

NEW BRUNSWICK POLICE DEPARTMENT POLICY & PROCEDURES



VOLUME: 3

CHAPTER: 2

OF PAGES: 23

SUBJECT: USE OF FORCE

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Police Director**

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

**Effective Date:
April 26, 2012**

**Date of Last Revision:
January 3, 2018**

PURPOSE The purpose of this policy is to maintain compliance with guidelines and directives promulgated by the New Jersey Attorney General, the Middlesex County Prosecutor’s Office, and existing statutory and case law.

POLICY It is the policy of the New Brunswick 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.

Police officers have been granted the extraordinary authority to use force when necessary to accomplish lawful ends. That authority is grounded in the responsibility of every sworn law enforcement officer to comply with the laws of the State of New Jersey regarding the obligation to prepare individual officers in the best way possible to exercise that authority. 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, each officer 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 department, that officers will use only that force that is objectively reasonable and necessary when force is required.

Officers have the responsibility to take those steps possible to prevent or stop the illegal or inappropriate use of force by other officers. Officers are expected and required to take appropriate action in any situation when they are clearly convinced that other officers are using force in violation of state law or this policy. Officers have a legal, moral, and ethical obligation to report all situations in which force is used illegally by anyone. All personnel are encouraged to do whatever they can to interrupt the flow of events before other officers 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.

Deciding to use force when authorized 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. This policy is intended to provide the best guidance and direction possible to officers when called upon to confront and address the most difficult of situations.

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 the officer's 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 a police 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 the 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 the officer's authority. Examples include the use of an impact tool (tactical baton or other striking tool), canine physical contact with a subject, or chemical or natural agent spray/exposure such as oleoresin capsicum (OC), mace, gas, etc.
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 a conducted energy device.
6. Deadly force is force which an officer uses with the purpose of causing, or which the 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 officer's purpose is limited to creating an apprehension that deadly force will be used, if necessary, does not constitute deadly force.

- B. Administrative review is a formal documented process to determine whether policy, training, equipment or disciplinary issues need to be addressed.

- C. Bodily injury means physical pain, illness, or any impairment of physical condition.
- D. 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 this policy authorizes deadly force.
- E. 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. Related definitions include:
1. Anti-felony identification device (AFID) is the confetti-like contents of a conducted energy device cartridge bearing the serial number of the cartridge deployed. (AFID is a product associated with AXON devices).
 2. Cartridge is a shell containing AFIDs and two probes that penetrate the target and deliver neuromuscular incapacitation (NMI).
 3. Data download is the method of electronic recovery of the firing and video data saved by the CED upon activation.
 4. Discharge means to cause an electrical charge or current to be directed at a person in contact with the darts/electrodes of a conducted energy device.
 5. Drive stun mode means to discharge a conducted energy device where the main body of the device is in direct contact with the person against whom the charge or current is transmitted.
 6. Fire means to cause the darts/electrodes of a conducted energy device 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.
 7. Spark display means a non-contact demonstration of a conducted energy device's ability to discharge electricity that is done as an exercise of constructive authority to convince an individual to submit to custody.
 8. Stun gun means any weapon or other device, which emits an electrical charge or current intended to temporarily or permanently disable a person.
- F. Employee is any employee of the New Brunswick Police Department, full or part time, sworn and non-sworn.
- G. 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.
- H. Imminent danger describes threatened actions or outcomes that may 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.
- I. Law enforcement officer (officer) is any person 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 a public safety agency and is authorized to carry a firearm under N.J.S.A. 2C: 39-6.
- J. Reasonable belief is an objective assessment based upon an evaluation of how a reasonable police 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.
- K. Resisting arrest refers to the act of a person, who purposely prevents a law enforcement officer from effecting 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 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.)
- L. 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.
- M. 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.
- N. 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 this policy authorizes deadly force.

II. AUTHORIZATION AND LIMITATIONS

- A. Use of physical and mechanical) force:
 1. Officers may use physical force or mechanical force when they reasonably believe it is immediately necessary at the time:
 - a. To overcome resistance directed at officers 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 other lawful objectives, including, but not limited to: making an arrest, preventing an escape, preventing a suicide or preventing someone from harming him/herself, etc.
 2. Once all resistance or physical force being used to resist or prevent officers from carrying out their duties as ceased, use of further force on the officers' part shall cease.
 3. When an officer reasonably believes that 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 weapons:

1. Authorized 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. Personnel must exercise special care in their use and avoid striking those potentially fatal areas of the body identified during training.

2. Oleoresin capsicum (OC) aerosol:

- a. OC is permitted in mechanical 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. 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 always 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. 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).
- 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,

C. Use of deadly force:

- 1. Officers may use deadly force when the officer(s) reasonably believe such action is immediately necessary to protect the officer or another person 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 the officer has 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.

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, an officer shall not resort to the use of deadly force if an officer reasonably believes 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 the officer or another person.
- 2. Officers shall not use deadly force to subdue persons whose actions are only destructive to property.
- 3. Deadly force shall not be used against a person whose conduct is injurious only to him/herself.
- 4. Officers shall not discharge a weapon as a signal for help or as a warning.
- 5. Officers shall not fire a weapon solely to disable moving vehicles.

6. 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 the officer reasonably believes:
 - a. There exists an imminent danger of death or serious bodily harm to the officer or another person; and
 - b. No other means are available at that time to avert or eliminate the danger.
7. Normally, officers shall not fire a weapon into buildings, doors, windows, or other openings when the person being fired upon is armed with a firearm and not clearly visible unless officer must 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 with a firearm 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, personnel 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) Personnel shall not touch an animal without first protecting themselves from blood borne pathogens.

III. CONDUCTED ENERGY DEVICES

- A. All use of a conducted energy device must be in compliance with the [New Jersey Attorney General's Supplemental Policy on Conducted Energy Devices](#) and the [New Jersey Attorney General's Directive Revising the Supplemental Policy on Conducted Energy Devices](#) (03/03/2016).
- B. One of the key distinctions between the standard for using deadly force and the standard for using enhanced mechanical force is that the threat of death or serious bodily injury does not have to be imminent or immediate in order to use enhanced mechanical force.
- C. Officers authorized to use a CED may fire and/or discharge the device during an actual operation only where:
 - 1. The officer believes such force is reasonably necessary to prevent the person against whom the device is targeted from causing bodily injury to him/herself, an officer, or any other person; **or**
 - 2. The person against whom the device is targeted is armed with an object that that the officer reasonably believes could be used as a deadly weapon, and the person refuses the officer's command to put down or surrender the object after having been given a reasonable opportunity to do so; **or**
 - 3. The officer believes such force is reasonably necessary to prevent the immediate flight of an individual whom the officer has probable cause to believe has committed an offense in which the suspect caused or attempted to cause death or serious bodily injury; **or**
 - 4. The person against whom the device is targeted resists a lawful arrest by using or threatening to use physical force or violence against the officer or another in a manner and to a degree that the officer reasonably believes creates a substantial risk of causing bodily injury to the officer, a victim, or a bystander; **and**
 - 5. The individual 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 force.
- D. Officers shall not direct an electrical charge or current against a person who has already received an electrical charge from a CED unless the person, despite the initial discharge, continues to pose a substantial risk of causing bodily injury to him/herself, an officer, or any other person.
 - 1. The person shall be given a reasonable opportunity to submit to law enforcement authority and to comply with law enforcement commands before being subjected to a second or subsequent discharge, unless the person's conduct after the initial discharge creates a risk of bodily injury that is so immediate that any delay in applying a second or subsequent discharge would likely result in bodily injury.

2. The person's refusal to comply with law enforcement commands after having been given a reasonable opportunity to do so shall not be a basis for a second or subsequent discharge unless the person continues to refuse to put down or surrender an object that the officer reasonably believes could be used as a deadly weapon, or unless the person continues to use or threaten to use physical force or violence against the officer, or another, in a manner and to a degree that reasonably creates a substantial risk of causing bodily injury to the officer or another. The person shall not be subjected to a second or subsequent discharge, for example, for attempting instinctively to reduce the leverage of a wristlock, hammerlock, or other pain compliance hold applied by the officer while attempting to apply handcuffs, or for bracing or pulling against an officer's attempt to pull/move him or her, unless such resistance reasonably creates a substantial risk of causing bodily injury to the officer.
 3. In the event that a second or subsequent discharge is authorized and necessary the officer shall, when feasible, point the main body of the device so that the focus of the device's internal video camera is centered on the person in order to record the circumstances justifying any such second or subsequent discharge.
- E. Officers shall not direct an electrical charge or current against a person who is restrained by handcuffs unless:
1. The officer reasonably believes based on the suspect's conduct while handcuffed that such force is immediately necessary to protect the officer, the suspect, or another person from imminent danger of death or serious bodily injury; and
 2. The use of physical or mechanical force (*e.g.*, a baton or pepper spray) is not immediately available to be employed, has been tried and failed to stop the imminent threat of death or serious bodily injury, reasonably appears to be unlikely to stop the imminent threat if tried, or would be too dangerous to the officer or an innocent person to employ.
 3. In the event that a CED is discharged against a person who is restrained by handcuffs, the officer shall point the main body of the device so that the focus of the device's internal video camera is centered on the person in order to record the circumstances justifying the discharge.
- F. Officers shall not use a CED in drive stun mode unless the officer reasonably believes based on the suspect's conduct that discharging the device in drive stun mode is immediately necessary to protect the officer, the suspect, or another person from imminent danger of death or serious bodily injury.
- G. Officers shall not be required to exhaust the option of using a CED before using lethal ammunition in any circumstance where deadly force would be justified and authorized pursuant to this policy.
- H. The following uses are prohibited:
1. A CED shall not be used or threatened to retaliate for any past conduct or to impose punishment.

2. A CED shall not be fired or discharged against a person who is exhibiting only passive resistance to officer's command to move from or to a place, to get onto the ground, or to exit a vehicle. A CED shall not be fired or discharged against a person, for example, who is attempting instinctively to reduce the leverage of a wristlock, hammerlock, or other pain-compliance hold applied by an officer, or who is bracing or pulling against an officer's attempt to pull/move him or her.
 3. A CED shall not be fired or discharged for the sole purpose of preventing a person from committing property damage.
 4. A CED shall not be fired or discharged against the operator of a moving vehicle unless the use of deadly force against the operator would be authorized.
 5. Two or more CEDs shall not be discharged upon a person at the same time, unless the initial CED device malfunctions.
 6. 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. 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.
 8. 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 OC spray with a volatile propellant, gasoline, natural gas, or propane.
- I. When feasible, the officer should warn the person against whom the CED is directed of his/her intent to fire the CED. If a second or subsequent discharge is authorized, when feasible, the officer should warn the person that he/she intends to discharge the CED again. It shall not be necessary for an officer to warn the person of the impending firing/discharge of the device or to provide the person with an opportunity to submit to law enforcement authority before firing/discharging the device if the person's conduct is creating a risk of death or serious bodily injury that is so immediate that any delay in firing/ discharging the device would likely result in death or serious bodily injury (e.g., where the person is actively engaged in committing an aggravated assault, or is actively engaged in an attempt to commit suicide or an act of self mutilation).
 - J. Officers shall not unholster a CED during an actual operation unless he/she reasonably believes that it may be necessary for him/her to use the CED. Officers shall not exhibit a CED to a person or conduct a spark display during an actual operation unless he/she reasonably believes that display of the device and/or a demonstration of its ability to discharge electricity as an exercise of constructive authority would help to establish or maintain control in a potentially dangerous situation in an effort to discourage resistance and ensure officer safety.

- K. Through verbal commands, officers may threaten to use a CED, so long as the officer's purpose is limited to creating an apprehension that the device will be used if necessary.
- L. Officers may also unholster and/ or exhibit a CED and/or conduct a spark display if another officer on the scene has unholstered and/or exhibited a firearm in accordance with this policy.
- M. Officers 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 being killed or seriously injured by the person against whom the CED is targeted.
- N. During the deployment of a CED, the deploying officer shall, when feasible, continually evaluate the options selected against changing circumstances.
- O. Officers trained and authorized to carry a CED should be aware of any targeting recommendations made by the manufacturer.
- P. To ensure officer safety and when feasible, at least one law enforcement officer other than the one deploying the CED should be present, and be armed with lethal ammunition, and be prepared to deploy deadly force in the event that the use of a CED for any reason fails to incapacitate the suspect and prevent him or her from causing death or serious bodily injury to the officer equipped with the device, or any other person.
- Q. A CED may be used in conjunction with a distraction device, water-based chemical agent, or less-lethal ammunition. If the individual has already received an electrical charge from a CED, officers should, 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.
- R. While officers must at all times respect the seriousness and potential lethality of a CED, officers should use particular care when considering whether to use a CED against a individual who is particularly vulnerable due to age (either elderly or young) or due to a known or reasonably apparent medical condition (e.g., a pregnant female).
- S. In all instances when a CED is fired at or discharged upon a person, a higher-ranking supervisor shall take custody of the CED including discharged parts (i.e. AFIDS and darts/electrodes) and secure them.
 - 1. The information stored on 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 weapon and all electrical discharges) must be preserved as evidence.
 - 2. The higher-ranking supervisor shall safeguard the digital information in the device concerning the incident by placing the unit into evidence.

3. The internal digital recording system shall be maintained and the data contained therein cannot be tampered with, and cannot be accessed or erased except by duly authorized supervisors.
4. The internal affairs commander or his/her designee shall download all data from the device onto the department server and backup the data to digital preservation media-such as electronic, magnetic, or optical storage media (i.e. DVD or other optical discs, USB flash memory/drive, solid-state drives, memory sticks, or other reliable technology) to preserve a record of the event as evidence.
5. The information stored in the device concerning the use of force incident (e.g., 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 reported in the report of the incident.
6. Once the data is secure on the department server and burned to digital preservation media, the event shall be erased from the device and the unit shall be placed back in service.

IV. EXHIBITING A FIREARM OR CED

- A. Officers shall not unholster or exhibit a firearm or CED except under any of the following circumstances:
 1. For maintenance of the firearm or CED;
 2. To secure the firearm or CED;
 3. During training exercises, practice or qualification with the firearm or CED;
 4. When circumstances create a reasonable belief that it may be necessary for the officer to use the firearm or CED;
 5. When circumstances create a reasonable belief that the display of a firearm or CED 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.

V. 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 or others to immediate danger.
 1. In any instance where deadly force is used, officers shall summon EMS and paramedics as soon as possible. EMS and paramedics shall not enter an area that is not tactically secure, but 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, subsection I.G of this policy).
 - 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. Personnel shall monitor subjects who had been exposed to OC staying alert to any obvious changes in condition or breathing and shall immediately summon medical assistance if the subject appears to be in need of medical aid or requests 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. Have the subject flush affected areas with large amounts of fresh water.
 - c. Have subject remove contact lenses and contaminated outer clothing; have the subject wash these items prior to reuse.
 - d. 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.
 - e. Summon medical assistance if the subject has medical problems and/or continues to have difficulty after the decontamination procedures.
 - f. 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.
 - g. If the affected area(s) remain inflamed or discomfort continues beyond 45 minutes, arrangements may be made for medical treatment if necessary.

- B. Subjects against whom a conducted energy device has been directed shall be transported to a medical facility for examination if any of the following circumstances exist:
1. The subject requests medical attention;
 2. The subject had been rendered unconscious or unresponsive;
 3. The subject, after being subjected to a discharge, does not appear to have recovered normally, as described in CED training;
 4. The subject has exhibited signs of excited delirium prior to, during, or after the discharge of the CED;
 5. The subject has suffered bodily injury requiring medical attention as a result of a fall, or otherwise reasonably appears to be in need of medical attention;
 6. The subject was exposed to three or more discharges from a CED during the encounter;
 7. The subject has been exposed to a continuous discharge lasting 15 seconds or more;
 8. No one present at the scene is qualified or authorized to remove the CED darts/electrodes from the subject's person;
 9. An officer trained and authorized to remove darts/electrodes experiences difficulty in removing a dart/electrode; or
 10. Any part of a CED dart/electrode has broken off and remains imbedded.
- C. 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, only qualified medical personnel can remove a CED dart/electrode from these sensitive areas.
- D. Any person requesting and/or deemed in need of medical attention shall be transported to the nearest available emergency medical treatment center or hospital. The extent of the injury and the treatment offered/provided shall be documented in the body of the case report.
- E. If EMS is summoned to treat an injured subject who is under arrest, the arrestee shall remain handcuffed unless otherwise directed by medical personnel with the approval of the watch commander. If transportation to a medical facility is required, the arrestee shall remain under constant guard consistent with this department's *Arrest and Transportation* policy.

- F. Under no circumstances shall agency personnel sign or endorse any medical authorization for any person on whom force was used. Subjects shall use their own medical insurance or the medical facility/hospital shall seek payment from the appropriate indigent care funds.
- G. In addition to providing the appropriate medical aid, officers shall also:
1. Promptly notify their immediate supervisor of the incident.
 2. Attempt to locate and identify all witnesses.
- H. The supervisor shall immediately respond to the scene of any use of force incident involving any on-duty or off-duty officer of this department occurring in New Brunswick, where as the result of the application of force, an officer, bystander, or detainee/prisoner is injured, complains of injury or discomfort and requires medical attention. The supervisor 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;
 3. Depending on the level of the force utilized and/or the extent of injuries sustained, crime scene security and precautions shall be considered;
 4. Commence a preliminary investigation into the incident;
 - a. Incidents that have resulted in minor or alleged injury shall be documented by the watch commander and forwarded through the chain of command.
 - b. The watch commander shall ensure that the involved officer submits all required reports, including a properly completed *Use of Force Report*.
 5. Notify the appropriate command officers and in the case of death, the Director of Police;
 6. Notify the detective bureau and internal affairs unit for assistance;
 7. Notify the Middlesex County Prosecutor's Office, when warranted.
 8. Incidents involving the use of force and/or firearms discharge by off duty officers that occur outside the boundaries of the New Brunswick shall require the following action on the part of the watch commander
 - a. Collection of preliminary data regarding the event and notification to the Director of Police, through the chain of command.
 - b. Provide the involved officer with instructions regarding their obligations as defined in this written policy.

- c. Establish contact with the investigating law enforcement agency and determine what assistance the department can provide.
- I. 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 an investigation and/or administrative review.
 1. If the employee received any injuries as a result of the incident, he/she shall be taken to the appropriate medical facility for treatment.
 2. Otherwise the employee directly involved in causing the fatality or serious bodily harm shall be removed from the incident location at the earliest possible opportunity and brought to police headquarters to facilitate the continuing investigation.
 3. Officers shall be relieved of his/her regular duties and reassigned to police modified duty until an administrative review of the incident has been completed.
 4. This reassignment is not considered a disciplinary action.
 5. If an officer's handgun was involved, the handgun and all remaining ammunition shall be turned over to the assigned internal affairs investigator or the Middlesex County Prosecutor's Office
 6. Employees and their families should be afforded the appropriate level of critical incident stress debriefing or counseling in comportment with agency policy.
 7. Employees shall remain on modified duty until the Director of Police approves his/her return to full duty.
 8. In cases involving the use of force that results in death or serious bodily injury, officers shall be reassigned to administrative duties pending the outcome of the investigation.
 9. Normally, the administrative review shall be conducted by the employee's commanding officer or his/her designee and shall determine whether policy, training, equipment or disciplinary issues should be addressed.
 10. In some instances, the Director of Police may assign the administrative review to another unit/person at their discretion.
 11. The Director of Police may cause the employee to undergo a psychiatric/psychological evaluation and/or counseling by a mental health professional in accordance with the procedures established in MCPO Directive #58 regarding post incident mental health issues. The employee shall not return to regular duty until authorized by the Director of Police.
 12. If the employee was injured during the incident, a competent city-authorized physician must treat him/her. The employee cannot return to regular duty until the attending physician grants written permission.

VI. ARRESTS REQUIRING THE USE OF FORCE

- A. Except when dealing with an EDP, whenever a person 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 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. NOTIFICATION AND INVESTIGATION REQUIREMENTS

- A. The Director of Police, internal affairs commander, and the Middlesex County Prosecutor's Office shall be immediately notified 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 an employee.
1. This notification shall occur before any investigation of the incident is undertaken other than to secure the scene and to render medical assistance as required.
 2. The Middlesex County Prosecutor's Office will conduct the subsequent investigation into such use of force in accordance with the *New Jersey Attorney General's Supplemental Directive Amending Attorney General's Directive 2006-5*. The Prosecutor's Office is also responsible for the necessary notifications to the Division of Criminal Justice. DCJ may supersede the investigation where there may be a conflict or if the matter is better handled at the State level.
 3. The internal affairs commander shall conduct a bifurcated administrative investigation, but any such investigation is secondary to the prosecutor's investigation.
 4. If the Division of Criminal Justice becomes the lead-investigating agency, a shooting response team consisting of DCJ investigators and members of the New Jersey State Police Major Crimes Unit shall normally conduct the investigation.
 5. When a prosecutor's detective or investigator, assistant prosecutor, or the prosecutor is involved in the use of force incident, DCJ will be the lead-investigating agency.

6. When a state investigator, deputy attorney general, or assistant attorney general, or any other law enforcement officer employed by a state or federal agency is involved in a use of force incident, the Middlesex County Prosecutor's Office will generally conduct the subsequent investigation unless otherwise directed by the Attorney General.
 7. When a member of the New Jersey State Police or a member of any agency supervised by the New Jersey State Police is involved in a use of force incident, DCJ is normally the lead investigating agency, but DCJ may refer the case to the Prosecutor's Office.
- B. All firearms discharges shall be immediately reported to the Middlesex County Prosecutor's Office Homicide Unit. This requirement extends to unintentional discharges in all on duty and off duty incidents, but does not extend to routine animal destruction, training and/or qualification discharges.

VIII. REPORTING REQUIREMENTS

- A. In all instances when physical, mechanical, enhanced mechanical, or deadly force is used, whether on or off duty, all personnel who employ such force shall complete and submit the following:
1. *Use of Force Report*, and
 2. *A Conducted Energy Device Deployment Review Report* (when a CED is deployed); and
 3. The case report and/or supplementary report made underlying the nature of the incident; except:
 - a. In accordance with *New Jersey Attorney General's Supplemental Directive Amending Attorney General's Directive 2006-5*, supervisors shall not require officers deploying force, which results in death or serious bodily injury being investigated by the Middlesex County Prosecutor's Office or Division of Criminal Justice to submit investigation or supplemental reports. Officers are still required to submit *Use of Force* reports.
 - a. Only the lead-investigating agency can order such reports. Such officers' statements to the Middlesex County Prosecutor's Office or Division of Criminal Justice could suffice as their report of the incident unless the Middlesex County Prosecutor's Office or Division of Criminal Justice recommends otherwise.
 - b. Officers not directly involved in the application of such force, but who may have indirect involvement (e.g., secondary responders, assisting responders, witnesses, etc.) might be required to submit incident reports upon approval of the lead investigating agency (i.e., Middlesex County Prosecutor's Office or Division of Criminal Justice).
 4. When dealing with emotionally disturbed persons or medical calls requiring force, officers shall note such in the case report. If excited delirium is suspected, the following information should be included in the report:

- a. Conditions at the incident scene;
 - b. Description of the subject's behavior and its duration;
 - c. Description of what the subject said during the encounter;
 - d. Type and duration of resistance;
 - e. Identity of all officers at the scene;
 - f. Actions taken to control the subject;
 - g. Restraints used on the subject and the length of time applied;
 - h. Location of the restraints on the subject;
 - i. Means of transport and total elapsed time of transport;
 - j. Behavior of the subject during transport;
 - k. Means of resuscitation, if applicable;
 - l. Information from relatives and friends of the subject that can provide insight to the potential causation of the incident.
- 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 case report or supplementary report made necessary by the nature of the precipitating field incident.
- C. When an officer un-holsters and exhibits a CED and/or conducts a spark display, but does not fire or discharge a CED or otherwise employ actual force against a subject, a *Use of Force Report* is not required, but the action shall be documented in the case report made necessary by the nature of the underlying incident
- D. The discharge of any firearm by an employee of this department, whether involuntary or intentional shall be reported to the department through the watch commander as soon as practicable.
- 1. If the discharge occurs on duty (whether or not injury to any person results) the notification shall be made immediately after the incident occurs.
 - 2. Personnel are required to control the situation to whatever degree possible until assistance arrives. This assistance includes, but is not limited to:
 - a. Emergency assistance to injured persons;
 - b. Search for additional suspects or weapons;
 - c. Crowd control and crime scene preservation;
 - d. Requesting immediate assistance as necessary.

- e. In the event that any firearm discharge by an employee of this department results in a fatality regardless of their duty status or location of the incident the employee shall immediately notify the department through the duty watch commander.
- E. A written report is also required:
 - 1. In all instances whenever an employee discharges a firearm, for other than training or recreational purposes, including animal destruction. In all cases of an accidental or unintentional discharge of a firearm or CED, a CAD record and a case report are required.
 - a. For employees on duty this report shall be completed and submitted by the end of the employee's tour of duty.
 - b. For off duty employees, this report shall be completed and submitted as soon as possible after the incident but in no event shall the time exceed twenty-four hours.
 - c. In the event that an employee is incapacitated or fatally wounded as a result of the incident, the watch commander shall designate another person to complete this report.
 - 2. In all instances where an employee takes an official action that results in, or is alleged to have resulted in death or injury to another person.
- F. The watch commander 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., administrative review)..
 - 1. Recommendations to modify policies, 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.
 - 2. If a supervisor uses force, the next higher level in the chain of command shall conduct the administrative review.
- G. These reports and supporting documents shall be forwarded to the officer's division commander for an administrative review to determine whether policy, training, equipment, or disciplinary issues need to be addressed.
- H. In all instances when a CED is fired at or discharged upon a person, the internal affairs unit shall investigate the circumstances and outcome of the device's use. The internal affairs unit shall report on the incident to the Director of Police, providing the Director of Police 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.
 - 1. Upon receipt, the Director of Police shall issue a finding on whether the firing and all discharges complied with the *Attorney General's Supplemental Policy on Conducted Energy Devices*.

2. The Director of Police shall forward the report to the Middlesex County Prosecutor's Office within 3 business days of the firing/discharge, unless the Middlesex County Prosecutor's Office grants the Director of Police request for a reasonable extension of time within which to forward the report for good cause shown.
- I. All use of force reports and copies of supporting documentation shall be forwarded to the internal affairs unit at the beginning of the next business day. The internal affairs unit shall conduct a tertiary administrative review of the use of force incident to determine whether:
 1. The relevant policy 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 adhered to.
 - J. This system of multi-layered review is intended to bring any problematic issues to light at the earliest opportunity.
 - K. The internal affairs commander or his/her designee is responsible for completing and submitting the quarterly and annual use of force summary reports to the Middlesex County Prosecutor's Office.
 1. The quarterly report is due after the conclusion of each calendar quarter and shall be forwarded to the MCPO within one week of the conclusion of the respective quarter;
 2. The annual report is due after the conclusion of the preceding year and shall be forwarded to the MCPO within one week from the conclusion of the preceding year.
 - L. Use of force reports are subject to discovery and access through OPRA. In indictable cases, these 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.
 - M. All use of force reports shall be retained as required by New Jersey Division of Revenue and Enterprise Services, Bureau of Records Management (BRM) records retention schedules.

IX. TRAINING

- A. All personnel authorized to carry agency lethal and less lethal weapons shall be issued copies of, and be instructed in, this policy prior to being authorized to carry a weapon. The issuance and instruction shall be documented and forwarded to the firearms unit. This issuance and instruction may be delivered electronically.

- B. Use of force training shall be conducted concurrent with the semiannual firearms training and qualification sessions. This training must reflect current standards established by statutory and case law, as well as state, county and departmental 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 departmental directives. This instruction may be delivered electronically.
- C. 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 firearms unit.
- D. The supervising weapons instructor is responsible for ensuring that all weapons instructors comply with the mandates of this policy. The supervising weapons instructor is also responsible for completing and forwarding the annual *Middlesex County Firearms Training Report* when due.
 - 1. Copies of all training records shall be forwarded to the firearms unit to update the agency's master training records.
 - 2. The firearms unit shall also ensure that each officer's training records are updated as required.

X. SUPPLEMENTAL

- A. Due to the potential for unintended serious injury or death, the use of compliance holds or other restraint techniques not taught at a certified police training facility or course is unauthorized.