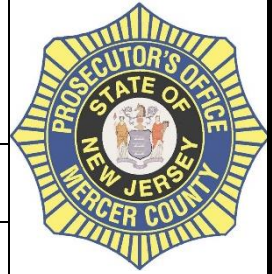


MERCER COUNTY PROSECUTOR'S OFFICE

STANDARD OPERATING PROCEDURES



SUBJECT: USE OF FORCE

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BY THE ORDER OF:
County Prosecutor

PURPOSE The purpose of this standard operating procedure is to maintain procedures regarding the lawful use of force and to maintain compliance with guidelines, directives and policies promulgated by the New Jersey Attorney General and existing statutory and case law.

POLICY It is the policy of the Mercer County Prosecutor's Office that detectives hold the highest regard for the dignity and liberty of all persons and place minimal reliance upon the use of force and instead use de-escalation tactics to the extent possible under the circumstances. This agency 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. That authority is grounded in the responsibility to comply with the laws of the State of New Jersey regarding the use of force and to comply with the provisions of this SOP. In situations when detectives are justified in using force, they shall use only that degree of force that is reasonable, necessary and proportional considering the totality of the circumstances, including the subject's mental and physical condition, the nature of the offense, and most importantly the level of resistance or threat known to the detective at the time.

This SOP reinforces the responsibility of detectives to take those steps possible to prevent or stop the illegal or inappropriate use of force by other law enforcement officers. Detectives are encouraged to do whatever they can to interrupt the flow of events before other law enforcement officers do something illegal and before any official actions are necessary.

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

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PROCEDURES

I. DEFINITIONS

A. Use of force options:

1. Physical force involves contact with a subject beyond that which is generally used to effectuate 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 detective's authority, or to protect persons or property. Examples include taking a resisting subject to the ground, using wrist or arm locks, striking the subject with the hands or feet, or other similar methods of hand-to-hand confrontation, such as certain pain compliance techniques.
2. Mechanical force involves the use of a device or substance, other than a firearm, to overcome a subject's resistance to the exertion of the detective's authority. Examples include use of a tactical baton, other object, oleoresin capsicum (OC) spray or the physical apprehension by canines.
3. Enhanced mechanical force is an intermediate force option between mechanical force and deadly force, generally requiring a greater level of justification than that pertaining to physical or mechanical force, but a lower level of justification than that required for the use of deadly force. Unlike deadly force, enhanced mechanical force does not require an imminent threat of death or serious bodily injury. Examples include less-lethal devices and ammunition.
4. Deadly force is force that a detective uses with the purpose of causing, or that a reasonable detective knows, creates a substantial risk of causing death or serious bodily injury.
 - a. Discharging a firearm, constitutes deadly force, unless the discharge occurred during a law enforcement training exercise, routine target practice at a firing range, a lawful animal hunt, or the humane killing of an injured animal.
 - b. A threat to cause death or serious bodily injury by the display of a weapon or otherwise, so long as the detective's purpose is limited to creating an apprehension that deadly force will be used, if necessary, does not constitute deadly force.

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

C. Aerosol spray device means a device that is carried by a law enforcement officer that projects a spray or stream of oleoresin capsicum (OC), tear gas, or other chemical or natural agent intended to produce temporary physical discomfort or to incapacitate a suspect. (Note: this term does not include a tear gas canister or similar projectile that is launched by a firearm or by non-firearm delivery device or system).

- D. Bodily injury is physical pain or temporary disfigurement, or any impairment of physical condition. Bodily harm and bodily injury have the same definition for the purposes of this SOP (N.J.S.A. 2C:11-1(a); N.J.S.A. 2C:3-11(e)).
- E. Civil disturbance is an assembly of persons engaged in or creating an immediate threat of collective violence, destruction of property, looting, or other criminal acts. Such a gathering may also be referred to as a riot.
- F. Chokehold is a technique that involves applying direct pressure to a person's trachea (windpipe) or airway (front of the neck) with the effect of reducing the intake of air. This includes a carotid restraint or any lateral neck restraint, where direct pressure is applied to the carotid artery restricting the flow of blood to the brain causing temporary loss of consciousness. Chokeholds, neck restraints, vascular restraints, or carotid restraints are prohibited except in extraordinary circumstances when the detective's life is in danger and deadly force is authorized.
- G. Conducted energy device (CED) means any device approved by the New Jersey 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 CED 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 CED to be ejected from the main body of the device and to contact 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 CED's ability to discharge electricity that is done as an exercise of constructive authority to convince an individual to submit to custody.
- H. Constructive authority is not considered a use of force because it does not involve physical contact with the subject. Rather, constructive authority involves the use of a detective's authority to exert control over a subject.
1. Examples include verbal commands, gestures, warnings, and un-holstering a weapon.

2. Pointing a firearm at a subject is an element of constructive authority to be used only in appropriate situations.
- I. Cooperative person is a person who responds to and complies with a detective's directions.
- J. Critical decision-making model is an organized way of making decisions about how a detective will act in any situation, including those that may involve potential uses of force.
- K. Deadly weapon means any firearm or other weapon, device, instrument, material or substance, whether animate or inanimate, which in the manner it is used or is intended to be used, is known to be capable of producing death or serious bodily injury, or in the manner in which it is fashioned would lead the victim reasonably to believe it to be capable of producing death or serious bodily injury (see N.J.S.A. 2C:11-1(c)).
- L. De-escalation refers to the action of communicating verbally or non-verbally to reduce, stabilize, or eliminate the immediacy of a threat. De-escalation may also be used to create the time needed to position additional resources to resolve the situation with the least amount of force necessary.
- M. 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.
- N. Feasible means reasonably capable of being accomplished or carried out, given the totality of the circumstances, in a manner that maintains the safety of the public and detectives.
- O. Imminent danger describes threatened actions or outcomes that are immediately likely to occur during an encounter absent action by the detective. The 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 detective, but is carrying a weapon and running for cover, to gain a tactical advantage.
- P. Law enforcement executive means the Chief of County Detectives. In situations when the Chief of County Detectives is recused from a matter, then law enforcement executive refers to the next highest-ranking law enforcement officer without a conflict.
- Q. Law enforcement incidents are defined as:
1. Any use of force by a detective resulting in death; and
 2. Any use of force by a detective resulting in serious bodily injury; and
 3. Any use of deadly force (including the discharge of a firearm as defined in section V of this SOP) by a detective, regardless of whether such force resulted in injury; and
 4. The death of any civilian during an encounter with a detective; and
 5. The death of any civilian while in the custody of law enforcement.
- R. Meaningful command review is a formal documented process to determine whether policy, training, equipment, or disciplinary issues need to be addressed.
- S. Peaceful demonstration is a nonviolent assembly of persons organized primarily to engage in free speech activity. These may be scheduled events that allow for law enforcement planning or spontaneous events. They include, but are not limited to, marches, protests, and other assemblies intended to attract attention.
- T. 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 law enforcement vehicle, holding the subject's arm while transporting, routinely handcuffing a subject, and maneuvering or securing a subject for a frisk. Physical contact alone does not constitute force.
- U. Positional asphyxiation is insufficient intake of oxygen because of body position that interferes with the subject's ability to breathe. It can occur during the process of subduing and restraining a person by placing the person in a posture that prevents or impedes the mechanism of normal breathing. If the person cannot escape from the position, death may occur very rapidly.

1. Restraint in the prone position (face down) presents a significant risk of asphyxia, particularly when a person is handcuffed and left in a face-down position.
 2. As soon as handcuffed and restrained, a person should be raised immediately to a seated or standing position that does not impede the mechanism of normal breathing.
- V. Proportional force is the minimum amount of force, of both type (e.g., physical, mechanical, enhanced mechanical, or deadly) and intensity, that is necessary to control a situation and achieve a legitimate law enforcement objective. The law permits detectives to overcome unlawful force or resistance; thus, the term proportional force is not intended to mean a type and intensity of force that is exactly equal to the type and intensity of force being used by the subject. The term proportional force is intended to highlight that the level of force a detective utilizes shall be no more than is necessary to overcome the unlawful force or resistance being confronted by the detective.
- W. Reasonable belief is an objective assessment based upon an evaluation of how a reasonable law enforcement officer with comparable training and experience would react to, or draw inferences from, the facts and circumstances confronting and known by the detective at the scene.
- X. Resisting arrest refers to the act of a person who purposely prevents a law enforcement officer from effectuating 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 resistor is a person who is uncooperative, fails to comply with directions from a law enforcement officer, and instead actively attempts to avoid physical control. This type of resistance includes, but is not limited to, evasive movement of the arm, flailing arms, tensing arms beneath the body to avoid handcuffing, and flight.
 2. Passive resistor is a person who is non-compliant in that they fail to comply in a non-movement way with verbal or other direction from a law enforcement officer.
- Y. Serious bodily injury means bodily injury which creates a substantial risk of death, or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ. Serious bodily injury and serious bodily harm have the same definition the purposes of this SOP. See N.J.S.A. 2C:11-1(b); N.J.S.A. 2C:3-11(d).
- Z. Strategic redeployment is repositioning by a detective to increase space and time to react to a subject. It includes gaining time to de-escalate by withdrawing from the immediate vicinity of the subject if doing so will not create a threat to the safety of the public or the detective in doing so.

- AA. Tactical communication is verbal communication techniques that are designed to avoid or minimize the use of force. Such techniques include giving clear, simple instructions or directions, using active listening techniques to engage the suspect, and explaining the consequences of failure to comply with directions or instructions, including that force may be used.
- BB. Tactical positioning is making advantageous uses of position, distance, and cover to reduce the risk of injury to a law enforcement officer and avoid or reduce the need to use force.
- CC. Tactical team is a group of law enforcement officers who are specially selected, trained, and equipped to handle high-risk incidents, including, but not limited to, those involving snipers, barricaded persons, warrant services, apprehensions, act of terrorism, and other situations or activities as deemed necessary by command leadership.
- DD. Threatening assailant is a person who is threatening the use of force against a detective or another person, with or without a weapon, in an aggressive manner that may cause bodily injury. Examples may include a person armed with a weapon who fails to disarm, and an unarmed person who advances on a law enforcement officer or any other person in a threatening manner thereby reducing the detective's time to react, putting the detective in reasonable fear of a physical attack.
- EE. Time as a tactic is a method to avoid forcing an immediate resolution to a situation if it can be safely done, including establishing a zone of safety around a person that creates an opportunity for an assessment and action, when feasible, thereby decreasing the need to resort to force.

II. CORE PRINCIPLE #1

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

III. CORE PRINCIPLE #2

- A. Force shall only be used as a last resort when necessary to accomplish lawful objectives that cannot reasonably be achieved through verbal commands, critical decision making, tactical deployment or de-escalation techniques. Force shall never be used as a retaliatory or punitive measure.
- B. Detectives are granted the unique authority to use force for lawful purposes, including, but not limited to, the following:
1. Effectuating a lawful arrest or detention; or
 2. Carrying out a lawful search; or
 3. Overcoming resistance directed at the detective or others; or
 4. Preventing physical harm to the detective or to another person (including intervening in a suicide or other attempt of self-inflicted injury); or
 5. Protecting the detective or a third party from unlawful force; or
 6. Preventing property damage or loss.
- C. Detectives cannot use or threaten to use force for any following reasons:
1. To punish a person or to retaliate against them for past conduct; or
 2. As a lesson to prevent a person from resisting or fleeing in the future; or
 3. To resolve a situation more quickly, unless delay would risk the safety of the person involved, detectives, or others, or would significantly interfere with other legitimate law enforcement objectives.
- D. Detectives shall exhaust all other reasonable means to gain compliance before resorting to force, if feasible. Thus, if a safe alternative would achieve law enforcement's objective, force shall not be used. Therefore, detectives shall use verbal commands, critical decision making, tactical deployment and de-escalation techniques to gain voluntary compliance, when feasible. Importantly, detectives shall never engage in unnecessary, overly aggressive, or otherwise improper actions that create a situation when force becomes necessary.
- E. Critical decision-making and tactical deployment techniques include tactical communication and tactical positioning, such as strategic redeployment and time as a tactic. Critical decision-making and tactics require detectives to do the following:
1. Begin critical assessment and planning prior to arriving at the scene; and
 2. Collect available information; and
 3. Assess situations, threats, and risks; and
 4. Identify options for conflict resolution; and
 5. Determine the best course of action; and

6. Act, review, and re-assess the situation as it evolves.
- F. De-escalation is the action of communicating verbally or non-verbally to reduce, stabilize, or eliminate the immediacy of a threat. De-escalation may also be used to create the time needed to allow the situation to resolve itself or to position additional resources to resolve the situation with the least amount of force necessary. Detectives should employ de-escalation techniques when feasible, which include, but are not limited to, the following:
1. Communication techniques to calm an agitated subject (e.g., regulating tone and pitch, such as speaking slowly in a calm voice).
 2. Techniques to promote rational decision making, such as ensuring that only one detective addresses the subject and other law enforcement officers remain detached as safety permits as to not escalate the situation and splitting up individuals at the scene who are arguing.
 3. Active listening techniques, such as sharing their name, asking the subject their name, and exhibiting a genuine willingness to listen.
 4. Slowing down the pace of the incident by taking deep breaths, slowing speech, and/or applying strategic or critical thinking.
 5. Using calming gestures and facial expressions (e.g., arms extended with palms out and avoid angry expressions).
 6. Practicing procedural-justice techniques, such as explaining their actions and responding to questions.
 7. Verbal persuasion and advisements (e.g., explaining, without threats, how the person would benefit from cooperation, and the subject's rights or what the detective wants the subject to do).
 8. Avoiding the unnecessary display of weapons, including firearms and/or conducted energy devices.
- G. Generally, detectives should not immediately use force when encountering noncompliance with verbal directions. Instead, and whenever feasible before using force, detectives shall:
1. Provide clear instructions and warnings; and
 2. Attempt to determine whether the person has a special need, mental condition, physical limitation, developmental disability, or language barrier (See subsection III.H below); and
 3. State the consequences of refusing to comply with a mandatory directive, including that force will be used unless the person complies; and
 4. Give the suspect a reasonable opportunity to comply.

- H. Detectives should consider an individual's mental, physical, developmental, intellectual disability, or other conditions, such as age of the suspect, that affect the person's ability to communicate or comply. This includes, when feasible, considering the following factors related to the individual:
1. Behavioral or mental health crisis; or
 2. Drug interaction; or
 3. Medical condition; or
 4. Mental impairment; or
 5. Physical limitation; or
 6. Developmental disability, including autism spectrum disorder; or
 7. Cognitive impairment or intellectual disability; or
 8. Hearing loss or impairment; or
 9. Communication disorder, including speech impairment; or
 10. Language barrier; or
 11. Visual impairment; or
 12. Age; or
 13. Other factors beyond the individual's control.
- I. Whenever a detective determines that one of the above listed factors exists (subsection III.H above) and is influencing the person's failure to comply with a detective's command, when feasible, the detective shall consider whether specific techniques or resources would help resolve the situation without the need to utilize force. Techniques for responding include, but are not limited to, the following:
1. Obtaining information about the person from available sources including family members, caregivers or others who know the individual; and
 2. Decreasing exposure to the potential threat by moving to a safer position. This may involve creating distance, seeking cover, tactical repositioning, concealment, and/or placing barriers between an uncooperative person and the detective; and
 3. Slowing down the pace of the incident by the detective slowing their speech, taking deep breaths, and/or applying strategic and critical thinking; and
 4. Keeping the non-compliant person confined to a limited area and calling for a supervisor, back-up law enforcement officers, and specially trained resources to assist in resolving the incident. These specially trained resources may include crisis intervention team-trained personnel, behavioral or mental health care providers, negotiators, qualified bi-lingual personnel, or law enforcement officers equipped with mechanical force weapons; and

5. Using time as a de-escalation strategy, thereby creating an opportunity to calm the non-compliant person; and
 6. Using simplified speech and shorter verbal directions or instructions; and
 7. Eliminating or reducing sensory distractions (e.g., bright flashing lights, sirens, or other loud noises); and
 8. Any reasonable strategy that lessens the emotional anger, frustration, combativeness of a subject or others who may be present may be appropriate.
- J. Importantly, detectives should not default to attempting to resolve the incident immediately if slowing down the pace is viable and can be accomplished without creating an immediate threat to the public or placing law enforcement officers in unreasonable danger.

IV. CORE PRINCIPLE #3

- A. Detectives shall use the least amount of force that is objectively reasonable, necessary, and proportional to safely achieve the legitimate law enforcement objective under the circumstances.
- B. In situations when detectives are justified in using force, they shall use only that degree of force that is reasonable, necessary, and proportional considering the totality of the circumstances, including the subject's mental and physical condition, the nature of the offense, and most importantly the level of resistance or threat known to the detective at the time.
- C. The decision to use force and the appropriate amount of force requires careful attention to the facts and circumstances of each incident. As time permits and is feasible, detectives must consider the following non-exhaustive list of factors when determining whether and how much force to apply:
1. Immediacy and severity of the threat to law enforcement officers or the public; and
 2. The conduct of the individual being confronted, as reasonably perceived by the detective at the time; and
 3. Characteristics of the detective and subject (e.g., age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of law enforcement officers available vs. subjects); and
 4. The effects of drugs or alcohol; and
 5. The individual's mental state or capacity; and
 6. The proximity of weapons or dangerous improvised devices; and
 7. The degree to which the subject has been effectively restrained and their ability to resist despite being restrained; and
 8. The availability of other options and possible effectiveness; and

9. The seriousness of the suspected offense or reason for contact with the individual. For example, in dealing with minor offenses, such as motor vehicle or local ordinance violations, practicing procedural justice techniques, such as explaining the detective's actions and responding to questions before resorting to force, is particularly important; and
 10. The detective's training and experience; and
 11. The potential for injury to law enforcement officers, suspects and the public.
- D. Since law enforcement encounters are never static and rapidly evolve, detectives must continuously assess the effectiveness, proportionality and necessity of their actions, including their tactical positioning, to decrease the likelihood of force being needed for self-protection. Detectives may increase the time available to evaluate the threat by positioning an object between themselves and the subject, being aware of their surroundings, and waiting for backup, when it is available.
- E. The level of resistance that detectives encounter is a key factor in determining the appropriate amount of force that can be used in response. Although it is not possible to determine in advance what the appropriate level of force is for every encounter, one factor that is consistent is the amount of resistance the detective is facing at the time. The less resistance a detective faces, the less force the detective should use. Consistent with training, the following general rules apply in determining the appropriate level of force:
1. Cooperative person – when dealing with a cooperative person, detectives may rely on law enforcement presence and/or verbal control techniques but should not use force.
 2. Passive resistor – when dealing with a passive resistor, detectives may rely on law enforcement presence, verbal control techniques, holding techniques, lifting/carrying, wrist locks and other manual pain compliance techniques. Greater force, such as strikes, punches, CEDs, or mechanical force weapons shall not be used.
 3. Active resistor – when dealing with an active resistor, in addition to the options available for passive resistors, detectives may use physical strikes with hands or feet, OC spray, tactical batons applied with non-impact pressure, and taking the person to the ground. Intentional strikes to the head or face, which are only allowed in an act of self-defense, are not permitted when dealing with an active resistor (see deadly force, subsection V.C of this policy). Canines shall not be utilized against an active resistor.
 4. Threatening assailant – in general, when dealing with a threatening assailant, detectives may use all types of force options other than deadly force. This includes striking with tactical batons, using an aerosol spray device, or using a CED. Although a range of force options is generally available, the officer shall only use force that is proportional to the threat faced. Any strikes to the head or neck with a tactical baton are considered deadly force and can only be used when deadly force is allowed (subsection V.C of this SOP).

5. Active assailant – in general, when dealing with an active assailant, officers have all force options available, though deadly force shall only be used as a last resort in accordance with Core Principle #4 (see deadly force, section V of this SOP).
- F. An individual's status evolves from a resistor to an assailant when they use force, threaten to use force, or otherwise act in an aggressive manner that increases the likelihood that they may cause physical injury to a detective or to another person. However, flight from a detective does not, on its own, qualify a person as an assailant.
1. When dealing with an individual who poses a threat to the detective, the individual could be considered either a threatening assailant or an active assailant. To determine the individual's status for appropriate detective response, the detective must assess whether the threat poses an imminent danger.
 2. If the threat is imminent, then that individual is considered an active assailant and all use of force options are available with deadly force being an absolute last resort in accordance with Core Principle #4 (see deadly force, section V of this SOP).
- G. Detectives face a dynamic environment in which interactions with individuals can escalate very quickly from one level of resistance to another. For example, a passive resistor may become an active assailant in an instant.
1. In responding to the level of resistance, the detective may use the level of force that corresponds to the level of resistance the detective is facing and need not use lesser levels of force that will not address the threat that the detective faces at the time.
 2. If the individual's resistance diminishes, the detective shall immediately reduce the level of force used against the individual. If the individual stops resisting entirely, the detective must immediately cease using force.
- H. Special requirements must be met before a detective can display a firearm. Unholstering or pointing a handgun are tactics that should be used with great caution. The presence of a detective's handgun, under the right circumstances, can discourage resistance and ensure detective safety in potentially dangerous situations without the need to resort to force. However, at the same time, unnecessarily or prematurely drawing a handgun could limit the detective's options in controlling a situation, could create greater anxiety on the part of the public, and could result in an unwarranted or negligent discharge of the firearm.
1. Consistent with training, detectives can point a firearm at a person only when circumstances create a reasonable belief that it may be necessary for the detective to use deadly force.
 2. When the detective no longer reasonably believes that deadly force may be necessary, the detective shall, as soon as practicable, secure or holster the firearm.

- I. Pain compliance techniques may be effective in controlling a passive or active resistor. Detectives can only apply pain compliance techniques on which the detective has received agency approved training and only when the detective reasonably believes that the use of such a technique is necessary to further a legitimate law enforcement purpose. Detectives utilizing any pain compliance technique should consider the totality of the circumstances including, but not limited to, the following:
 1. The potential for injury to the detective(s) or others if the technique is not used; and
 2. The potential risk of serious injury to the individual being controlled; and
 3. Whether the pain compliance technique is effective in achieving an appropriate level of control or a different technique should be employed; and
 4. The nature of the offense involved; and
 5. The level of resistance of the individuals(s) involved; and
 6. Whether immediate resolution is necessary; and
 7. The application of any pain compliance technique shall be immediately discontinued once the detective determines that compliance has been achieved or other more appropriate alternatives can reasonably be utilized; and
 8. Detectives shall only use striking techniques directed at a subject's face as a means of self-defense, or in the defense of others. Striking at a subject's face using fists, elbows, knees, and feet, shall not be used as a means of pain compliance.

- J. Detectives must recognize the heightened risk of positional asphyxiation and compression asphyxiation during restraint and be alert to any actions that must be immediately taken to avoid or minimize the risk of asphyxiation.
 1. Positional asphyxia can occur when a person is restrained, handcuffed, or left unattended in any position that impedes their ability to breathe normally, particularly in a prone (face down) position. If the person cannot escape from the position, death may occur very rapidly. Thus, while using force detectives shall be alert to the following heightened risk factors for positional asphyxiation:
 - a. Alcohol or drug intoxication; and
 - b. Possible mental health episode or incident; and
 - c. A substantially overweight individual; and
 - d. Possible suffering of respiratory muscle fatigue (exhaustion); and
 - e. Possible airway obstruction; and
 - f. Unconsciousness.

2. Detectives shall take the following actions to reduce the risk of positional asphyxiation:
 - a. As soon as handcuffed and restrained, a person should be immediately rolled to the side and taken to an upright position that does not impede the mechanism of normal breathing. This requirement is especially important when the subject is handcuffed face down in the prone position.
 - b. Care should be taken not to put sustained pressure on the neck or back, as breathing can be restricted even if the person is placed in the recovery position. This includes sitting, kneeling, or standing on a person's chest, back, or neck for a prolonged period.
 - c. Detectives shall continuously monitor the person's condition while being restrained, as death can occur suddenly and develop beyond the point of viable resuscitation within seconds.
 - d. Whenever possible during team restraint, the on-scene supervisor or senior detective shall designate a '*Safety Officer*' with the responsibility to monitor the health and welfare of the person during restraint.
 - e. The arrestee must not be transported in the prone (face down) position; and
 - f. The arrestee should be monitored prior to, during, and at the conclusion of the transport.

3. Detectives shall continually monitor the condition of the subject(s) in their custody for the following warning signs of positional asphyxiation:
 - a. Verbal complaints or comments of being unable to breathe properly, although be aware that a person suffering breathing difficulties may not be able to complain about their crisis; and
 - b. Visual signs that the subject is struggling or exhibiting increased effort to breathe; and
 - c. Gurgling/gasping sounds with foam or mucus coming from the nose or mouth; and
 - d. Display of a heightened level of aggression during restraint, which may be a physiological response to fighting for air, such that any increased resistance during restraint of a person should be regarded with caution; and
 - e. Sudden behavioral changes, such as going from being violent and noisy to passive, quiet and tranquil, or alternatively, suddenly becoming more aggressive; and
 - f. Blue discoloration of facial skin (cyanosis); and
 - g. Swelling, redness or blood spots to the face or neck; and

- h. Any loss or a reduced level of consciousness.
- K. Conducted energy devices – conducted energy devices (CEDs) are forms of enhanced mechanical force that may be utilized against a threatening assailant or an active assailant, but only within the parameters outlined in this SOP and this agency's SOP on *Weapons and Ammunition*. CEDs shall not be utilized against a passive resistor or an active resistor. Detectives shall always strive to use only that degree of force that is objectively reasonable, necessary and proportional considering the totality of the circumstances.
- 1. When feasible, detectives should warn the person against whom a CED is directed that they intend to fire the CED.
 - 2. Detectives authorized to use a CED pursuant to this SOP may fire, discharge or utilize drive stun mode of the device during an actual operation, only against:
 - a. An active assailant; or
 - b. A threatening assailant who will not voluntarily submit to custody after having been given a reasonable opportunity to do so considering the exigency of the situation and the immediacy of the need to employ law enforcement force; or
 - c. A person who is attempting to cause death or serious bodily injury to themselves; or
 - d. A fleeing suspect, if clear and convincing evidence exists to believe the suspect has committed a crime in which the suspect caused or attempted to cause death or serious bodily injury.
 - 3. Detectives shall reevaluate the situation and reassess the need to use force before any second or subsequent firing or discharge or utilization of drive stun mode of the device against the same person. Any second or subsequent firing or discharge or utilization of drive stun mode of the device must be necessary and justified by the circumstances at that moment.
 - 4. Detectives shall not direct an electrical charge or current against a person who is restrained by handcuffs unless:
 - a. Deadly force is authorized under this SOP; and
 - b. The use of physical or mechanical force is not feasible or would be ineffective.
 - 5. Consistent with training, detectives may point a CED at a person only when circumstances create a reasonable belief that it may be necessary for the officer to use enhanced mechanical force. When the detective no longer reasonably believes that enhanced mechanical force may be necessary, the detective shall, as soon as practicable, secure or holster the CED.
 - 6. Unholstering, displaying or pointing a CED shall be considered a display of constructive authority.

7. A spark display from a CED shall be considered a display of constructive authority.
8. The following uses of CEDs are prohibited:
 - a. A CED shall not be used or threatened to be used to retaliate for any past conduct or to impose punishment.
 - b. A CED shall not be used against a person who is a passive resistor or an active resistor.
 - c. A CED shall not be fired or discharged for the sole purpose of preventing a person from committing property damage.
 - d. A CED shall not be deployed against the operator of a moving vehicle unless the use of deadly force against the operator of the motor vehicle would be authorized.
 - e. Against a person in drive stun mode more than twice unless deadly force would be authorized and permitted pursuant to this policy.
 - f. Two or more CEDs shall not be discharged upon a person at the same time.
9. Detectives should not fire a CED if there is a substantial risk that the electrode/darts will strike an innocent person, unless firing the device in such circumstances is reasonably necessary to protect the innocent person(s) from death or serious bodily injury.
10. To ensure safety and when feasible, at least one law enforcement officer other than the one deploying the CED should be present, be armed with lethal ammunition, and be prepared to utilize deadly force if the use of a CED for any reason fails. Deadly force would only be authorized in this situation as a last resort and if otherwise permitted by this SOP.
11. During the deployment of a CED, the deploying detective shall, when feasible, continually evaluate the options selected against changing circumstances.
12. Detectives trained and authorized to carry a CED shall be aware of and comply with any targeting recommendations made by the manufacturer.
13. A CED may be used in conjunction with a distraction device, non-flammable chemical agent, or less-lethal ammunition. If the individual has already received an electrical charge from a CED, detectives shall, when feasible, provide the person a reasonable opportunity to submit to law enforcement authority and to comply with law enforcement commands, considering the physiological effects of the discharge, before deploying a distraction device, chemical agent, or less-lethal ammunition.
14. 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).

15. 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.
16. A CED shall not be used in any environment where a detective knows or has reason to believe that a potentially flammable, volatile or explosive material is present that might be ignited by an open spark, including, but not limited to, pepper spray with a volatile propellant, gasoline, natural gas or propane.
17. While detectives must always respect the seriousness and potential lethality of a CED, detectives shall use particular care when considering whether to use a CED against an individual who is particularly vulnerable due to age (either elderly or young), developmental disability, or a known or reasonably apparent medical condition (e.g., a pregnant female).
18. In all instances when a CED is fired at or discharged upon a person, a supervisor (or their designee if the supervisor discharges the CED), shall take custody of the CED including discharged parts (i.e., blast doors, AFIDS and darts/electrodes) and secure them. Note: Not all AFIDS need to be collected.
 - a. If the person is not transported to a medical facility, the supervisor (or their designee if the supervisor discharges the CED) shall eject the cartridge from the CED and insert the darts/electrodes back into the cartridge, sharp side first with the wires wrapped around the cartridge.
 - 1) The cartridge containing the probes and the wires can then be stored inside the used PPE (gloves) before being placed into a paper bag and must be secured as evidence.
 - 2) The darts/electrodes must be removed by medical personnel. A detective or other law enforcement officer shall accompany the person to the medical facility and obtain the darts/electrodes from the medical staff after removal, documenting the chain of custody.
 - b. If possible, take photographs of the probe impact sites. If the individual objects to this, officers shall document this fact in the report and include their visual observation of probe impact sites, if possible.
 - c. The supervisor (or their designee if the supervisor discharges the CED) shall safeguard the digital information in the device concerning the incident by securing the CED in an evidence locker.
 - d. The individual appointed as the Mercer County Taser Coordinator, in conjunction with the Professional Standards Unit supervisor or their designee, shall download all data from the device onto Evidence.com and backup the data to digital preservation media, such as electronic, magnetic, or optical storage media (e.g., 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.

- e. The Professional Standards Unit shall print a copy (or download an electronic copy) of the related firing data and include it with the use of force forms and related investigation reports.
- f. Except when the deployment results in a death, supervisors shall permit the deploying officer an opportunity to review the stored video and firing data, prior to completing their substantive report.
- g. Once the data is secure on the agency server and burned to digital preservation media, the event shall be erased from the device and the unit shall be placed back in service.
- h. Under no circumstances shall any personnel tamper with, remove, erase or access CED recordings and associated data without the expressed permission of the Chief of County Detectives or an assistant prosecutor.

L. Mechanical force:

- 1. NOTE: Mechanical force options could be ineffective for subjects exhibiting signs of excited delirium due to the subject's elevated threshold of pain. See this department's SOP on *Emotionally Disturbed Persons* for instructions on dealing with someone with signs of excited delirium.
- 2. Oleoresin capsicum (OC):
 - a. OC is permitted in situations when the use of mechanical 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 ineffective 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 useful against aggressive animal attacks 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. OC exposure to animals may not be effective and may cause the animal to be even more aggressive.
 - 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. OC shall not be used in the immediate vicinity of infants or the elderly unless necessary.

- g. 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).
 - h. Once resistance ceases, the further application of OC shall cease.
 - 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.
3. Use of a canine:
- a. The use of specially trained law enforcement canines in effectuating an arrest constitutes a real or implied use of force. Detectives may only use that degree of force that reasonably appears necessary to apprehend or secure a subject.
 - b. In deciding whether to authorize the use of canines in apprehension situations, handlers must consider the following:
 - 1) The severity of the crime/offense; and
 - 2) Whether the suspect poses an immediate threat to the safety of the detective or others; and
 - 3) Whether the suspect is actively resisting arrest or attempting to evade arrest at the time.
 - c. Apprehensions – Detectives may request the assistance of a canine unit for the purpose of locating and apprehending a person suspected of committing a crime/offense under the following conditions:
 - 1) A unit supervisor is made aware of the request and acknowledges such; and
 - 2) The person is suspected of committing a crime or offense; and
 - 3) The deployment of a canine team is a reasonable use of force considering the circumstances known to the detective at the time of the request.
 - d. Supervisors considering requests for canine assistance in apprehension situations are required to gather sufficient background information concerning the underlying offense and any potential circumstances that would mitigate the need for the canine.
 - 1) Supervisors shall only approve requests for canine deployment in situations where probable cause exists to believe that the suspect has committed a crime or offense; and

- 2) The deployment of a canine team poses no unreasonable risk of injury to third persons or damage to property when weighed against the need for immediate apprehension.
- e. If a handler determines it is necessary to release a dog off lead to apprehend a fleeing/hiding suspect, exceptional care and prudent judgment must be applied to prevent injury to innocent persons.
- 1) No canine will be released off lead until proper announcement has been given, such as, "...*This is the prosecutor's office. I have a trained dog. Make yourself known and surrender. If you do not comply, I will release him/her. He/she will find you and bite you.*" This announcement shall be given in a loud and clear voice, multiple times each time a canine goes to a different floor or separate sealed area. This shall serve notice to innocent persons to leave the area and afford the suspect an opportunity to surrender.
 - 2) Under no circumstance shall a canine be released off lead for apprehension purposes in crowded areas or when other persons and/or law enforcement officers are in or near the path of the fleeing/hiding suspect **UNLESS** proper target acquisition has been acquired.
 - 3) Any time a canine is released off lead, the handler shall remain attentive for potential injury to the canine from vehicular traffic on surrounding roadways.
 - 4) Handlers will use, and/or permit their canine to use, only that amount of force necessary to apprehend and control a fleeing, hiding or combative suspect who fails to heed the warnings of stop or surrender.
- f. If a suspect is apprehended, the canine shall be instructed to disengage by release command or physical removal as soon as control or compliance is achieved.

M. Use of force for crowd management – The following restrictions and limitations on the use of force should be observed during peaceful demonstrations and civil disturbances. The generally applicable rules in this SOP apply to both peaceful demonstrations and civil disturbances, and in all cases, weapons or other devices should be carried and deployed only by trained and authorized law enforcement officers and deployed consistent with this SOP.

1. Prior to using force against people in a crowd, detectives shall:
 - a. Provide clear instructions and warnings in a manner that can be heard by persons in the crowd, such as through a bullhorn or speaker system when available; and
 - b. State the consequences of refusing to comply with a mandatory directive (e.g., arrests will occur, force may be used, etc.) unless persons comply; and

- c. Give a reasonable opportunity to comply.
2. Force shall not be used against crowds engaged in peaceful demonstrations. The visible presence or deployment of canines for crowd control purposes is prohibited in peaceful demonstrations. Canines may be used for explosive detection or similar security sweeps at such gatherings.
3. Force may be used against specific individuals in a crowd for lawful purposes in accordance with the other provisions of this SOP. Restrictions apply to the use of certain types of force in a crowd as follows:
 - a. OC aerosol
 - 1) May be used against specific individuals who are active resisters, threatening assailants or active assailants as defined in subsection IV.E of this SOP; and
 - 2) Shall not be used where bystanders would be unreasonably affected; and
 - 3) Shall not be used against passive resisters or indiscriminately against groups of people.
 - b. Conducted energy devices
 - 1) May be used against specific individuals who are threatening assailants or active assailants as defined in subsection IV.E of this SOP; and
 - 2) May be used only when the individual can be accurately targeted; and
 - 3) Shall never be fired indiscriminately into crowds.
4. Force may be used against groups of people only if authorized by the incident commander (IC) and only when other means of gaining compliance with lawful directives have been attempted and shown to be ineffective or are not feasible.
5. High-volume OC delivery systems are designed for, and may be used in, civil disturbances against groups of people engaged in unlawful acts resulting in, or creating an immediate risk of, bodily injury or significant property damage.
6. CS (2-chlorobenzalmalononitrile) chemical agents are primarily offensive weapons that shall be used with the utmost caution. Thus, CS:
 - a. May be deployed only by specially trained individuals who are part of a special tactical unit authorized to deploy such agents; and
 - b. May be deployed only with the specific and express approval of the IC; and

- c. May be deployed defensively to prevent injury when lesser force options are either not available or would likely be ineffective; and
 - d. May be deployed only after an announcement is made and when avenues of egress are available to the crowd.
- 7. CN (phenacyl chloride) shall not be used in any instance.
 - 8. Canines shall not be deployed against a crowd, except to respond to a threat of death or serious bodily injury to a member of the public or to a law enforcement officer.

V. CORE PRINCIPLE #4

- A. *Deadly force shall only be used as an absolute last resort and in strict compliance with this SOP. Other actions by detectives that create a substantial risk of death or serious bodily injury must be avoided or employed only under the strictest of conditions.*
- B. Deadly force is force that a detective uses with the purpose of causing, or that a reasonable detective knows creates a substantial risk of causing, death or serious bodily injury. Discharging a firearm constitutes deadly force, unless the discharge occurred during a law enforcement training exercise, routine target practice at a firing range, a lawful animal hunt, or the humane killing of injured animals.
- C. Deadly force includes the following potentially lethal actions:
 - 1. Applying a chokehold, carotid artery restraint, or similar technique that involves pressure on the neck; and
 - 2. Sitting, kneeling or standing on a person's chest, back or neck for a prolonged time; and
 - 3. Intentionally driving a vehicle at or in the direction of a person with the intent to strike the individual; and
 - 4. Using a baton or other weapon to intentionally strike an individual in the head or neck area.
- D. Detectives may use deadly force only when they reasonably believe that such action is immediately necessary to protect the detective or another person from imminent danger of death or serious bodily injury. Detectives must adhere to the following:
 - 1. When feasible, detectives shall attempt to de-escalate situations, issue verbal warnings, or use less-lethal force with the goal of resolving encounters without using deadly force; and
 - 2. Detectives shall not use deadly force if a reasonably available alternative will avert or eliminate an imminent danger of death or serious bodily injury and achieve the law enforcement purpose safely; and
 - 3. When feasible, prior to using deadly force the detective shall identify themselves as a law enforcement officer and give a clear verbal warning to the suspect that the detective will use deadly force; and

4. Detectives shall not use deadly force when the use of deadly force creates a substantial risk of injury to innocent persons unless absolutely necessary to save their life or the life of another.
- E. In addition to all the requirements in subsection V.D of this SOP (above), a detective can only use deadly force to apprehend a fleeing suspect in the rare case when the suspect's escape would create an imminent danger of death or serious bodily injury to the detective or a member of the public if the suspect is not immediately apprehended.
- F. There are specific circumstances in which the use of deadly force is prohibited. In general, detectives cannot discharge their weapons or use other deadly force, as outlined above, in the following manner:
1. To signal for help; or
 2. To issue a warning shot; or
 3. To prevent property damage or loss; or
 4. To prevent the destruction of evidence (e.g., under no circumstances shall a detective use a chokehold, or any lesser contact with the neck area to prevent the destruction of evidence by ingestion); or
 5. Against a person who poses a threat only to themselves and not to others.
- G. Deadly force against individuals in a moving vehicle – Strict additional requirements must be met before a detective can use deadly force against a driver or passenger of a moving vehicle. Moving vehicles create tremendous risk to law enforcement officers engaged in enforcement operations, particularly law enforcement officers attempting to arrest fleeing suspects. Detectives must abide by the following guidelines:
1. During such operations, detectives shall never intentionally position themselves in the path of a moving vehicle or a vehicle that is likely to move.
 2. Detectives shall make every effort to move out of the path of a vehicle to maintain their safety.
 3. Detectives shall not grab onto moving vehicles or the drivers or occupants of moving vehicles. If a vehicle begins to move while a detective is engaged with the driver or an occupant, the detective shall, if feasible, disengage from the contact with the driver or occupant to avoid being dragged, carried or struck by the moving vehicle; and
 4. While any firearm discharge entails some risk, discharging a firearm at a moving vehicle entails an even greater risk to innocent persons and passengers because of the risk that the fleeing suspect may lose control of the vehicle. Due to this greater risk, and considering that firearms are not generally effective in bringing moving vehicles to a rapid halt, detectives shall not fire at the driver or occupant of a moving vehicle, unless no other means are available at the time to avert or eliminate the danger and one of the following circumstances exists:

- a. When there is imminent danger of death or serious bodily injury to the detective or another person created by a person in the vehicle using means other than the vehicle, such as when shots are being fired from the vehicle; or
 - b. When the suspect is driving their vehicle toward persons other than the detective in a manner creating an imminent threat of death or serious bodily injury, such as in a terrorist attack; or
 - c. When the detective is being dragged or carried by the vehicle, cannot disengage from the vehicle, and is in imminent danger of death or serious bodily injury.
- H. Shooting from a moving vehicle – Strict additional requirements must be met before a detective can shoot from a moving vehicle. Every discharge of a firearm creates risk to the public and to other responding law enforcement officers. Firearm discharges from moving vehicles by law enforcement officers have proven to be inaccurate and ineffective, generally creating unacceptable levels of risk. Due to these risks, detectives shall not discharge a firearm from a moving vehicle except in the following extraordinarily rare circumstance:
- 1. When the suspect is driving a vehicle toward persons other than the detective in a manner creating an imminent threat of death or serious bodily injury, such as in a terrorist attack; and
 - 2. No other means are available at that time to avert or eliminate the danger.
- I. In active shooter situations, detectives 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 detectives to engage the subject to protect the lives of injured persons requiring immediate rescue and evacuation from an area in which a subject's continued actions (i.e., active shooting) pose an imminent threat of death or serious bodily injury.

VI. CORE PRINCIPLE #5

- A. *Regardless of rank, title, seniority, position or status, every detective has an affirmative duty to take steps to prevent any use of force that is illegal, excessive or otherwise inconsistent with such policies, regulations and laws, if possible, before a fellow law enforcement officer uses excessive, illegal or otherwise inappropriate force. Every detective has a duty to immediately report any improper use of force.*
- 1. A detective's duty to intervene is rooted in the commitment to always protect public safety. Interventions that prevent improper use of force will lead to fewer civilian complaints, fewer disciplinary matters, higher morale, and a healthier working environment. Preventing misconduct preserves the integrity of all law enforcement officers and the law enforcement profession. Intervening to prevent improper use of force can assist fellow law enforcement officers by preventing them from engaging in conduct that may be illegal, inappropriate and in violation of this SOP.

2. All detectives who observe another law enforcement officer about to use force that is illegal, excessive or otherwise inconsistent with this SOP must, if feasible, do whatever they can to interrupt the flow of events before the fellow law enforcement officer engages in an improper use of force. Detectives can serve each other and the public by simply saying or doing the right thing to prevent a fellow law enforcement officer from resorting to force illegally or inappropriately.
 - a. If detectives observe a situation when another law enforcement officer is attempting to intervene in an improper use of force, detectives shall assist in that effort.
 - b. If a supervisor observes such a violation, the supervisor must issue a direct order to stop the violation.
3. Detectives shall use signaling, verbal intervention or physical intervention, if necessary, to stop any improper use of force. It is important to note that the duty to intervene does not stop at one detective. It is the responsibility of all detectives to ensure use-of-force compliance.
4. Any detective who observes or has knowledge of a use of force that is illegal, excessive or otherwise inconsistent with this SOP must:
 - a. Notify a supervisor as soon as possible; and
 - b. Submit an individual written report to a supervisor before reporting off duty on the day the detective becomes aware of the incident. If the supervisor is the subject of the report, detectives shall report the matter to the next level of the chain of command or directly to the Professional Standards Unit Supervisor in accordance with this agency's SOP on *Internal Affairs*.
 - c. Such supervisors must report this incident in accordance with this agency's SOP on *Internal Affairs*.
5. Commanders, supervisors and detectives are prohibited from retaliating in any form against a detective who intercedes in or reports illegal or inappropriate uses of force or who cooperates with an investigation into a possible violation of this SOP.

VII. CORE PRINCIPLE #6

- A. *After any use of force, and when the environment is safe, detectives shall promptly render medical assistance to any injured person consistent with their training and shall promptly request emergency medical assistance for that person, if needed or requested. Detectives also have a duty to monitor individuals for potential medical intervention after any law enforcement officer uses force.*
- B. Following any use of force, detectives 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 detective to immediate danger.

1. The duty to render medical assistance and monitor the medical status of the individual applies to all law enforcement officers on scene and continues throughout any transportation and custody of the individual.
2. Detectives shall pay particular attention to persons reasonably believed to be pregnant, children, the elderly, physically frail individuals, and those experiencing a mental health or substance use crisis.
3. In any instance when deadly force is used, detectives shall summon EMS and paramedics as soon as possible. While EMS and paramedics will not be permitted to enter an area that is not tactically secure, they should still be summoned to a secure area near the scene to expedite treatment for the person(s) once the scene is secure.
4. Be alert for signs of potential excited delirium (see definitions).
 - a. Detectives should check the subject's pulse and respiration on a continuous basis until transferred to BLS/EMS personnel. Detectives 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, a law enforcement officer should accompany the subject to the hospital for security purposes and to aid as necessary.
5. Subjects who are struck by a tactical baton shall be transported to a medical facility for examination if they suffer bodily injury or request medical treatment.
6. Following the use of OC, officers shall sit the subject upright and decontaminate the subject as soon as practicable. Personnel shall monitor subjects who have 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 need medical aid. 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.
- C. Subjects against whom a CED 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; or
 2. The subject has been rendered unconscious or unresponsive; or
 3. The subject, after being subjected to a discharge, does not appear to have recovered normally, as described in CED training; or
 4. The subject has exhibited signs of excited delirium prior to, during or after the discharge of the CED; or
 5. The subject has suffered bodily injury requiring medical attention because of a fall, or otherwise reasonably appears to need medical attention; or
 6. The subject was exposed to three or more discharges from a CED during the encounter; or
 7. The subject has been exposed to a continuous discharge lasting 15 seconds or more; or
 8. Any part of a CED dart/electrode has broken off and remains imbedded.
- D. No Mercer County Prosecutor's Office personnel are authorized to remove a CED dart/electrode from a subject.
- E. Any person requesting and/or deemed in need of medical attention shall be transported to the nearest available emergency medical treatment center or hospital. Detectives shall contact BLS/EMS to request such transportation assistance.
1. Ordinarily, detectives should not transport the subject in a Mercer County Prosecutor's Office vehicle.
 2. The extent of the injury and the treatment offered/provided shall be documented in the body of the investigation report.
- F. Under no circumstances shall agency employees sign or endorse medical authorization for any person under arrest or in custody indicating that the County of Mercer or the Mercer County Prosecutor's Office is the responsible billing party.

- G. The unit supervisor should respond to the scene of any use of force incident when, as the result of the application of force, agency personnel, bystander or detainee/prisoner is injured and requires medical attention. The supervisor shall also:
1. Ensure that affected persons receive the necessary assistance, including medical attention; and
 2. Ensure that the need for medical treatment for any bystander or detainee/prisoner is evaluated and provided where necessary; and
 3. Notify the appropriate unit commanders or their designees, who should respond to the scene and cause the appropriate level of investigative and support services including, but not limited to, photographs, measurements, diagrams, statements, etc. When an injury or complaint of pain exists, supervisors should obtain photographic documentation to the extent possible.

VIII. CORE PRINCIPLE #7

- A. *Every use of force must be reported and receive a meaningful command level review as set forth in a written policy that includes review by the law enforcement executive. The law enforcement executive shall also conduct an annual review and analysis of the overall use of force by the agency.*
- B. In all instances when law enforcement force is used except when such force results in a fatality, whether on or off duty, all detectives who employ such force shall complete and submit the following:
1. An electronic *Use of Force Report* (through the *DCJ reporting portal*). The reporting guide is available on DMS.
 - a. The detective shall complete the report before the end the shift in which the force was used, but within 24 hours.
 - b. If the detective who used force is unable to complete the report within 24 hours, it should be completed as soon the detective is able to do so, or by a supervisor within 48 hours.
 - c. If the force resulted in a fatality, only the Division of Criminal Justice can authorize the detective(s) to complete the electronic use of force report.
 2. The investigation report and/or supplementary report made underlying the nature of the incident; except:
 - a. In accordance with *New Jersey Attorney General's Directive 2019-4*, supervisors shall not require detectives deploying force, which results in death or serious bodily injury, being investigated by the Division of Criminal Justice to submit investigation or supplemental reports.

- b. Only the Division of Criminal Justice can order such reports. Such detectives' statements to the Division of Criminal Justice can suffice as their report of the incident.
 - c. Detectives not directly involved in the application of such force, but who may have indirect involvement (e.g., secondary responders, assisting responders, witnesses, etc.) may be required to submit investigation reports upon approval of the lead investigating agency (i.e., Division of Criminal Justice).
- C. Though not a use of force, pointing a firearm at another constitutes a seizure that must be reported as a 'show of force' in the *DCJ reporting portal*.
 - 1. Tactical team members are required to report the pointing of a firearm only when the pointing involves a sustained active engagement with a person to gain that person's compliance.
 - 2. Tactical team members who quickly sweep a room during an operation need not report each person at whom a firearm was momentarily pointed during the sweep.
- D. CED spark displays are considered constructive authority and must be reported as a 'show of force' in the *DCJ reporting portal*.
- E. In all instances when a detective fires/discharges CED upon a person, the Professional Standards Unit supervisor or their designee shall investigate the circumstances and outcome of the device's use.
 - 1. The Professional Standards Unit supervisor or their designee shall report on the incident to the Chief of County Detectives, providing them information on all relevant circumstances, deployment and outcome, including whether the deployment avoided injury to a detective or other law enforcement officer and avoided the need to use deadly force.
 - 2. Upon receipt, the Chief of County Detectives shall issue a report to the Prosecutor within 10 business days of the firing/discharge (unless the Prosecutor submits a request for a reasonable extension of time within which to forward the report for good cause shown), including a finding on whether the firing and all discharges complied with the *New Jersey Attorney General's Use of Force Policy* and this SOP.
 - 3. The Prosecutor shall review the matter for compliance with the *New Jersey Attorney General's Use of Force Policy*. If the Prosecutor finds the firing or discharge of a CED to not comply with the *New Jersey Attorney General's Use of Force Policy*, the matter shall be forwarded to the Director of the Office of Public Integrity and Accountability or their designee.
- F. An investigation report is also required:
 - 1. Except in deadly force incidents (see subsection VIII.B), whenever a detective discharges a firearm, for other than training or recreational purposes, and in all cases of an accidental or unintentional discharge of a firearm or CED.

- a. The detective shall first make a verbal report to their supervisor.
 - b. In the event of an accidental/unintentional discharge, the supervisor shall also notify the Professional Standards Unit supervisor, who may investigate.
 - c. On-duty personnel shall submit the investigation report prior to the conclusion of the shift on which the incident occurred.
 - d. Off-duty personnel shall submit this report as soon as practicable, but in no event shall the time exceed more than 16 hours after the incident occurred.
 - e. In the event a detective who has discharged a firearm or CED is physically incapacitated or fatally injured and is incapable of submitting this report, their supervisor shall prepare the report.
 - f. If the firearm or CED discharge was a result of the destruction of an aggressive animal threatening human life, an electronic *Use of Force Report* is required in addition to the investigation report.
- G. The detective's unit supervisor shall review these reports for accuracy and completeness and shall promptly address any issues as they may pertain to policy changes, training, weapons or equipment, or discipline.
1. The supervisor must review the *Use of Force Report* through the *DCJ reporting portal*. The reviewing supervisor or their designee shall print a copy (or download an electronic copy) of the use of force report and include it with the case file.
 2. The review shall also include an examination of all available sources of information about the incident, including any video of the incident, reports, detective or other witness statements, medical records, and records of injuries.
 3. The review shall also include an analysis of whether force was used in a non-discriminatory fashion to ensure detectives are treating every person equally without discrimination based on race, ethnicity, nationality, religion, disability, gender, gender identity, sexual orientation or any other protected characteristic.
 4. The unit supervisor shall make a recommendation of what action, if any, should be undertaken, including commendation of the detective, policy changes, remedial training, equipment changes, administrative action, disciplinary action or, if appropriate, referral for criminal prosecution.
 5. If a supervisor uses force, the next highest-ranking supervisor in that chain of command shall conduct the initial meaningful review.
 6. If the Chief of County Detectives uses force, the Professional Standards Unit supervisor shall contact the New Jersey Division of Criminal Justice, who will determine the process for the meaningful command review, which could include DCJ's office staff.

- H. The Professional Standards Unit supervisor or their designee shall also review these incidents in the same manner as described above:
 - 1. The Professional Standards Unit supervisor or their designee shall also make a recommendation of what action, if any, should be undertaken, including commendation of the detective, policy changes, remedial training, equipment changes, administrative action, disciplinary action or, if appropriate, referral for criminal prosecution.
 - 2. The Professional Standards Unit supervisor or their designee shall initiate an early warning record, as appropriate.
- I. The Chief of County Detectives (or law enforcement executive if there is a conflict) shall review each meaningful command review and approve or reject the recommendations of the supervisors who conducted the review. The decision of the Chief of County Detectives/law enforcement executive shall be memorialized and retained in the use-of-force investigative file.
- J. After the review is completed, supervisory and/or training officials should examine and analyze the use of force incident, including any video evidence, with the detective as a training tool. This examination should analyze the circumstances that led to the use of force as well as the force that was used, so that the detective can gain insight into which tactics and decisions were effective and whether different tactics or decisions could have been used to improve the outcome.
- K. The Chief of County Detectives (or law enforcement executive if there is a conflict) shall also conduct an annual summary and review of all use of force incidents in this agency. The review shall include, at a minimum, the following:
 - 1. Analytical reports from the *DCJ reporting portal*; and
 - 2. An audit of videos on a risk-based and randomly selected basis; and
 - 3. Any confidential investigation complaints; and
 - 4. An analysis of the uses of force to ensure that force is being applied without discrimination based on race, ethnicity, nationality, religion, disability, gender, gender identity, sexual orientation or any other protected characteristic.
 - 5. Based on that thorough review, the Chief of County Detectives/law enforcement executive shall determine whether changes in agency structure, policy, training or equipment are appropriate. The Chief of County Detectives/law enforcement executive shall then provide a written report documenting the annual review to the Mercer County Prosecutor.
- L. Use of force reports are subject to discovery and access through OPRA. In indictable cases, these reports should be forwarded to CJP with the complaints, investigation reports, and other case documents.
- M. All use of force reports shall be retained as required by the New Jersey Division of Revenue and Enterprise Services, Bureau of Records Management (BRM) records retention schedules.

- N. Any detective whose actions or use of force in an official capacity result in death or any employee whose action(s) or use of force in an official capacity resulted 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 the Professional Standards Unit supervisor and shall determine whether policy, training, equipment, or disciplinary issues should be addressed.
 - 2. In some instances, the Prosecutor may assign the meaningful review to another unit/person at their discretion.
 - 3. Employees should be afforded the appropriate level of critical incident stress debriefing or counseling in comportment with agency policy.

IX. TRAINING

- A. All agency personnel authorized to carry agency lethal and/or enhanced mechanical force weapons shall be issued copies of, and be instructed in, this SOP prior to being authorized to carry a weapon. The issuance and instruction shall be documented. This issuance and documentation can be accomplished electronically.
- B. Use of force training shall be conducted semiannually. This training must reflect current standards established by statutory and case law, as well as state and county policies, directives, and guidelines.
 - 1. The training program will include the use of force in general, the use of physical force (including pain compliance techniques), enhanced mechanical force, the use of deadly force, decision making skills, the limitations that govern the use of physical force, mechanical and enhanced mechanical force, and deadly force, and all applicable aspects of agency policies.
 - 2. All use of force training shall be documented. This training and documentation can be accomplished electronically.
- C. All detectives have an ongoing obligation to review this SOP and training materials, and to seek clarification any time they have questions or need guidance. This ongoing review may take place via formal supervisor-led training sessions as well as through mentoring opportunities to reinforce the content and philosophy.