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| <b>NETCONG BOROUGH POLICE DEPARTMENT<br/>POLICY &amp; PROCEDURES</b> |                                     |  |
| SUBJECT: USE OF FORCE  |                                     |   |
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**PURPOSE** The purpose of this policy is to maintain procedures regarding the lawful use of force and to maintain compliance with guidelines and directives promulgated by the New Jersey Attorney General, the Morris County Prosecutor, and existing statutory and case law.

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

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 policy. In situations when officers are justified in using force, officers shall use only that degree of force that is reasonable, necessary, and proportional considering the totality of the circumstances, including the subject’s mental and physical condition, the nature of the offense, and most importantly the level of resistance or threat known to the officer at the time.

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

Officers whose actions are consistent with the law and the provisions of this policy will be strongly supported by the law enforcement community in any subsequent review of their conduct regarding the use of force. Conversely, officers whose actions are contrary to law and the provisions of this policy 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 effect an arrest or other law enforcement objective. Physical force is employed when necessary to overcome a subject's physical resistance to the exertion of the officer's authority, or to protect persons or property. Examples include taking a resisting subject to the ground, using wrist or arm locks, striking the subject with the hands or feet, or other similar methods of hand-to-hand confrontation, such as certain pain compliance techniques.
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 officer's authority. Examples include use of a tactical baton, other object, oleoresin capsicum (OC) spray, or the physical apprehension by canines.
3. Deadly force is force that an officer uses with the purpose of causing, or that a reasonable officer knows, creates a substantial risk of causing death or serious bodily injury.
  - 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 officer'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 an 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 an 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 policy (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 officer's life is in danger and deadly force is authorized.
- G. 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 officers' authority to exert control over a subject.
- a. Examples include verbal commands, gestures, warnings, and un-holstering a weapon.
  - b. Pointing a firearm at a subject is an element of constructive authority to be used only in appropriate situations.
- H. Cooperative person is a person who responds to and complies with an officer's directions.
- I. Critical decision-making model is an organized way of making decisions about how an officer will act in any situation, including those that may involve potential uses of force.
- J. 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)).
- K. 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.
- L. 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; and/or
  2. Irresponsiveness to police presence; and/or
  3. Nakedness/inadequate clothing that may indicate self-cooling attempts; and/or
  4. Elevated body temperature/hot to touch; and/or
  5. Rapid breathing; and/or

6. Profuse sweating; and/or
  7. Extreme aggression or violence; and/or
  8. Making unintelligible, animal-like noises; and/or
  9. Insensitivity to or extreme tolerance of pain; and/or
  10. Excessive strength (out of proportion to the person's physique); and/or
  11. Lack of fatigue despite heavy exertion; and/or
  12. Screaming and incoherent talk; and/or
  13. Paranoid or panicked demeanor; and/or
  14. Attraction to bright lights/loud sounds/ glass or shiny objects.
- M. 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 officers
- N. Imminent danger describes threatened actions or outcomes that are immediately likely to occur during an encounter absent action by the officer. 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 officer, but is carrying a weapon and running for cover, to gain a tactical advantage.
- O. Law enforcement executive means the Chief of Police. In situations when the Chief of Police is recused from a matter, then law enforcement executive refers to the next highest-ranking officer without a conflict.
- P. Law enforcement incidents are defined as:
1. Any use of force by an officer resulting in death.
  2. Any use of force by an officer resulting in serious bodily injury.
  3. Any use of deadly force (including the discharge of a firearm as defined in subsection V.A of this policy) by an officer, regardless of whether such force resulted in injury.
  4. The death of any civilian during an encounter with an officer.
  5. The death of any civilian while in the custody of law enforcement.
- Q. Meaningful command review (also known as an administrative review) is a formal documented process to determine whether policy, training, equipment, or disciplinary issues need to be addressed.

- R. 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. They include, but are not limited to, marches, protests, and other assemblies intended to attract attention.
- S. Physical contact involves routine or procedural contact with a subject necessary to effectively accomplish a legitimate law enforcement objective. Examples include guiding a subject into a police vehicle, holding the subject's arm while transporting, routinely handcuffing a subject, and maneuvering or securing a subject for a frisk. Physical contact alone does not constitute force.
- T. 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. Restraint in the prone position presents a significant risk of asphyxia, particularly when a person is handcuffed and left in a face-down position. As soon as handcuffed and restrained, a person should be raised immediately to a seated or standing position that does not impede the mechanism of normal breathing.
- U. 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 officers to overcome unlawful force or resistance; thus, the term proportional force is not intended to mean a type and intensity of force that is exactly equal to the type and intensity of force being used by the subject. The term proportional force is intended to highlight that the level of force a law enforcement officer utilizes shall be no more than is necessary to overcome the unlawful force or resistance being confronted by the officer.
- V. 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.
- W. 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/her official authority (N.J.S.A. 2C: 29-2).
1. Active resistor is a person who is uncooperative, fails to comply with directions from an officer, and instead actively attempts to avoid physical control. This type of resistance includes, but is not limited to, evasive movement of the arm, flailing arms, tensing arms beneath the body to avoid handcuffing, and flight.
  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 an officer.

- X. Serious bodily injury means bodily injury which creates a substantial risk of death, or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ. Serious bodily injury and serious bodily harm have the same definition the purposes of this policy. See N.J.S.A. 2C:11-1(b); N.J.S.A. 2C:3-11(d).
- Y. Strategic redeployment is repositioning by an officer to increase space and time to react to a subject. It includes gaining time to de-escalate by withdrawing from the immediate vicinity of the subject if doing so will not create a threat to the safety of the public or the officer in doing so.
- Z. 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.
- AA. Tactical positioning is making advantageous uses of position, distance, and cover to reduce the risk of injury to an officer and avoid or reduce the need to use force.
- BB. Tactical team is a group of officers who are specially selected, trained, and equipped to handle high-risk incidents, including, but not limited to, those involving snipers, barricaded persons, warrant services, apprehensions, act of terrorism, and other situations or activities as deemed necessary by command leadership. Commonly used names for tactical teams include special weapons and tactics (SWAT), special response team (SRT), emergency response team (ERT), technical emergency and mission specialists (TEAMS), entry teams, rapid deployment teams, fugitive teams, etc.
- CC. Threatening assailant is a person who is threatening the use of force against an officer or another person, with or without a weapon, in an aggressive manner that may cause bodily injury. Examples may include a person armed with a weapon who fails to disarm, and an unarmed person who advances on an officer or any other person in a threatening manner thereby reducing the officer's time to react, putting the officer in reasonable fear of a physical attack.
- DD. 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, officers shall make every effort to preserve and protect human life and the safety of all persons. Officers 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 officer shall respect the sanctity of human life and the dignity of every person, and act to preserve every life, whenever possible, and avoid unnecessary injury to members of the public or themselves.

3. In carrying out their duties as guardians of public safety, officers 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. Officers 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 officer or others; or
  4. Preventing physical harm to the officer or to another person (including intervening in a suicide or other attempt of self-inflicted injury); or
  5. Protecting the officer or a third party from unlawful force; or
  6. Preventing property damage or loss.
- C. Officers 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, officers, or others, or would significantly interfere with other legitimate law enforcement objectives.
- D. Officers shall exhaust all other reasonable means to gain compliance before resorting to force, if feasible. Thus, if a safe alternative would achieve law enforcement's objective, force shall not be used. Therefore, officers shall use verbal commands, critical decision making, tactical deployment and de-escalation techniques to gain voluntary compliance, when feasible. Importantly, officers shall never engage in unnecessary, overly aggressive, or otherwise improper actions that create a situation 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 officers 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. Officers 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 officer addresses the subject and other 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 the officer's 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 the officer's 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 officer wants the subject to do).
  8. Avoiding the unnecessary display of weapons, including firearms, batons, or aerosol spray device.
- G. Generally, officers should not immediately use force when encountering noncompliance with verbal directions. Instead, and whenever feasible before using force, officers 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. Officers should consider an individual's mental, physical, developmental, intellectual disability, or other conditions, such as age of the suspect, that affect the person's ability to communicate or comply. This includes, when feasible, considering the following factors related to the individual:
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 an officer determines that one of the above listed factors exists (subsection III.H above) and is influencing the person's failure to comply with an officer's command, when feasible, the officer shall consider whether specific techniques or resources would help resolve the situation without the need to utilize force. Techniques for responding include, but are not limited to, the following:
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 officer; and
  3. Slowing down the pace of the incident by the officer 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 officers, and specially trained resources to assist in resolving the incident. These specially trained resources may include crisis intervention team-trained officers, behavioral or mental health care providers, negotiators, qualified bi-lingual officers, or 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, officers should not default to attempting to resolve the incident immediately if slowing down the pace is viable and can be accomplished without creating an immediate threat to the public or placing officers in unreasonable danger.

#### IV. CORE PRINCIPLE #3

- A. Officers shall use the least amount of force that is objectively reasonable, necessary, and proportional to safely achieve the legitimate law enforcement objective under the circumstances.
- B. In situations when officers are justified in using force, officers shall use only that degree of force that is reasonable, necessary, and proportional considering the totality of the circumstances, including the subject's mental and physical condition, the nature of the offense, and most importantly the level of resistance or threat known to the officer at the time.
- 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, officers 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 officers or the public; and
  2. The conduct of the individual being confronted, as reasonably perceived by the officer at the time; and
  3. Characteristics of the officer and subject (e.g., age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects); 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 and local ordinance violations practicing procedural justice techniques, such as explaining the officer's actions and responding to questions before resorting to force, is particularly important; and
  10. The officer's training and experience; and
  11. The potential for injury to officers, suspects, and the public.
- D. Since law enforcement encounters are never static and rapidly evolve, officers 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. Officers may increase the time available to evaluate the threat by positioning an object between themselves and the subject, being aware of their surroundings, and waiting for backup, when it is available.
- E. The level of resistance that officers 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 officer is facing at the time. The less resistance an officer faces, the less force the officer should use. The following general rules apply in determining the appropriate level of force:
1. Cooperative person – when dealing with a cooperative person, officers may rely on police presence and/or verbal control techniques but should not use force.
  2. Passive resistor – when dealing with a passive resistor, officers may rely on police presence, verbal control techniques, holding techniques, lifting/carrying, wrist locks and other manual pain compliance techniques. Greater force, such as strikes, punches, or mechanical force devices shall not be used.
  3. Active resistor – when dealing with an active resistor, in addition to the options available for passive resistors, officers may use physical strikes with hands or feet, using an aerosol spray device, or using 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).

4. Threatening assailant – in general, when dealing with a threatening assailant, officers may use all types of force options other than deadly force. This includes striking with tactical batons or using an aerosol spray device. 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 policy).
  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 policy).
- 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 an officer or to another person. However, flight from an officer does not, on its own, qualify a person as an assailant.
1. When dealing with an individual who poses a threat to the officer, the individual could be considered either a threatening assailant or an active assailant. To determine the individual's status for appropriate officer response, the officer must assess whether the threat poses an imminent danger.
  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 policy).
- G. Officers face a dynamic environment in which interactions with individuals can escalate very quickly from one level of resistance to another. For example, a passive resistor may become an active assailant in an instant.
1. In responding to the level of resistance, the officer may use the level of force that corresponds to the level of resistance the officer is facing and need not use lesser levels of force that will not address the threat that the officer faces at the time.
  2. If the individual's resistance diminishes, the officer shall immediately reduce the level of force used against the individual. If the individual stops resisting entirely, the officer must immediately cease using force.
- H. Special requirements must be met before an officer can display a firearm. Unholstering or pointing a firearm are tactics that should be used with great caution. The presence of an officer's firearm, under the right circumstances, can discourage resistance and ensure officer safety in potentially dangerous situations without the need to resort to force. However, at the same time unnecessarily or prematurely drawing a firearm could limit an officer's options in controlling a situation, could create greater anxiety on the part of the public, and could result in an unwarranted or accidental discharge of the firearm.
1. Consistent with training, officers can point a firearm at a person only when circumstances create a reasonable belief that it may be necessary for the officer to use deadly force.

2. When the officer no longer reasonably believes that deadly force may be necessary, the officer shall, as soon as practicable, secure or holster the firearm.
- I. Pain compliance techniques may be effective in controlling a passive or active resistor. Officers can only apply pain compliance techniques on which the officer has received department approved training and only when the officer reasonably believes that the use of such a technique is necessary to further a legitimate law enforcement purpose. Officers utilizing any pain compliance technique should consider the totality of the circumstances including, but not limited to, the following:
    1. The potential for injury to the officer(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 officer determines that compliance has been achieved or other more appropriate alternatives can reasonably be utilized; and
    8. Officers shall only use striking techniques directed at a subject's face as a means of self-defense, or in the defense of others. Striking at a subject's face using fists, elbows, knees, and feet, shall not be used as a means of pain compliance.
  - J. Officers must recognize the heightened risk of positional asphyxiation and compression asphyxiation during restraint and be alert to any actions that must be immediately taken to avoid or minimize the risk of asphyxiation.
    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 position. If the person cannot escape from the position, death may occur very rapidly. Thus, while using force officers 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. Officers shall take the following actions to reduce the risk of positional asphyxiation:
- a. As soon as handcuffed and restrained, a person should be immediately rolled to the side and taken to an upright position that does not impede the mechanism of normal breathing. This requirement is especially important when the subject is handcuffed face down in the prone position; and
  - 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 time; and
  - c. Officers shall continuously monitor the person's condition while being restrained, as death can occur suddenly and develop beyond the point of viable resuscitation within seconds; and
  - d. Whenever possible during team restraint, the on-scene supervisor or senior officer shall designate a '*Safety Officer*', with the responsibility to monitor the health and welfare of the person during restraint; and
  - e. The arrested person must not be transported in the prone position; and
  - f. The arrested person should be monitored prior to, during, and at the conclusion of the transport.
3. Officers 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. Mechanical force:

1. NOTE: mechanical force options could be ineffective for subjects exhibiting signs of excited delirium (see definitions) due to the subject's elevated threshold of pain. See this department's policy on *Emotionally Disturbed Persons* for instructions on dealing with someone with signs of excited delirium.
2. Tactical batons:
  - a. Batons are defensive impact tools that may be used when the justification for the use of mechanical force exists in compliance with this policy.
  - b. Batons shall only be used as instructed.
  - c. Once resistance ceases, the use of the baton as a striking tool shall cease.
  - d. Officers must exercise special care in their use and avoid striking those potentially fatal areas of the body identified during training except where deadly force is otherwise authorized.
3. 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 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. 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 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.
- L. Use of force for crowd management – the following restrictions and limitations on the use of force should be observed during peaceful demonstrations and civil disturbances. The generally applicable rules in this policy apply to both peaceful demonstrations and civil disturbances, and in all cases, weapons or other devices should be carried and deployed only by trained and authorized officers and deployed consistent with this policy.
- 1. Prior to using force against people in a crowd, officers shall:
    - a. Provide clear instructions and warnings in a manner that can be heard by persons in the crowd, such as through a bullhorn or speaker system when available.
    - b. State the consequences of refusing to comply with a mandatory directive (e.g., arrests will occur, force will be used, etc.) unless persons comply.
    - 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 policy. 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 policy.
      - 2) Shall not be used where bystanders would be unreasonably affected.
      - 3) Shall not be used against passive resisters, or indiscriminately against groups of people.

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.
  - b. May be deployed only with the specific and express approval of the IC.
  - c. May be deployed defensively to prevent injury when lesser force options are either not available or would likely be ineffective.
  - 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 an officer.

**V. CORE PRINCIPLE #4**

- A. *Deadly force shall only be used as an absolute last resort and in strict compliance with this policy. Other actions by officers 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 an officer uses with the purpose of causing, or that a reasonable officer knows creates a substantial risk of causing, death, or serious bodily injury. Discharging a firearm constitutes deadly force, unless the discharge occurred during 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/or
  2. Sitting, kneeling, or standing on a person's chest, back, or neck for a prolonged period; and/or
  3. Intentionally driving a vehicle at or in the direction of a person with the intent to strike the individual; and/or

4. Using a baton or other weapon to intentionally strike an individual in the head or neck area.
- D. An officer may use deadly force only when the officer reasonably believes that such action is immediately necessary to protect the officer or another person from imminent danger of death or serious bodily injury. Officers must adhere to the following:
1. When feasible, officers shall attempt to de-escalate situations, issue verbal warnings, or use less-lethal force with the goal of resolving encounters without using deadly force.
  2. Officers shall not use deadly force if a reasonably available alternative will avert or eliminate an imminent danger of death or serious bodily injury and achieve the law enforcement purpose safely.
  3. When feasible, prior to using deadly force the officer shall identify themselves as a law enforcement officer and give a clear verbal warning to the suspect that the officer will use deadly force.
  4. Officers shall not use deadly force when the use of deadly force creates a substantial risk of injury to innocent persons.
- E. In addition to all requirements in subsection V.D of this policy (above), an officer may only use deadly force to apprehend a fleeing suspect in the rare case when the suspect's escape would create an imminent danger of death or serious bodily injury to the officer or a member of the public if the suspect is not immediately apprehended.
- F. There are specific circumstances in which the use of deadly force is prohibited. In general, officers may not discharge their weapons or use other deadly force, as outlined above, in the following manner:
1. To signal for help; and/or
  2. To issue a warning shot; and/or
  3. To prevent property damage or loss; and/or
  4. To prevent the destruction of evidence (e.g., under no circumstances shall an officer use a chokehold, or any lesser contact with the neck area to prevent the destruction of evidence by ingestion); and/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 an officer may use deadly force against a driver or passenger of a moving vehicle. Moving vehicles create tremendous risk to officers engaged in enforcement operations, particularly officers attempting to arrest fleeing suspects. Officers must abide by the following guidelines:
1. During such operations, officers shall never intentionally position themselves in the path of a moving vehicle or a vehicle that is likely to move.

2. Officers shall make every effort to move out of the path of a vehicle to maintain their safety.
  3. Officers shall not grab onto moving vehicles or the drivers or occupants of moving vehicles. If a vehicle begins to move while an officer is engaged with the driver or an occupant, the officer shall, if feasible, disengage from the contact with the driver or occupant to avoid being dragged, carried, or struck by the moving vehicle.
  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, an officer shall not fire at the driver or occupant of a moving vehicle, unless no other means are available at the time to avert or eliminate the danger and one of the following circumstances exists:
    - a. When there is imminent danger of death or serious bodily injury to the officer or another person, created by a person in the vehicle using means other than the vehicle, such as when shots are being fired from the vehicle; or
    - b. When the suspect is driving their vehicle toward persons other than the officer in a manner creating an imminent threat of death or serious bodily injury, such as in a terrorist attack; or
    - c. When the officer is being dragged or carried by the vehicle, cannot disengage from the vehicle, and is in imminent danger of death or serious bodily injury.
- H. Shooting from a moving vehicle – strict additional requirements must be met before an officer may shoot from a moving vehicle. Every discharge of a firearm by an officer creates risk to the public and to other responding officers. Firearms discharges from moving vehicles by law enforcement officers have proven to be inaccurate and ineffective, generally creating unacceptable levels of risk. Due to these risks, officers 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 officer 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, officers shall not fire a weapon into buildings, doors, windows, or other openings when the person being fired upon is not clearly visible unless extraordinary circumstances necessitate officers to engage the subject 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 officer has an affirmative duty to take steps to prevent any use of force that is illegal, excessive, or otherwise inconsistent with such policies, regulations, and laws, if possible, before a fellow officer uses excessive, illegal, or otherwise inappropriate force. Every officer has a duty to immediately report any improper use of force.*
1. An officer'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 officer disciplinary matters, higher morale, and a healthier working environment. Preventing misconduct preserves the integrity of all officers and the law enforcement profession. Intervening to prevent improper use of force can assist fellow officers by preventing them from engaging in conduct that may be illegal, inappropriate, and in violation of this policy.
  2. All officers who observe another officer about to use force that is illegal, excessive, or otherwise inconsistent with this policy must, if feasible, do whatever they can to interrupt the flow of events before the fellow officer engages in an improper use of force. Officers can serve each other and the public by simply saying or doing the right thing to prevent a fellow officer from resorting to force illegally or inappropriately.
    - a. If officers observe a situation when another officer is attempting to intervene in an improper use of force, officers 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. Officers shall use signaling, verbal intervention, or physical intervention, if necessary, to stop any improper use of force. It is important to note that the duty to intervene does not stop at one officer. It is the responsibility of all officers to ensure use-of-force compliance.
  4. Any officer who observes or has knowledge of a use of force that is illegal, excessive, or otherwise inconsistent with this policy must:
    - a. Notify a supervisor as soon as possible; and
    - b. Submit a written report to a supervisor before reporting off duty on the day the officer becomes aware of the incident. If the supervisor is the subject of the report, officers shall report the matter to the next level of the chain of command or directly to the internal affairs supervisor in accordance with this agency's policy on *Internal Affairs*
    - c. Such supervisors must report this incident in accordance with this agency's policy on *Internal Affairs*.

5. Commanders, supervisors, and officers are prohibited from retaliating in any form against an officer who intercedes in or reports illegal or inappropriate uses of force or who cooperates with an investigation into a possible violation of this policy.

## VII. CORE PRINCIPLE #6

- A. *After any use of force, and when the environment is safe, officers shall promptly render medical assistance to any injured person consistent with the officer's training and shall promptly request emergency medical assistance for that person, if needed or requested. Officers also have a duty to monitor individuals for potential medical intervention after any officer uses force.*
- B. Following any use of force, officers shall immediately evaluate the need for medical attention or treatment for the person upon whom the force was used and provide first aid to the extent of their training except where the application of first aid will expose the officer to immediate danger.
  1. The duty to render medical assistance and monitor applies to all officers on scene and continues throughout any transportation and custody of the individual.
  2. Officers shall pay particular attention to persons reasonably believed to be pregnant, children, the elderly, physically frail individuals, and those experiencing a mental health or substance use crisis.
  3. In any instance when deadly force is used, officers 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. 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 assist as necessary.
  5. 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 need medical aid.
  6. Following the use of OC, officers shall sit the subject upright and decontaminate the subject as soon as practicable. Officers shall monitor subjects who had been exposed to OC staying alert to any obvious changes in condition or breathing and shall immediately summon medical assistance if the subject appears to need medical aid.

7. 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 once safely at headquarters; 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. Any person requesting and/or deemed in need of medical attention shall be transported to the nearest available emergency medical treatment center or hospital. Officers shall contact EMS to request such transportation assistance.
  1. Ordinarily, officers should not transport the subject in a Netcong Borough Police Department vehicle.
  2. The extent of the injury and the treatment offered/provided shall be documented in the body of the investigation report.
- D. Under no circumstances shall agency employees sign or endorse medical authorization for any person under arrest or in custody indicating that the Borough of Netcong is the responsible billing party.
- E. If available, the duty supervisor/senior officer should respond to the scene of any use of force incident where, as the result of the application of force, agency employees, bystander, or detainee/prisoner is injured, complains of injury or discomfort, and requires medical attention. The duty supervisor/senior officer or his/her designee shall also:
  1. Ensure that affected persons receive the necessary assistance, including medical attention.

2. When necessary, notify the appropriate support staff (e.g., detective, Morris County Prosecutor's Office, and/or Morris County Sheriff's Office), 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, the duty supervisor/senior officer should obtain photographic documentation to the extent possible.
3. Ensure that officers involved in the incident submit the required reports.
4. Incidents involving the use of force and/or firearms discharge by off duty officers that occur outside the boundaries of Netcong Borough shall require the following action on the part of the duty supervisor/senior officer:
  - a. Collection of preliminary data regarding the event and notification to the Chief of Police.
  - b. Provide the officer with instructions regarding his/her obligations as defined in this policy.
  - c. Establish contact with the investigating law enforcement agency and determine what assistance this department can provide.

#### **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 department policy that includes review by the law enforcement executive. The law enforcement executive shall also conduct an annual review and analysis of the overall use of force by the department.*
- B. In all instances when law enforcement force is used except when such force results in a fatality, whether on or off duty, all officers 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 officer shall complete the report before the end the shift in which the force was used, but within 24 hours.
    - b. If the officer who used force is unable to complete the report within 24 hours, it should be completed as soon the officer is able to do so, or by a supervisor within 48 hours.
    - c. If the force resulted in a fatality, only the independent investigator assigned by the Office of Public Integrity and Accountability (DCJ) can authorize the officer(s) to complete the electronic use of force report.



2. The investigation 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 2019-4*, supervisors shall not require officers deploying force, which results in death or serious bodily injury, being investigated by the independent investigator assigned by the Office of Public Integrity and Accountability (DCJ) to submit investigation or supplemental reports.
  - b. Only the independent investigator or his/her designee can order such reports. Such officers' statements to the independent investigator or his/her designee can suffice as their report of the incident.
  - c. Officers not directly involved in the application of such force, but who may have indirect involvement (e.g., secondary responders, assisting responders, witnesses, etc.) may be required to submit incident reports upon approval of the independent investigator or his/her designee.
- 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](#).
- D. Except in deadly force incidents (see subsection VIII.B.2, above), an *Operations Report* is required in all instances when an officer unintentionally discharges a firearm for any reason or discharges a firearm for other than training or recreational purposes
  1. In the event an officer, who has discharged a firearm is physically incapacitated or fatally injured during the tour and is therefore incapable of submitting this report, the duty supervisor/senior officer shall prepare the report.
  2. Except in the instance of firearms discharge to destroy or condition an animal, the duty supervisor/senior officer shall immediately notify the Chief of Police through the chain of command.
  3. If the firearms discharge was a result of an aggressive animal threatening human life, an electronic *Use of Force Report* is required in addition to the *Operations Report*.
  4. *Operations Reports* shall be forwarded to the internal affairs officer.
  5. On duty officers shall submit the report(s) prior to the conclusion of the shift on which the incident occurred.
  6. Off duty officers shall submit the report(s) as soon as circumstances permit, but in no event shall the time exceed more than 16 hours after the incident occurred.
  7. Any officer involved in a use of force incident while on-duty or off-duty in another jurisdiction shall:

- a. Immediately notify the law enforcement agency in the jurisdiction of the incident and notify the duty supervisor/senior officer as soon as practicable following the incident.
  - b. The involved officer shall fully cooperate with the investigating authority.
- E. The officer's sergeant 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 reviewing sergeant must review the *Use of Force Report* through the [DCJ reporting portal](#). The reviewing sergeant or his/her designee shall print a copy (or electronically save a copy) of the use of force report and include it with the case file.
  2. The review shall be documented on a *Morris County Use of Force Written Review Form*.
    - a. The review shall also include an examination of all available sources of information about the incident, including any video of the incident, reports, officer or other witness statements, medical records, and records of injuries. The review must also contain:
      - 1) Reason for contact including, but not limited to specific information leading up to the actual contact with the individual. For example:
        - a) Motor vehicle stops (to include reason for conducting stop).
        - b) Motorist aid calls for service.
        - c) Other calls for service (to include specific reason for the call and a history of prior contacts with the individual if they exist).
        - d) Pedestrian contacts.
      - 2) Body of review:
        - a) This shall include a descriptive narrative of the contact and the reasons leading up to the actual use of force. It shall document the actions of the individual and of the officer(s) as they unfolded, as well as the specific levels of force used and the justification.
        - b) The incident shall be reviewed inclusive of all available video/audio recordings (e.g., BWCs, wireless devices, available public/private surveillance videos), along with all corresponding reports, officer and witness statements, medical records, and records of injuries.

- c) During this phase, the reviewers shall link their analysis minimally to *Core Principle Three of the Attorney General's Use of Force Policy* (see section IV of this policy).
  3. The review shall also include an analysis of whether force was used in a non-discriminatory fashion to ensure officers are treating every person equally without discrimination based on race, ethnicity, nationality, religion, disability, gender, gender identity, sexual orientation, or any other protected characteristic.
  4. The review shall consider all available information and formulate a conclusion based on the totality of the circumstances. The review must be in accordance with the *Attorney General's Use of Force Policy*, existing statutory and relevant case law, and this policy, as applicable.
  5. The reviewing sergeant shall make a recommendation of what action, if any, should be undertaken, including commendation of the officer, policy changes, remedial training, equipment changes, administrative action, disciplinary action or, if appropriate, referral for criminal prosecution.
  6. If a ranking officer uses force, the next highest-ranking officer in that chain of command shall conduct the initial meaningful review.
  7. If the Chief of Police uses force, the internal affairs supervisor shall contact the Morris County Prosecutor's Office, who will determine the process for the meaningful command review, which could include prosecutor's office staff.
- F. The lieutenant shall also review these incidents in the same manner as described above:
1. The lieutenant shall also make a recommendation of what action, if any, should be undertaken, including commendation of the officer, policy changes, remedial training, equipment changes, administrative action, disciplinary action or, if appropriate, referral for criminal prosecution.
  2. The lieutenant shall initiate an early warning record accordingly.
- G. The Chief of Police (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 Chief of Police's (or law enforcement executive's) decision shall be memorialized and retained in the use-of-force investigative file.
1. After the review is completed, supervisory and/or training officers should examine and analyze the use of force incident, including any video evidence, with the officer as a training tool.
  2. This examination should analyze the circumstances that led to the use of force as well as the force that was used, so that the officer can gain insight into which tactics and decisions were effective and whether different tactics or decisions could have been used to improve the outcome.

- H. The Chief of Police or his/her designee is responsible for completing the annual *Use of Force Summary Report* and submitting it to the Morris County Prosecutor's Office.
- I. On a quarterly basis, but no later than (15) days after the end of each quarter, the internal affairs officer or his/her designee shall submit a report, on official letterhead and certified by the Chief of Police, to the MCPO Professional Standards Unit via email at [psusgt@co.morris.nj.us](mailto:psusgt@co.morris.nj.us), indicating the following:
  - 1. The total number of force incidents that had occurred during the reporting period.
  - 2. The types of force that were used.
  - 3. That a use of force review was completed for each in accordance with *Morris County Prosecutor's Office Directive V1C10*.
  - 4. The total number of pending force reviews.
  - 5. Use of force records and reviews are subject to audit and inspection at any time by the Morris County Prosecutor's Office. If requested, copies of use of force documentation shall be promptly provided to the MCPO.
- J. Use of force reports are subject to discovery. In indictable cases, these reports should be forwarded to CJP with the complaints, police reports, and other case documents. In non-indictable cases, the use of force reports should be made a part of the case file and included in the discovery package provided in municipal court.
- K. Use of force reports (not incident reports) may be subject to disclosure under the *Open Public Records Act*. Upon receiving an OPRA request for use of force reports, the Chief of Police or his/her designee shall consult with an assistant prosecutor before fulfilling such a request.
- L. 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.
- M. The Chief of Police (or law enforcement executive if there is a conflict) shall also conduct an annual summary and review of all use of force incidents by this agency. The review shall include, at a minimum, the following:
  - 1. Analytical reports from the [DCJ reporting portal](#); and
  - 2. An audit of any videos on a risk-based and randomly selected basis; and
  - 3. Any internal affairs 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 Police (or law enforcement executive if there is a conflict) shall determine whether changes in departmental structure, policy, training, or equipment are appropriate. The Chief of Police (or law enforcement executive if there is a conflict) shall then provide a written report documenting the annual review to the Morris County Prosecutor.

## **IX. NOTIFICATION AND INVESTIGATION REQUIREMENTS**

- A. Immediately notify the Chief of Police, lieutenant, internal affairs supervisor, and the Morris County Prosecutor's Office through the chain of command when the use of physical, mechanical, or deadly force results in death or serious bodily injury, or when an injury of any degree results from the use of a firearm by agency personnel.
  1. The Morris County Prosecutor's Office or the New Jersey Division of Criminal Justice will conduct the investigation into the use of force in accordance with the *New Jersey Attorney General's Supplemental Directive Amending Attorney General's Directive 2019-4* and *Morris County Prosecutor's Office Directive V3C23*.
    - a. No employees of this agency shall participate in the investigation nor attend any investigative activities (e.g., interviews of the principle(s) or other witnesses).
    - b. The internal affairs officer shall only investigate the administrative violation surrounding the incident and only after the Morris County Prosecutor's Office or the New Jersey Division of Criminal Justice completes its investigation.
    - c. The internal affairs officer's report shall be confidential and forwarded directly to the Chief of Police.
    - d. Copies of reports shall not be distributed to anyone unless authorized by the New Jersey Division of Criminal Justice.
  2. Members of the Major Crimes Unit are on call 24 hours a day, 7 days per week.
    - a. During normal weekday hours (8:30 am - 4:30 pm), contact the Morris County Prosecutor's Office Major Crimes Unit at 973-285-6200.
    - b. After hours, weekends and holidays, contact the Morris County Communications Center at 973-285-2900 and request that they contact the on-call Major Crimes Unit detective on your behalf.
  3. The internal affairs supervisor or other officer/employee designated by the Morris County Prosecutor or Division of Criminal Justice shall serve as a liaison to the investigative team to facilitate obtaining agency documents (e.g., personnel or internal affairs records, records involving other cases, etc.), identifying employees and providing contact information, identifying, and locating residents/witnesses, and performing other ministerial support functions

- B. Prior to the arrival of investigative staff from the Morris County Prosecutor's Office and/or the Division of Criminal Justice, the duty supervisor/senior officer or his/her designees shall complete the following tasks as soon as possible, not necessarily in the order listed:
1. Identify any remaining threats and take necessary action.
  2. Ensure that emergency medical services have been dispatched and appropriate medical aid is rendered to injured parties.
  3. Secure the scene pending the arrival of the Morris County Prosecutor's Office, and/or the Division of Criminal Justice personnel. The scene will be relinquished to the Morris County Prosecutor's Office and/or the Division of Criminal Justice, upon their arrival.
  4. Ensure that an inner perimeter is established to secure the scene(s). Direct that an outer perimeter be established to prevent all from entering except those who have a specific function to perform.
  5. Maintain a scene log documenting who enters and leaves. The scene log will be relinquished to the Morris County Prosecutor's Office and/or the Division of Criminal Justice personnel or designee upon their arrival.
  6. Secure any suspect(s) at the scene(s) unless the suspects are injured and require immediate medical care.
  7. Locate and secure in place (if no danger or threat exists) all weapons, ammunition and expended cartridges used by the suspect(s) and/or involved officer(s).
  8. Providing there is no immediate danger to anyone, preserve the involved officers' firearms in their original state at the time of the incident (i.e., not to be unloaded and/or rendered safe or reloaded).
  9. If vehicles are involved in the incident and there is no immediate danger to anyone, the vehicles shall not be moved or altered from their location at the time of the incident (e.g., emergency lights, headlights, etc.) until directed to do so by the Morris County Prosecutor's Office and/or the Division of Criminal Justice. No equipment and/or property shall be removed without authorization from the Morris County Prosecutor's Office and/or the Division of Criminal Justice.
  10. Ensure that all potential witnesses have been identified and separated and ask that they remain on-scene to provide a statement. If witnesses wish to leave, obtain their contact information for future communications.
  11. All law enforcement officers involved in the incident shall be identified and kept separated at the scene, as circumstances warrant. Document their names and agency (if different from this agency).
  12. Locate and secure in place as evidence any clothing or other personal items that may have been discarded or removed from the suspect(s) and/or officer(s) by medical personnel.

- C. Upon the arrival of investigative personnel from the Morris County Prosecutor's Office and/or the Division of Criminal Justice, agency personnel will assist as directed with certain non-investigatory tasks including, but not limited to:
1. Preserve the scene by closing roadways and conducting detours whenever feasible.
  2. As necessary, arrange and provide through the local fire department and/or DPW sufficient nighttime illumination and/or other heavy machinery or equipment at the scene.
  3. Make death notifications only as directed by the Morris County Prosecutor's Office and/or the Division of Criminal Justice in compliance with NJ Attorney General's Guidelines.
  4. Arrange for the towing of vehicles with contracted towers as required. Only flatbed towing shall be utilized. Towed vehicle(s) must be removed to a secure area where it can be easily accessed later for additional inspections but, not at a facility operated by this agency.
    - a. Towing operators **MUST** be advised **NOT** to place debris from the roadway into the passenger compartment of the vehicle(s) involved in the incident.
    - b. Towing operators **MUST** be advised to wear gloves when touching any part of the vehicle(s) involved. All vehicles being towed will be escorted by a member of lead investigative team to maintain the evidence chain-of-custody.
  5. Complete and file the *NJTR-1 Police Crash Investigation Report*, if applicable.
- D. Unless otherwise directed by the lead investigative team, the Chief of Police or his/her designee shall submit the following to the Morris County Prosecutor's Office or Division of Criminal Justice within a reasonable amount of time but, no later than five (5) days from the time of the incident:
1. Use of force reports by each officer involved.
  2. Any reports made necessary by the nature of the underlying incident (e.g., incident reports, offense reports, operations reports, CAD records, NJTR-1 reports, etc.).
  3. Pursuit incident reports (if applicable).
  4. Firearms requalification records for officer(s) who discharged a weapon.
  5. BWC logs (if applicable).
  6. Copies of BWC footage from each involved officer, witness officer and responding officer (if applicable).
  7. Police radio transmission recordings.

8. 9-1-1 recordings and logs.
  9. Agency motor vehicle inspection reports (if applicable).
  10. This agency's vehicle pursuit policy (if applicable).
  11. This use of force policy.
  12. NOTE: items 5 and 7 above will be obtained directly by the lead investigative team.
- E. All firearms discharges shall be immediately reported to the Morris County Prosecutor's Office. This requirement extends to accidental discharges and in all on duty and off duty incidents but, does not extend to destruction of sick or injured animals, recreation, training and/or qualification discharges.
- F. No employee of this agency shall directly or indirectly (i.e., through another person) shall share information learned during the use of force investigation including, but not limited to police video recordings or information learned from reviewing such videos, with any principal(s) or other law enforcement or civilian witness without prior expressed authorization from the Morris County Prosecutor's Office or Division of Criminal Justice.
1. No officer who is a witness to the use of force incident, including a principal(s), shall receive any such information from any sworn or civilian employee of a law enforcement agency without first obtaining authorization from the assistant prosecutor or assistant/deputy attorney general supervising the investigation, or his or her designee.
  2. Any dissemination or receipt of investigative information without prior authorization as required by this section shall be reported promptly to the assistant prosecutor or assistant/deputy attorney general supervising the investigation, or his/her designee, who shall investigate the circumstances.
- G. Any officer whose actions or use of force in an official capacity result in death or serious bodily injury to any person shall be removed from line-duty assignment pending a meaningful review and possible criminal investigation
1. Normally, the meaningful review and/or criminal investigation shall be conducted by the lieutenant and/or the Morris County Prosecutor's Office and shall determine whether policy, training, equipment, or disciplinary issues should be addressed. The lieutenant shall forward the use of force report, investigation report and the subsequent meaningful review to the Chief of Police.
  2. The Chief of Police may assign the investigation and/or meaningful review to another person at his/her discretion.
  3. Officers should be afforded the appropriate level of critical incident stress debriefing or counseling in comportment with agency policy.



4. The officer may be assigned to administrative duties or placed on administrative leave as soon as practicable following the incident pending a complete investigation and review of the incident. This reassignment is not considered a disciplinary action.
  - a. If any weapon(s) had been taken, it shall be treated as evidence and handled, secured, and accounted for appropriately as described in this agency's policy on *Property and Evidence*. The weapon(s) will be reissued once the Morris County Prosecutor's Office or the Attorney General authorizes such.
    - 1) An officer from whom the duty sidearm has been taken and there is reason not to rearm him/her is prohibited from carrying an off-duty handgun until authorized by the Morris County Prosecutor's Office and the Chief of Police.
    - 2) Reissuing of duty weapons should be completed as soon as practicable after the incident has been cleared.
  - b. If an officer's sidearm is taken and there is no underlying reason to not rearm the officer, consult with the Morris County Prosecutor's Office for approval and issue a spare sidearm without delay.
5. The Chief of Police or his/her designee may cause the officer to undergo a psychiatric/psychological evaluation and/or counseling by a mental health professional as a requirement to return to full duty.
6. If the officer was injured, he/she cannot return to light or full duty until the attending physician grants written permission.

## **X. TRAINING**

- A. All department personnel authorized to carry agency 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. 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), mechanical and 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 officers have an ongoing obligation to review the department's use of force directives 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.