or where his/her chest/torso may be unable to fully expand resulting in suffocation.
- K. Reasonable belief is an objective assessment based upon an evaluation of how reasonable personnel with comparable training and experience would react to, or draw inferences from, the facts and circumstances confronting and known by the personnel at the scene.
- L. Resisting arrest refers to the act of a person who purposely prevents a law enforcement officer from affecting an arrest, to include such things as threatening to use physical force or violence against the law enforcement officer or use of any other means to create a substantial risk of causing physical injury to a law enforcement officer when acting under the color of his/her official authority (N.J.S.A. 2C: 29-2).
1. Active resistance refers to a person who uses or threatens to use physical force or violence against the law enforcement officer or another or uses any other means to create a substantial risk of causing physical injury to the public servant or another.
 2. Passive resistance refers to a person who doesn't obey a command to submit to an arrest (e.g., a person refuses a police command to exit a vehicle and grabs on to the steering wheel to prevent being removed by physical force, refuses to get on the ground, etc.)
- M. 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.
- N. Substantial risk: Any discharge of a firearm entails some risk of an unintended outcome. A substantial risk exists when personnel disregard a foreseeable

likelihood that innocent persons will be endangered. For example, firing a weapon into a confined space (room, vehicle, etc.) occupied by innocent persons exposes those persons to a substantial risk of harm.

- O. Vascular restraint is a weaponless control technique designed to restrict a person's normal blood flow to the brain by constricting his/her carotid arteries with a chokehold or other manual pressure. Vascular restraints are prohibited except in extraordinary circumstances when deadly force is authorized.

II. AUTHORIZATION AND LIMITATIONS

- A. Use of physical and mechanical force (general):
 - 1. Officers can use physical force or mechanical force when they reasonably believe it is immediately necessary at the time:
 - a. To overcome resistance directed at themselves or others; or
 - b. To protect themselves, other officers or a third party from unlawful force; or
 - c. To protect property; or
 - d. To thwart the commission of a crime involving or threatening bodily harm; or
 - e. To effectuate the lawful arrest of any person for an offense or crime under the laws of the State of New Jersey. The use of physical force or mechanical force to make an arrest however is not justifiable unless:
 - 1) The arrest is lawful, and the officers make known the purpose of the arrest or reasonably believe that their identity and purpose are otherwise known by or cannot reasonably be made known to the person to be arrested; and
 - 2) If the arrest is made under a warrant, the warrant is valid or reasonably believed by the officer to be valid.
 - 2. Once all resistance and/or physical force being used to resist or prevent officers from carrying out their duties have ceased, use of further force on the officer's part shall cease.
 - 3. When the officer reasonably believes that physical or mechanical force is immediately necessary, the officer should assess the totality of the circumstances and apply the minimum force necessary to overcome resistance when an individual is using or threatening to use force unlawfully and bring the situation under control in the safest manner possible.
- B. ***Due to the potential for unintended serious injury or death, the use of chokeholds and other similar neck/vascular restraint techniques are prohibited except in extraordinary circumstances when deadly force is authorized.***
- C. Use of mechanical force:

1. NOTE: mechanical force options could be ineffective for subjects exhibiting signs of excited delirium (see definitions, section I.E of this directive) due to the subject's elevated threshold of pain. *Directive V3C21 Emotionally Disturbed Persons* for instructions on dealing with someone with signs of excited delirium.
2. Tactical batons:
 - a. Batons are defensive impact tools that may be used when the justification for the use of mechanical force exists.
 - b. Once resistance ceases, the use of the baton as a striking tool shall cease.
 - c. Batons shall only be used as instructed. Batons shall not be used to deliberately strike another with a degree of force intended to cause serious bodily injury or death unless the use of deadly force is justified.
 - d. Officers must exercise special care in their use and avoid striking those potentially fatal areas of the body identified during training except when deadly force is authorized.
3. Oleoresin capsicum (OC) aerosol (non-flammable only):
 - a. OC is permitted in less lethal force situations where the use of force is necessary and justified to apprehend or control an individual, and the use of the OC will facilitate the arrest with the minimum chance of injury to the officer, the arrestee, or innocent bystander.
 - b. OC must not be handled by children or unauthorized individuals.
 - c. Generally, OC has been found to be effective in controlling persons who are under the influence of alcohol and/or narcotics, persons highly agitated or motivated and those who are mentally unbalanced but, the effects of OC vary with different types of individuals. Therefore, officers must be continually alert to the possibility that other means may be necessary to subdue a resistive or noncompliant subject or attacker.
 - d. OC has been found to be effective against aggressive animal attack and may also work well against attacking dogs. Caution must be used when repelling dogs trained to attack and/or those who are extremely motivated.
 - e. OC should not be used on crowds or large groups of people (i.e., demonstrators) without the expressed permission of a ranking supervisor.
 - f. OC should be sprayed directly into the target's face with the spray being directed to the eyes, nose, and mouth from as close as safely possible. OC should always be used in the upright position with short one-half to one-second bursts.

- g. Once resistance ceases, the further application of OC shall cease.
- h. Noncompliance with an officer's verbal commands may be considered justification for deployment where force is otherwise authorized.
- i. OC shall not be used in the immediate vicinity of infants or the elderly unless absolutely necessary.
- j. All persons who have been exposed to OC will at the earliest practicable time, be allowed to flush the affected area with cold/cool water,
- k. OC shall not be used on the operator of a motor vehicle unless the motor vehicle is first disabled (e.g. removal of keys from the ignition).

D. Use of deadly force:

- 1. An officer may use deadly force when he/she reasonably believes such action is immediately necessary to protect him/herself or another person from imminent danger of death or serious bodily harm.
- 2. Officers can use deadly force to prevent the escape of a fleeing suspect under the following conditions:
 - a. Whom officers have probable cause to believe has committed an offense that the suspect caused or attempted to cause death or serious bodily harm; and
 - b. Who will pose an imminent danger of death or serious bodily harm should the escape succeed; and
 - c. When the use of deadly force presents no substantial risk of injury to innocent persons.
- 3. If feasible, officers should identify themselves and state their intention to shoot before using a firearm.

E. Restrictions on the use of deadly force:

- 1. Officers are under no obligation to retreat or desist when resistance is encountered or threatened. However, officers shall not resort to the use of deadly force if they reasonably believe that an alternative to the use of deadly force will avert or eliminate an imminent danger of death or serious bodily harm and achieve the law enforcement purpose at no increased risk to themselves or another person.
- 2. Officers shall not discharge a weapon as a signal for help or as a warning.
- 3. While any discharge of a firearm entails some risk, discharging a firearm at or from a moving vehicle entails an even greater risk of death or serious injury to innocent persons. The safety of innocent people is jeopardized when a fleeing suspect is disabled and loses control of their vehicle. There

is also a substantial risk of harm to occupants of the suspect vehicle who may not be involved, or involved to a lesser extent, in the actions that necessitated the use of deadly force. Due to this greater risk, and considering that firearms are not generally effective in bringing moving vehicles to a rapid halt, officers shall not fire from a moving vehicle or at the driver or occupant of a moving vehicle unless they reasonably believe:

- a. There exists an imminent danger of death or serious bodily harm to themselves or another person; and
 - b. No other means are available at that time to avert or eliminate the danger.
4. Officers shall not use deadly force to subdue persons whose actions are only destructive to property.
 5. Deadly force shall not be used against persons whose conduct is injurious only to them.
 6. Officers shall not fire a weapon solely to disable moving vehicles.
 7. In active shooter situations, officers shall not fire a weapon into buildings, doors, windows, or other openings when the person being fired upon is not clearly visible unless extraordinary circumstances necessitate officers to engage the subject in order to protect the lives of injured persons requiring immediate rescue and evacuation from an area in which a subject's continued actions (e.g., active shooting) pose an imminent threat of death or serious bodily harm.
 8. Destroying an animal is justified only in the following circumstances:
 - a. Officers may use a firearm to destroy an animal where the animal presents an immediate threat to human life; or
 - b. Officers may use a firearm to destroy an animal that is so badly injured that humanity requires its relief from further suffering and the animal shelter has been notified and either cannot or is unable to respond. If the injured animal is domesticated, officers should make every reasonable effort to notify an owner. The firearm discharge shall create no substantial risk to personnel or third parties and must be approved by a supervisor.
 - 1) Officers shall be mindful that some animals have insufficient body mass to prevent a bullet from passing completely through their bodies. Therefore, officers must be cognizant of surrounding conditions, such as the composition of the material behind or below the animal, and nearby persons or structures that could be affected by a ricochet or deflection.
 - 2) When there is suspicion that the animal may be rabid, the point of aim should be the front shoulder area and not the head.

- 3) Officers shall not touch an animal without first protecting themselves from blood borne pathogens.
- 4) Officers shall protect any area contaminated with animal body fluids for cleansing by animal shelter personnel.

III. EXHIBITING A FIREARM

- A. Officers shall not unholster or exhibit a firearm except under any of the following circumstances:
 1. For maintenance of the firearm;
 2. To secure the firearm;
 3. During training exercises, practice or qualification with the firearm;
 4. When circumstances create a reasonable belief that it may be necessary for the officer to use the firearm;
 5. When circumstances create a reasonable belief that the display of a firearm as an element of constructive authority helps establish or maintain control in a potentially dangerous situation in an effort to discourage resistance and ensure officer safety;
 6. When ordered by a supervisor or other lawful authority.

IV. AFTER ACTION REQUIREMENTS

- A. Following the use of force, personnel shall immediately evaluate the need for medical attention or treatment for the person upon whom the force was used and provide first aid to the extent of their training except where the application of first aid will expose the officer to immediate danger.
 1. In any instance where deadly force is used, officers shall summon EMS and paramedics as soon as possible. While EMS and paramedics will not enter an area that is not tactically secure, they should still be summoned to a secure area near the scene to expedite treatment for the person once the scene is secure.
 2. Be alert for signs of potential excited delirium (see definitions, section I.E of this directive).
 - a. Officers should check the subject's pulse and respiration on a continuous basis until transferred to EMS personnel. Officers shall ensure the airway is unrestricted and be prepared to administer CPR or an automated external defibrillator (AED) if the subject becomes unconscious.
 - b. Whenever possible, an officer should accompany the subject to the hospital for security purposes and to provide assistance as necessary.

3. If a baton is used, officers shall observe the affected subject(s) for obvious changes in condition or breathing and shall immediately summon medical assistance if the subject appears to be in need of medical aid.
 4. Following the use of OC, officers shall sit the subject upright and decontaminate the subject as soon as practicable. Officers shall monitor subjects who had been exposed to OC staying alert to any obvious changes in condition or breathing or excited delirium and shall immediately summon medical assistance if the subject appears to be in need of medical aid.
 5. Decontamination procedures for exposure to OC consist of:
 - a. Once subjects have been secured, have ceased resisting, and are no longer a threat to officers, themselves, or others, every reasonable effort will be made to relieve discomfort.
 - b. Expose the subject(s) to fresh air as soon as possible and have them remain calm.
 - c. Have subject flush affected areas with large amounts of fresh water.
 - d. Have subject remove contact lenses and contaminated outer clothing; have the subject wash these items prior to reuse.
 - e. Do not apply salves, creams, oils, lotion, grease, or bandages to the exposed area. These remedies can trap the OC against the skin or mucus membranes and cause irritation.
 - f. Summon medical assistance if the subject has medical problems and/or continues to have difficulty after the decontamination procedures.
 - g. Officers shall be on constant alert for medical problem(s) or difficulty that the exposed subject may experience. Officers shall also monitor for positional asphyxiation.
 - h. If the affected area(s) remain inflamed or discomfort continues beyond 45 minutes, arrangements may be made for medical treatment if necessary.
- B. Any person requesting and/or deemed in need of medical attention shall be transported to the nearest available emergency medical treatment center or hospital. Personnel shall contact the local ambulance or fire department to request such transportation assistance.
1. Officers should not ordinarily transport the subject in a CPD vehicle.
 2. The extent of the injury and the treatment offered/provided shall be documented in the body of the investigative report.
- C. Under no circumstances shall agency personnel sign or endorse any medical authorization for any person under arrest or in custody indicating that the Borough of Closter is the responsible billing party.

- D. If available, a supervisor should respond to the scene of any use of force incident where, as the result of the application of force, agency personnel, bystander, or detainee/prisoner is injured, complains of injury or discomfort and requires medical attention. The supervisor or designee shall also:
1. Ensure that affected persons receive the necessary assistance, including medical attention;
 2. Ensure that the need for medical treatment for any bystander or detainee/prisoner is evaluated and provided where necessary; and
 3. Notify the appropriate support staff or Bergen County Prosecutor's Office Unit, who should respond to the scene and cause the appropriate level of investigative and support services including but, not limited to: photographs, measurements, diagrams, statements, etc. When an injury or complaint of pain exists, supervisors should obtain photographic documentation to the extent possible.
- E. Any employee whose action(s) or use of force in an official capacity results in death or serious bodily injury to any person shall be removed from line-duty assignment pending a meaningful review.
1. The meaningful review shall normally be conducted by the Chief of Police or his/her designee and shall determine whether policy, training, equipment or disciplinary issues should be addressed.
 2. Any meaningful review resulting from the application of deadly force must occur regardless of the outcome of the prosecutor or attorney general's investigation.
 3. The Chief of Police may assign the meaningful review to another unit/person at their discretion.
 4. The officer may be assigned to administrative duties or placed on administrative leave as soon as practicable following the incident pending a complete investigation and review of the incident.
 - a. This reassignment is not considered a disciplinary action.
 - b. If any weapon(s) had been taken, the weapon(s) will be reissued once the Bergen County Prosecutor's Office or the Attorney General adjudicates the case. Reissuing of duty weapons should be completed as soon as practicable after the incident has been cleared.
 - c. If an officer's sidearm is taken and there is no underlying reason to not rearm the officer, issue a spare sidearm without delay.
 5. Employees should be afforded the appropriate level of critical incident stress debriefing or counseling in compliance with agency policy.

V. NOTIFICATION AND INVESTIGATION REQUIREMENTS

- A. Immediately notify the Chief of Police, the Bergen County Prosecutor's Office, and the Division of Criminal Justice when the use of physical, mechanical, enhanced mechanical or deadly force results in death or serious bodily injury, or when an injury

of any degree results from the use of a firearm by agency personnel.

- B. The Bergen County Prosecutor's Office or the New Jersey Division of Criminal Justice will conduct the investigation into the use of force in accordance with the *New Jersey Attorney General's Supplemental Directive Amending Attorney General's Directive 2019-4* whenever an incident occurs that involves a member of this department that has employed force that results in serious bodily injury or death. The Bergen County Prosecutor's Office is responsible for the necessary notifications to the Division of Criminal Justice.
1. The Prosecutor's Office or the Division of Criminal Justice is responsible for all phases of the investigation including photography, evidence gathering.
 2. The internal affairs supervisor shall only investigate any administrative matters surrounding the incident. If an employee's actions are of a criminal nature, the administrative internal investigation must cease.
 3. Copies of any reports associated with such application of force shall not be distributed to anyone unless authorized by the Bergen County Prosecutor's Office or the New Jersey Division of Criminal Justice.
- C. Prior to the arrival of investigative staff from the Bergen County Prosecutor's Office and/or the Division of Criminal Justice, the on-scene supervisor or his/her designees shall complete the following tasks as soon as possible but, not necessarily in the order listed:
1. Identify any remaining threats and take necessary action;
 2. Ensure that emergency medical services have been dispatched and appropriate medical aid is rendered to injured parties;
 3. Secure the scene pending the arrival of the Bergen County Prosecutor's Office, and/or the Division of Criminal Justice personnel. The scene will be relinquished to the Bergen County Prosecutor's Office and/or the Division of Criminal Justice, upon their arrival.
 4. Ensure that an inner perimeter is established to secure the scene(s). Direct that an outer perimeter be established to prevent all from entering except those who have a specific function to perform.
 5. Maintain a scene log documenting who enters and leaves. The scene log will be relinquished to the Bergen County Prosecutor's Office and/or the Division of Criminal Justice personnel or their designees upon their arrival.
 6. Secure any suspect(s) at the scene(s), unless the suspects are injured and require immediate medical care.
 7. Locate and secure in place (if no danger or threat exists) all weapons, ammunition and expended cartridges used by the suspect(s) and/or involved officer(s).
 8. Providing there is no immediate danger to anyone, preserve the involved officers' firearms in their original state at the time of the incident (i.e. not to be unloaded and/or rendered safe or reloaded).

9. If vehicles are involved in the incident and there is no immediate danger to anyone, the vehicles shall not be moved or altered from their location at the time of the incident (e.g., emergency lights, MVRs, etc.) until directed to do so by the Bergen County Prosecutor's Office and/or the Division of Criminal Justice. No equipment and/or property shall be removed without authorization from the Bergen County Prosecutor's Office and/or the Division of Criminal Justice.
 10. Ensure that all potential witnesses have been identified and separated and ask that they remain on-scene to provide a statement. If witnesses wish to leave, obtain their contact information for future communications.
 11. All law enforcement officers involved in the incident shall be identified and their names and agency documented and kept separated at the scene, as circumstances warrant.
 12. Locate and secure in place as evidence any clothing or other personal items that may have been discarded or removed from the suspect(s) and/or officer(s) by medical personnel.
- D. Upon the arrival of investigative personnel from the Bergen County Prosecutor's Office and/or the Division of Criminal Justice, agency personnel will assist as directed with certain non-investigatory tasks including but, not limited to:
1. Preserve the scene by closing roadways and conducting detours whenever feasible;
 2. As necessary, arrange and provide through the fire department and/or DPW sufficient nighttime illumination and/or other heavy machinery or equipment at the scene;
 3. Make death notifications only as directed by the Bergen County Prosecutor's Office and/or the Division of Criminal Justice in compliance with NJ Attorney General's Guidelines.
 4. Arrange for the towing of vehicles with contracted towers as required. Only flatbed towing shall be utilized. Towed vehicle(s) must be removed to a secure area where it can be easily accessed at a later date for additional inspections but, not at a facility operated by this agency.
 - a. Towing operators **MUST** be advised **NOT** to place debris from the roadway into the passenger compartment of the vehicle(s) involved in the incident.

- b. Towing operators **MUST** be advised to wear gloves when touching any part of the vehicle(s) involved. All vehicles being towed will be escorted by a member of the Bergen County Prosecutor's Office to maintain the evidence chain-of-custody.
- 5. Complete and file the *NJTR-1 Police Crash Investigation Report*, if applicable.
- E. No employee of this agency shall directly or indirectly (i.e., through another person) share information learned in the course of the use of force investigation including but, not limited to police video/audio recordings or information learned from reviewing such video/audio recordings, with any principal(s) or other law enforcement or civilian witness without prior expressed authorization from the Bergen County Prosecutor's Office or Division of Criminal Justice.
 - 1. No officer who is a witness to the use of force incident, including a principal(s), shall receive any such information from any sworn or civilian employee of a law enforcement agency without first obtaining authorization from the assistant prosecutor or assistant/deputy attorney general supervising the investigation, or his or her designee.
 - 2. Any dissemination or receipt of investigative information without prior authorization as required by this section shall be reported promptly to the assistant prosecutor or assistant/deputy attorney general supervising the investigation, or his/her designee, who shall investigate the circumstances.
- F. All firearms discharges shall be immediately reported to the Bergen County Prosecutor's Office. This requirement extends to unintentional discharges in all on duty and off duty incidents but, does not extend to training and/or qualification discharges.

VI. ARRESTS REQUIRING THE USE OF FORCE

- A. Whenever a person being arrested resists the officer's action and force is used, one of the following charges (whichever is applicable) should be made against the subject. This charge is in addition to the charges that precipitated the arrest.
 - 1. N.J.S.A. 2C: 29-2a(1) – a person is guilty of a disorderly persons offense if he purposely prevents a law enforcement officer from effecting a lawful arrest; or
 - 2. N.J.S.A. 2C: 29-2a (2) – a person is guilty of a crime of the fourth degree, if by flight, he purposely prevents or attempts to prevent a law enforcement officer from effectuating an arrest.
 - 3. N.J.S.A. 2C: 29-2a (3) – a person is guilty of a third-degree crime if he used, or threatened to use, physical force or violence against the law enforcement officer or another; or, (2) subject used any other means to create a substantial risk of causing physical injury to the public servant or another.

VII. REPORTING REQUIREMENTS

- A. In all instances when physical, mechanical, enhanced mechanical, or deadly force is used, whether on or off duty, each personnel who had employed such force shall complete and submit
1. An electronic *Use of Force Report* (through the [DCJ reporting portal](#)). The reporting guide is available on DMS;
 2. A *Conducted Energy Device Deployment Review Report* (when a CED is deployed); and
 3. Any investigative document made necessary by the nature of the underlying incident (incident report, etc.); and
 - a. In accordance with *New Jersey Attorney General's Supplemental Directive Amending Attorney General's Directive 2006-5*, officers deploying force, which results in death or serious bodily injury, being investigated by the Division of Criminal Justice are not required to submit incident or supplemental reports. Officers are still required to submit *Use of Force* reports.
 - b. Only the Bergen County Prosecutor's Office or the Division of Criminal Justice can order such reports. Such officers' statements to the Division of Criminal Justice will suffice as their report of the incident.
 - c. Officers not directly involved in the application of such force, but who may have indirect involvement (e.g., secondary responders, assisting responders, witnesses, etc.) may be required to submit incident or supplemental reports upon approval of the lead investigating agency.
- B. In all instances where constructive authority results in the pointing of a firearm at another person, the facts and circumstances shall be reported on the investigative document made necessary by the nature of the precipitating incident.
- C. A written report is also required:
1. In all instances whenever an employee discharges a firearm, for other than training or recreational purposes;
 2. In all cases whenever an employee unintentionally discharges a firearm, regardless of the reason;
 3. If the firearms discharge was a result of an aggressive animal threatening human life, an electronic *Use of Force Report* is required in addition to the written report.
- D. The employee's supervisor shall review these reports for accuracy and completeness and shall promptly address any issues as they may pertain to policy changes, training, weapons or equipment, or discipline (i.e. meaningful review).

1. The supervisor must review the *Use of Force Report* through the [DCJ reporting portal](#). The reviewing supervisor or his/her designee shall print a copy of the use of force report and include it with the case file.
 2. Recommendations to modify policy, apply remedial training beyond what can be performed by the supervisor, change weapons, equipment, or tactics, or apply discipline shall be thoroughly documented and forwarded through the chain of command.
 3. If a supervisor uses force, the next higher level in the chain of command shall conduct the meaningful review.
 4. If the Chief of Police uses force, the internal affairs supervisor shall conduct the meaningful review or may contact the Bergen County Prosecutor's Office for guidance.
- E. A copy of the reports shall be forwarded to the Chief of Police. The Chief of Police or designee shall also review these reports to note any trends or issues that need to be studied, analyzed, and/or addressed.
- F. Use of force reports are subject to discovery. In indictable cases, these reports should be forwarded to CJP with the complaints, police reports, and other case documents. In non-indictable cases, the use of force reports should be made a part of the case file and included in the discovery package provided in municipal court.
- G. Use of force reports (not investigation reports) may also be subject to public release under OPRA. Upon receiving an OPRA request for any use of force reports, the records bureau supervisor shall notify the Chief of Police, who may direct notification to the Bergen County Prosecutor's Office for a determination.
- H. All use of force reports shall be retained as required by the New Jersey Division of Revenue and Enterprise Services, Bureau of Records Management (BRM) records retention schedules, currently a minimum of two years.
- I. The internal affairs supervisor or his/her designee shall submit an annual summary (group set) of this department's use of force incidents to the Chief of Police.

VIII. TRAINING

- A. All department personnel authorized to carry agency lethal and less lethal weapons shall be issued copies of, and be instructed in, this directive prior to being authorized to carry a weapon. The issuance and instruction shall be documented and forwarded to the training coordinator and may be accomplished electronically.
- B. Use of force training shall be conducted concurrently with the biannual firearms training and qualification sessions. This training must reflect current standards established by statutory and case law, as well as state and county policies, directives, and guidelines. The training program will include the use of force in general, the use of physical and mechanical force, the use of deadly force, decision making skills; the limitations that govern the use of force and deadly force; and all applicable aspects of agency directives. This instruction can be accomplished electronically.
- C. The senior weapons instructor is responsible for ensuring that the training curriculum remains current. all use of force training shall be documented each time it is

provided listing all personnel being trained. This documentation shall be forwarded to the training coordinator.

- D. The senior weapons instructor is responsible for ensuring that all firearm instructors comply with the mandates of this directive. The senior weapons instructor is also responsible for completing the annual *Bergen County Firearms Training Report* when due.
1. Copies of all training records shall be forwarded to the training coordinator who shall update the agency's master training records.
 2. The training coordinator shall also ensure that all personnel training records are updated as required.