

# BLOOMFIELD POLICE DEPARTMENT GENERAL ORDERS



**VOLUME: 3**

**CHAPTER: 2**

**# OF PAGES: 17**

**SUBJECT: USE OF FORCE**

**BY THE ORDER OF:**

**Samuel A. DeMaio, Director of Public Safety**

**ACCREDITATION STANDARDS: 1.10.2a, 3.3.1, 3.3.2, 3.3.3, 3.3.4**

**Effective Date:**

**June 9, 2020**

**SUPERSEDES ORDER #: GO 00-03 (08/01/00)**

**PURPOSE** The purpose of this general order is to maintain compliance with guidelines and directives promulgated by the New Jersey Attorney General, the Essex County Prosecutor, and existing statutory and case law.

**POLICY** It is the policy of the Bloomfield 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. 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.

Law enforcement officers have been granted the extraordinary authority to use force when necessary to accomplish lawful ends. 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, including de-escalation tactics. It is the policy of the State of New Jersey and the Bloomfield Township Police Department that officers will use only that force that is objectively reasonable when force is necessary to accomplish lawful objectives.

This general order reinforces the responsibility of officers to take those steps possible to prevent or stop the illegal or inappropriate use of force by other officers. 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 general order. Officers have a legal, moral and ethical obligation to report all situations in which force is used illegally by anyone. Officers are encouraged to do whatever they can to interrupt the flow of events before other agency officers do something illegal and before any official action are necessary.

Deciding to utilize force when authorized in the conduct of official responsibilities is among the most critical decisions made by officers. It is a decision that must be made quickly and under difficult, often unpredictable and unique circumstances. Officers whose actions are contrary to law and the provisions of this general order 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.
  - a. Examples include verbal commands, gestures, warnings, and unholstering a weapon.
  - b. 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 that 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 force 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. Enhanced mechanical force is applied using less-lethal ammunition and/or a CED.
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.
  - a. 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.
  - b. 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 unless deadly force is authorized and necessary.
- 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.**
- D. 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.
- E. Employee includes all employees of the Bloomfield Township Police Department, full-time, part-time, sworn, non-sworn, and special law enforcement officers.
- F. Imminent danger describes threatened actions or outcomes that may likely occur during an encounter absent action by officers. 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 officers but, is carrying a weapon and running for cover.

- G. Law enforcement officer (officer) is any officer sworn to enforce the criminal laws of the State of New Jersey, who is certified by the Police Training Commission, and includes those currently employed by the Bloomfield Township Police Department and authorized to carry a firearm under N.J.S.A. 2C: 39-6.
- H. Reasonable belief is an objective assessment based upon an evaluation of how reasonable officers with comparable training and experience would react to, or draw inferences from, the facts and circumstances confronting and known by the officers at the scene.
- I. 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.)
- J. 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.
- K. Substantial risk: Any discharge of a firearm entails some risk of an unintended outcome. A substantial risk exists when an officer disregards 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.
- L. 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 unless deadly force is authorized and necessary.

## **II. AUTHORIZATION AND LIMITATIONS**

- A. Use of physical and mechanical force:
  - 1. Officers may use physical force or mechanical force in the performance of their duties when they reasonably believe that the use of force is immediately necessary in the following situations:
    - a. To protect themselves or others against the use of unlawful force by another person and the officer's immediate intervention is necessary, or;

- b. To prevent another from committing suicide or inflicting serious bodily harm upon oneself, or;
  - c. To prevent the commission or consummation of a crime or offense involving or threatening bodily harm, damage to or loss of property or a breach of the peace, or;
  - d. To prevent the escape of an arrested person from custody, 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 less lethal force to effectuate 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) When the arrest is made under a warrant and the warrant is valid or reasonably believed by the officer to be valid.
- 2. Once all resistance or physical force being used to resist or prevent officers from carrying out their duties has ceased, use of further force on the officer's part shall cease.
  - 3. When the officer reasonably believes that less lethal 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. Use of mechanical force:

- 1. NOTE: mechanical force options may be ineffective for subjects exhibiting signs of excited delirium (see definitions, section I.C of this general order) due to the subject's elevated threshold of pain. See this department's general order on *Emotionally Disturbed Persons* for instructions on dealing with someone with signs of excited delirium.
  - a. If feasible, the officer should wait for backup and EMS assistance before attempting to control the subject.
  - b. Officers should consider a physical takedown using multiple officers as long as an adequate number of officers are available.
  - c. Reasonable steps should be taken to avoid injury, such as moving the subject from asphalt to a grassy area to reduce abrasions and contusions.
  - d. Officers should not attempt to control continued resistance or exertion by pinning the subject to the ground or against a solid object, using their body weight unless no other options are available.

- e. When restrained, officers should position the subject in a manner that will assist breathing, such as placement on his or her side, and avoid pressure to the chest, neck, or head (positional asphyxia).
2. Tactical batons:
- a. Batons are defensive impact tools that may be used when the justification for the use of less lethal 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 unless deadly force is otherwise 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 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 be used in the upright position with short one-half to one-second bursts.
  - f. Once resistance ceases, the further application of OC shall cease.
  - g. Noncompliance with an officer's verbal commands may be considered justification for deployment where force is otherwise authorized.

- h. OC shall not be used in the immediate vicinity of infants or the elderly unless absolutely necessary.
- i. 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,
- j. 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).

C. Use of deadly force:

- 1. Officers may use deadly force when they reasonably believe such action is immediately necessary to protect themselves or other persons from imminent danger of death or serious bodily harm.
- 2. Officers may use deadly force to prevent the escape of a fleeing suspect:
  - a. Whom officers have probable cause to believe has committed an offense that the fleeing 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.

D. 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 use deadly force to subdue persons whose actions are only destructive to property.
- 3. Officers shall not use deadly force to subdue persons whose conduct is injurious only to themselves.
- 4. Officers shall not discharge a weapon as a signal for help or as a warning.
- 5. 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.
6. Officers shall not fire a weapon solely to disable moving vehicles.
  7. In active shooter incidents, 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 in suppression fire in order to protect the lives of injured persons requiring immediate rescue and evacuation from an area in which a subject's continued actions pose an imminent threat of death or serious bodily harm.

### **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. To destroy an injured or aggressive animal
  7. When ordered by a supervisor or other lawful authority.

### **IV. AFTER ACTION REQUIREMENTS**

- A. Following the use of force, officers 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 and results in an injury, 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 secured area near the scene to expedite treatment for the person being brought to that location.

2. Be alert for signs of potential excited delirium (see definitions; section I.C of this general order).
  - 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 allow the subject to decontaminate as soon as practicable. Officers shall monitor subjects who had been exposed to OC staying alert to any obvious changes in condition, 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 the subject flush the 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 by ambulance to the nearest available emergency medical treatment center or hospital. Officers shall contact EMS to request such transportation assistance.
  - 1. Ordinarily, officers should not transport the subject in a Bloomfield Township PD vehicle (not including an ambulance).
  - 2. The extent of the injury and the treatment offered/provided shall be documented in the narrative of the incident report.
- C. Under no circumstances shall officers sign or endorse any medical authorization for any person under arrest or in custody. Such persons shall use their own medical insurance.
- D. The Director of Public Safety shall be notified of any firearms discharge, including unintentional discharges. Excluded from notification include intentional training discharges at the practice range or routine animal destruction. The on-scene supervisor or his/her designee shall also:
  - 1. Ensure that affected persons receive the necessary assistance, including medical attention;
    - a. If the officer was injured during the incident, he/she shall be removed from the scene as soon as possible; and
    - b. Treated by a competent physician.
  - 2. When necessary, especially in a deadly force incident, notify the Essex County Prosecutor's Office.
- E. Any officer 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 be conducted by a review board consisting of command level officers selected by the Director of public Safety and shall determine whether policy, training, equipment or disciplinary issues should be addressed. The review board shall forward the Use of Force Report and the subsequent meaningful review to the Director of Public Safety.
  - 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. Officers should be afforded the appropriate level of critical incident stress debriefing or counseling in compliance with agency policy.

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, it shall be treated as evidence and handled, secured, and accounted for appropriately as described in *General Order V5C6 Property & Evidence*. The weapon(s) will be reissued once the Essex 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, consult with the Essex County Prosecutor's Office for approval and issue a spare sidearm without delay.
5. The Director of Public Safety or his/her designee may cause the officer to undergo a psychiatric/psychological evaluation and/or counseling by a mental health professional as a requirement to return to full duty.
6. If the officer was injured, he/she cannot return to light or full duty until the attending physician grants written permission.

## V. ARRESTS REQUIRING THE USE OF FORCE

- A. Other than when dealing with emotionally disturbed persons, 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 effectuating 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; or
  3. N.J.S.A. 2C: 29-2a (3) – a person is guilty of a crime of the third degree if the subject 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.

## VI. NOTIFICATION AND INVESTIGATION REQUIREMENTS

- A. Immediately notify the Director of Public Safety, Deputy Chief of Police and internal affairs supervisor in compliance with *Director's Notification Policy 14-04*. The Director of Public Safety or his designee will then contact the Essex County Sheriff's Office when the use of any 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.

1. The Essex County Sheriff's Office will notify the Essex County Prosecutor's Office Critical Incident Response Team, who will then contact the ECPO Professional Standards Bureau
  2. Such notification must occur at the time of the incident while the scene remains under police control.
- B. The Essex County Prosecutor's Office Critical Incident Response Team 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 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 Essex County Prosecutor's Office is responsible for the necessary notifications to the Division of Criminal Justice Office of Public Integrity and Accountability.
1. The Critical Incident Response Team or the Division of Criminal Justice is responsible for all phases of the investigation including photography, evidence gathering.
  2. Only officers working under the direct supervision of the ECPO CIRT may participate in the investigation or share or receive information about any aspect of the investigation, except as authorized and approved by the supervising assistant prosecutor.
  3. 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.
  4. Copies of any reports associated with such application of force shall not be distributed to anyone unless authorized by the Essex County Prosecutor's Office or the New Jersey Division of Criminal Justice.
- C. Prior to the arrival of investigative staff from the Critical Incident Response Team and/or the Division of Criminal Justice, the duty patrol 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 Critical Incident Response Team, and/or the Division of Criminal Justice personnel. The scene will be relinquished to the Critical Incident Response Team 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 Critical Incident Response Team 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, MVR, etc.) until directed to do so by the Critical Incident Response Team and/or the Division of Criminal Justice. No equipment and/or property shall be removed without authorization from the Essex 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 Critical Incident Response Team 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 Critical Incident Response Team 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 should be utilized. Towed vehicle(s) must be removed to a secure area.
    - 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 Critical Incident Response Team to maintain the evidence chain-of-custody.
- 5. Complete and file the *NJTR-1 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 recordings or information learned from reviewing such videos, with any principal(s) or other law enforcement or civilian witness without prior expressed authorization from the supervising assistant prosecutor or Division of Criminal Justice.
  - 1. No officer who is a witness to the use of force incident, including a principal(s), 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/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 police firearms discharges shall be immediately reported to the Essex County Prosecutor's Office. This requirement extends to unintentional discharges in all on duty and off duty incidents but, does not extend to recreation, training, and/or qualification discharges.

## VII. ANIMAL DESTRUCTION

- A. Destroying an animal is justified only in the following circumstances:
  - 1. Officers may use a firearm to destroy an animal where the animal presents an immediate threat to human life; or
  - 2. Officers may use a firearm to destroy an animal that is so badly injured that humanity requires its relief from further suffering. If the injured animal is domesticated, officers should make every reasonable effort to notify an owner. Any decision to destroy an injured domesticated animal should be made by the owner. The firearm discharge shall create no substantial risk to officers or third parties.
- B. Unless unfeasible due to imminent danger to the officer or others, the officer should first obtain authorization from the patrol 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. If an unsafe condition exists, the officer shall not discharge his/her firearm and other arrangements must be made. Consult with the patrol supervisor.
- C. In suspected or confirmed rabies cases:
1. Depending on the size of the animal, officers can use their duty handgun or a shotgun;
  2. Prior to discharging the firearm, the officer shall secure the area and to the extent possible prohibit others from entering the area.
  3. In the event that more than one officer is in attendance at the scene, only one officer shall discharge his/her firearm. Any remaining officers shall secure the scene to prohibit others from entering the area.
  4. The number of shots is discretionary, but the officer shall only use that many shots are necessary to destroy the animal.
  5. When there is suspicion that the animal may be rabid, the point of aim should be the front shoulder area and not the head.
  6. Officers shall not touch an animal without first protecting themselves from blood borne pathogens.
  7. Notify DPW, Health Department, or authorized outside vendor to remove the carcass.

## VIII. REPORTING REQUIREMENTS

- A. In all instances when physical, mechanical, or deadly force is used, whether on or off duty, each officer who had employed such force shall complete and submit:
1. A *Use of Force Report*. The original *Use of Force* report must be placed in the case file of the incident;
  2. The *Incident Report* made necessary by the nature of the underlying incident; except:
    - a. In accordance with *New Jersey Attorney General's Supplemental Directive Amending Attorney General's Directive 2019-4*, supervisors shall not require officers deploying force, which results in death or serious bodily injury, to submit investigation or supplemental reports. Officers are still required to submit *Use of Force* reports.
    - b. Only the Essex County Prosecutor's Office or the Division of Criminal Justice can order such reports. In lieu of reports, the involved officers' statements to the Essex County Prosecutor's Office or Division of Criminal Justice can 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, assisting detectives, etc.) may

also be required to submit investigation and/or supplemental reports upon approval of the lead investigating agency (i.e., Essex County Prosecutor's Office or Division of Criminal Justice).

- 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 *Incident Report* made necessary by the nature of the precipitating incident.
- C. An *Essex County Firearms Discharge Report* is required in all instances when an officer unintentionally discharges a firearm or CED for any reason, or intentionally discharges a firearm for other than training or recreational purposes.
  - 1. In the event an officer, who has discharged a firearm is physically incapacitated or fatally injured and is therefore incapable of submitting this report, the patrol commander or his/her designee shall prepare the report.
  - 2. Except in the instance of firearms discharge to destroy or condition an animal, the shift commander shall immediately notify the Patrol Commander through the chain of command. (Note: conditioning an animal involves using rubber buck shot or pyrotechnic rounds on a black bear to chase it away).
  - 3. The shift commander shall ensure that an internal affairs officer is notified as soon as practicable and that any applicable general order or procedure regarding the incident is initiated.
- D. An *Incident Report* is required in all instances where an officer takes an official action that results in, or is alleged to have resulted in, death or injury to another person.
- E. The patrol supervisor shall review the use of force and incident reports for accuracy and completeness and shall promptly address any issues as they may pertain to general order changes, training, weapons or equipment, or discipline. Recommendations to modify general orders, 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 to the Director of Public Safety.
- F. If a ranking officer (sergeant, lieutenant, captain) uses force, the next highest-ranking officer in that chain of command shall conduct the initial meaningful review. If the Director of Public Safety uses force, the internal affairs commander shall conduct the initial meaningful review or may refer the matter to the Essex County Prosecutor's Office.
- G. A review board consisting of command level officers selected by the Director of Public Safety shall also review these reports to determine whether:
  - 1. The relevant general order was clearly understandable and effective to cover the situation;
  - 2. Department equipment is adequate;
  - 3. Department training is currently adequate;



4. Departmental rules, policy or procedures were followed.
  5. The internal affairs commander or his/her designee shall initiate the appropriate early warning record.
- H. The records division commander or designee is responsible for completing the annual *Use of Force Summary Report* and submitting it to the Prosecutor's Office.
  - I. Use of force reports are subject to discovery. In indictable cases, all reports should be forwarded to county intake 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.
  - J. Use of force reports (not investigative 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 Essex County Prosecutor's Office for a determination.
  - K. All use of force reports and related investigation reports shall be retained as required by the New Jersey Division of Revenue and Enterprise Services, Bureau of Records Management (BRM) records retention schedules.

## **IX. TRAINING**

- A. All officers authorized to carry agency lethal and less lethal weapons shall be issued copies of, and be instructed in, this general order prior to being authorized to carry a weapon. This issuance and instruction shall be documented and may be accomplished electronically.
- B. Use of force training shall be conducted concurrently with the semiannual 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 shall be documented and may be delivered electronically.