

LITTLE FALLS POLICE DEPARTMENT STANDARD OPERATING PROCEDURE



SUBJECT: **USE OF FORCE**

EFFECTIVE DATE: February 20, 2018

NUMBER OF PAGES: 23

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

BY THE ORDER OF:
Chief of Police

PURPOSE The purpose of this standard operating procedure is to maintain compliance with guidelines and directives promulgated by the New Jersey Attorney General, the Passaic County Prosecutor, and existing statutory and case law.

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

Law enforcement officers have been granted the extraordinary authority to use force when necessary to accomplish lawful ends. In situations where officers are justified in using force, the utmost restraint should be exercised. The use of force should never be considered routine. In determining whether to use force, officers shall be guided by the principle that the degree of force employed in any situation should be only that, which is reasonably necessary. Officers should exhaust all other reasonable means before resorting to the use of force. It is the policy of the State of New Jersey and the Little Falls Police Department that officers will use only that force that is objectively reasonable when force is necessary to accomplish lawful objectives.

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

Deciding to utilize force when authorized in the conduct of official responsibilities is among the most critical decisions made by officers. It is a decision that must be made quickly and under difficult, often unpredictable and unique circumstances. Officers whose actions are contrary to law and the provisions of this SOP may be subject to disciplinary action, up to and including criminal prosecution and/or termination.

PROCEDURES

I. DEFINITIONS

A. Use of Force Options:

1. Constructive authority does not involve actual physical contact with a subject, but involves the use of officers' authority to exert control over a subject.
 - a. Examples include verbal commands, gestures, warnings, and unholstering a weapon.
 - b. Pointing a firearm at a subject is an element of constructive authority to be used only in appropriate situations.
2. Physical contact involves routine or procedural contact with a subject necessary to effectively accomplish a legitimate law enforcement objective. Examples include, guiding a subject into an agency vehicle, holding the subject's arm while transporting, handcuffing a subject and maneuvering or securing a subject for a frisk.
3. Physical force involves contact with a subject beyond that which is generally utilized to 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 an officer's authority or to protect persons or property. Examples include, wrestling a resisting subject to the ground, using wrist locks or arm locks, striking with the hands or feet, or other similar methods of hand-to-hand confrontation.
4. Mechanical force involves the use of some device or substance, other than a firearm, to overcome a subject's resistance to the exertion of an officer's authority. Examples include the use of a baton or other impact weapon, canine physical contact with a subject, or chemical or natural agent spraying.
5. Enhanced mechanical force Is an intermediate force option between mechanical force and deadly force requiring a greater level of justification than that pertaining to physical or mechanical force, but a lower level of justification than that required for the use of deadly force. Enhanced mechanical force is applied using less-lethal ammunition and/or a conducted energy device.
6. Deadly force is force which officers use with the purpose of causing, or which an officer knows to create a substantial risk of causing, death or serious bodily harm.
 - a. Purposely firing a firearm in the direction of another person or at a vehicle, building or structure in which another person is believed to be constitutes deadly force.

- b. A threat to cause death or serious bodily harm, by the production of a weapon or otherwise, so long as the purpose is limited to creating an apprehension that deadly force will be used, if necessary, does not constitute deadly force.
- B. 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).
- C. Chokehold is a weaponless control technique designed to interfere with the normal breathing of another by manually constricting his/her windpipe. Chokeholds are prohibited unless deadly force is authorized.
- D. Conducted energy device (CED) means any device approved by the New Jersey Attorney General and Passaic County Prosecutor that is capable of firing darts/electrodes that transmit an electrical charge or current intended to temporarily disable a person. CEDs are colloquially referred to as Tasers. 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. Deploy includes both definitions of discharge and fire.
 - 5. 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.
 - 6. Display means the presentation of the CED by removing the devices from its holster.
 - 7. Drive stun mode means to discharge a conducted energy device where the main body of the device is in direct contact with the person against whom the charge or current is transmitted.
 - 8. Fire means to cause the darts/electrodes of a conducted energy device to be ejected from the main body of the device and to come into contact with a person for the purpose of transmitting an electrical charge or current against the person.
 - 9. Spark display means a non-contact demonstration of a conducted energy device's ability to discharge electricity that is done as an exercise of constructive authority to convince an individual to submit to custody.
 - 10. Stun gun means any weapon or other device, which emits an electrical charge or current intended to temporarily or permanently disable a person.

- E. 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.
- F. Imminent danger describes threatened actions or outcomes that may likely occur during an encounter absent action by officers. The period of time involved is dependent on the circumstances and facts evident in each situation and is not the same in all situations. The threatened harm does not have to be instantaneous. For example, imminent danger may be present even if a subject is not at that instant pointing a weapon at officers, but is carrying a weapon and running for cover.
- G. Law enforcement officer is any officer sworn to enforce the criminal laws of the State of New Jersey, who is certified by the Police Training Commission, and includes those currently employed by the Little Falls Police Department and authorized to carry a firearm under N.J.S.A. 2C: 39-6.
- H. Meaningful review is a formal documented process to determine whether policy, training, equipment or disciplinary issues need to be addressed.

- I. Reasonable belief is an objective assessment based upon an evaluation of how reasonable officers with comparable training and experience would react to, or draw inferences from, the facts and circumstances confronting and known by the officers at the scene.
- J. Resisting arrest refers to the act of a person who purposely prevents a law enforcement officer from affecting an arrest, to include such things as threatening to use physical force or violence against the law enforcement officer or use of any other means to create a substantial risk of causing physical injury to a law enforcement officer when acting under the color of his official authority (N.J.S.A. 2C: 29-2).
 - 1. Active resistance refers to a person who uses or threatens to use physical force or violence against the law enforcement officer or another, or uses any other means to create a substantial risk of causing physical injury to the public servant or another.
 - 2. Passive resistance refers to a person who doesn't obey a command to submit to an arrest (e.g., a person refuses a police command to exit a vehicle and grabs on to the steering wheel to prevent being removed by physical force, refuses to get on the ground, etc.)
- K. 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.
- L. Substantial risk: Any discharge of a firearm entails some risk of an unintended outcome. A substantial risk exists when officers disregard a foreseeable likelihood that innocent persons will be endangered. For example, firing a weapon into a confined space (e.g., room, vehicle, etc.) occupied by innocent persons exposes those persons to a substantial risk of harm.
- M. Vascular restraint is a weaponless control technique designed to restrict a person's normal blood flow to the brain by constricting his/her carotid arteries with a chokehold or other manual pressure. Vascular restraints are prohibited unless deadly force is authorized.

II. AUTHORIZATION AND LIMITATIONS

- A. Use of physical and mechanical force (general):
 - 1. Officers may use physical force or mechanical force in the performance of their duties when they reasonably believe that such force is immediately necessary:
 - a. To protect themselves or others against the use of unlawful force by another person and the officer's immediate intervention is necessary, or;
 - b. To prevent another from committing suicide or inflicting serious bodily harm upon oneself, or;

- c. To prevent the commission or consummation of a crime or offense involving or threatening bodily harm, damage to or loss of property or a breach of the peace, or;
 - d. To prevent the escape of an arrested person from custody, or;
 - e. To effectuate the lawful arrest of any person for an offense or crime under the laws of the State of New Jersey. The use of physical or mechanical force to effectuate an arrest however is not justifiable unless;
 - 1) The arrest is lawful, and the officers make known the purpose of the arrest or reasonably believe that their identity and purpose are otherwise known by or cannot reasonably be made known to the person to be arrested, and;
 - 2) When the arrest is made under a warrant and the warrant is valid or reasonably believed by the officer to be valid.
- 2. Once all resistance or physical force being used to resist or prevent officers from carrying out their duties has ceased, use of further force on the officers' part shall cease.
 - 3. When the officer reasonably believes that physical or mechanical force is immediately necessary, the officer should assess the totality of the circumstances and apply the minimum force necessary to overcome resistance when an individual is using or threatening to use force unlawfully, and bring the situation under control in the safest manner possible.
 - 4. The use of chokeholds and vascular restraints is prohibited unless deadly force is authorized.
- B. Use of mechanical force:
- 1. Tactical batons:
 - a. Batons are defensive impact tools that may be used when the justification for the use of mechanical force exists.
 - b. Once resistance ceases, the use of the baton as a striking tool shall cease.
 - c. Batons shall only be used as instructed.
 - d. Officers must exercise special care in their use and avoid striking those potentially fatal areas of the body identified during training unless the use of deadly force is justified.

2. Aerosol spray device (oleoresin capsicum – non-flammable only):
 - a. OC is permitted in mechanical force situations where the use of force is necessary and justified to apprehend or control an individual, and the use of the OC will facilitate the arrest with the minimum chance of injury to the officer, the arrestee, or innocent bystander.
 - b. OC has been found to be generally effective in controlling persons who are under the influence of alcohol and/or narcotics, persons highly agitated or motivated, and those who are emotionally disturbed. 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.
 - c. OC must not be handled by children or unauthorized individuals.
 - d. OC has been found to be effective against aggressive animal attack and may also work well against attacking dogs. Caution must be used when repelling dogs trained to attack and/or those who are extremely motivated.
 - e. The primary target is the center facial area assuring coverage of the eye zone (eyes, forehead, and brow) – secondary is the nose and mouth. A minimum spraying distance of 36” is recommended. For multiple opponents use as much as required to control the situation based on the threat conditions facing officer.
 - 1) Because OC products have been proven to cause less injury than impact weapons it may be introduced as a use of force alternative much earlier. OC is not intended to replace empty hand control, impact tools, restraint techniques, or a firearm.
 - 2) To achieve maximum benefits, OC should be deployed with verbal commands and additional physical alternatives
 - f. Once resistance ceases, the further application of OC shall cease.
 - g. Noncompliance with an officer’s verbal commands may be considered justification in conjunction with other factors for deployment where force is otherwise authorized, but cannot be the sole justification.
 - h. OC shall not be used in the immediate vicinity of infants or the elderly unless absolutely necessary.
 - i. OC shall not be used on the operator of a motor vehicle unless the motor vehicle is first disabled (e.g. removal of keys from the ignition, etc.).

C. Use of deadly force:

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

D. Restrictions on the use of deadly force:

1. Officers are under no obligation to retreat or desist when resistance is encountered or threatened. However, officers shall not resort to the use of deadly force if they reasonably believe that an alternative to the use of deadly force will avert or eliminate an imminent danger of death or serious bodily harm and achieve the law enforcement purpose at no increased risk to themselves or another person.
2. Officers shall not use deadly force to subdue persons whose actions are only destructive to property.
3. Officers shall not use deadly force to subdue a person whose conduct is injurious only to him/herself.
4. Officers shall not discharge a weapon as a signal for help or as a warning.
5. While any discharge of a firearm entails some risk, discharging a firearm at or from a moving vehicle entails an even greater risk of death or serious injury to innocent persons. The safety of innocent people is jeopardized when a fleeing suspect is disabled and loses control of their vehicle. There is also a substantial risk of harm to occupants of the suspect vehicle who may not be involved, or involved to a lesser extent, in the actions that necessitated the use of deadly force. Due to this greater risk, and considering that firearms are not generally effective in bringing moving vehicles to a rapid halt, officers shall not fire from a moving vehicle or at the driver or occupant of a moving vehicle unless they reasonably believe:
 - a. There exists an imminent danger of death or serious bodily harm to themselves or another person; and
 - b. No other means are available at that time to avert or eliminate the danger.

6. Officers shall not fire a weapon solely to disable moving vehicles.
7. Normally, officers shall not fire a weapon into buildings, doors, windows, or other openings when the person being fired upon is not clearly visible unless extraordinary circumstances necessitate officers to engage the subject in order to protect the lives of injured persons requiring immediate rescue and evacuation from an area in which a subject's continued actions pose an imminent threat of death or serious bodily harm.
8. Destroying an animal is justified only in the following circumstances:
 - a. Officers may use a firearm to destroy an animal where the animal presents an immediate threat to human life; or
 - b. Officers may use a firearm to destroy an animal that is so badly injured that humanity requires its relief from further suffering. If the injured animal is domesticated, officers should make every reasonable effort to notify an owner. Any decision to destroy an injured domesticated animal should be made by the owner. The firearm discharge shall create no substantial risk to officers or third parties.
 - 1) When feasible, the officer should first obtain authorization from the shift commander.
 - 2) Officers shall be mindful that some animals have insufficient body mass to prevent a bullet from passing completely through their bodies. Therefore, officers must be cognizant of surrounding conditions, such as the composition of the material behind or below the animal, and nearby persons or structures that could be affected by a ricochet or deflection.
 - 3) When there is suspicion that the animal may be rabid, the point of aim should be the front shoulder area and not the head.
 - 4) Officers shall not touch an animal without first protecting themselves from blood borne pathogens.
 - 5) Notify the Board of Health or outside vendor to claim the carcass.

III. USE OF CONDUCTED ENERGY DEVICES (CED)

- A. All use of a conducted energy device must be in compliance with the [New Jersey Attorney General's Supplemental Policy on Conducted Energy Devices](#) and the [New Jersey Attorney General's Directive Revising the Supplemental Policy on Conducted Energy Devices](#) (03/03/2016) and Passaic County Prosecutor's Office directives, as amended.
- B. One of the key distinctions between the standard for using deadly force and the standard for using enhanced mechanical force is that the threat of death or serious bodily injury does not have to be imminent or immediate in order to use enhanced mechanical force.

- C. Only officers authorized to use a CED may fire and/or discharge the device during an actual operation only when:
1. The officer believes such force is reasonably necessary to prevent the person against whom the device is targeted from causing death or serious bodily injury to him/herself, an officer, or any other person; or
 2. The person against whom the device is targeted is armed with an object that that the officer reasonably believes could be used as a deadly weapon, and the person refuses the officer's command to put down or surrender the object after having been given a reasonable opportunity to do so; or
 3. The officer believes such force is reasonably necessary to prevent the immediate flight of an individual whom the officer has probable cause to believe has committed an offense in which the suspect caused or attempted to cause death or serious bodily injury; or
 4. The person against whom the device is targeted resists a lawful arrest by using or threatening to use physical force or violence against the officer or another in a manner and to a degree that the officer reasonably believes creates a substantial risk of causing bodily injury to the officer, a victim, or a bystander; and
 5. The individual will not voluntarily submit to custody after having been given a reasonable opportunity to do so considering the exigency of the situation and the immediacy of the need to employ force.
- D. Officers shall not direct an electrical charge or current against a person who has already received an electrical charge from a CED unless the person, despite the initial discharge, continues to pose a substantial risk of causing bodily injury to him/herself, an officer, or any other person.
1. The person shall be given a reasonable opportunity to submit to law enforcement authority and to comply with law enforcement commands before being subjected to a second or subsequent discharge, unless the person's conduct after the initial discharge creates a risk of bodily injury that is so immediate that any delay in applying a second or subsequent discharge would likely result in bodily injury.
 2. The person's refusal to comply with law enforcement commands after having been given a reasonable opportunity to do so shall not be a basis for a second or subsequent discharge unless the person continues to refuse to put down or surrender an object that the officer reasonably believes could be used as a deadly weapon, or unless the person continues to use or threaten to use physical force or violence against the officer, or another, in a manner and to a degree that reasonably creates a substantial risk of causing bodily injury to the officer or another.
 3. The person shall not be subjected to a second or subsequent discharge, for example, for attempting instinctively to reduce the leverage of a wristlock, hammerlock, or other pain compliance hold applied by the officer while attempting to apply handcuffs, or for bracing or pulling against an officer's attempt to pull/move him or her, unless such resistance reasonably creates a substantial risk of causing bodily injury to the officer.

4. In the event that a second or subsequent discharge is authorized and necessary the officer shall, when feasible, point the main body of the device so that the focus of the device's internal video camera is centered on the person in order to record the circumstances justifying any such second or subsequent discharge.
- E. Officers shall not direct an electrical charge or current against a person who is restrained by handcuffs unless:
1. The officer reasonably believes based on the suspect's conduct while handcuffed that such force is immediately necessary to protect the officer, the suspect, or another person from imminent danger of death or serious bodily injury; and
 2. The use of physical or mechanical force (*e.g.*, a baton or aerosol spray device) is not immediately available to be employed, has been tried and failed to stop the imminent threat of death or serious bodily injury, reasonably appears to be unlikely to stop the imminent threat if tried, or would be too dangerous to the officer or an innocent person to employ.
 3. In the event that a CED is discharged against a person who is restrained by handcuffs, the officer shall point the main body of the device so that the focus of the device's internal video camera is centered on the person in order to record the circumstances justifying the discharge.
 4. The CED may be pointed in the direction of another threat, if present, or may be dropped while under power in order to secure the subject.
- F. Officers shall not use a CED in drive stun mode unless the officer reasonably believes based on the suspect's conduct that discharging the device in drive stun mode is immediately necessary to protect the officer, the suspect, or another person from imminent danger of death or serious bodily injury.
- G. Officers are not required to exhaust the option of using a CED before using lethal ammunition in any circumstance where deadly force would be justified and authorized pursuant to this policy.
- H. A CED may be used in conjunction with a distraction device, water-based chemical agent or less-lethal ammunition. If the individual has already received an electrical charge from a CED, officers should, when feasible, provide the person a reasonable opportunity to submit to law enforcement authority and to comply with law enforcement commands, considering the physiological effects of the discharge, before deploying a distraction device, chemical agent, or less-lethal ammunition.
- I. Officers should not fire a CED if there is a substantial risk that the electrode/darts will strike an innocent person unless firing the device in such circumstances is reasonably necessary to protect the innocent person(s) from being killed or seriously injured by the person against whom the CED is targeted.
- J. 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).

- K. 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.
- L. A CED shall not be used in any environment where an officer knows or has reason to believe that a potentially flammable, volatile, or explosive material is present that might be ignited by an open spark, including but not limited to OC spray with a volatile propellant, gasoline, natural gas, or propane.
- M. While officers must at all times respect the seriousness and potential lethality of a CED, officers should use particular care when considering whether to use a CED against a individual who is particularly vulnerable due to age (either elderly or young) or due to a known or reasonably apparent medical condition (e.g., a pregnant female).
- N. The following uses are prohibited:
 - 1. A CED shall not be used or threatened to retaliate for any past conduct or to impose punishment.
 - 2. A CED shall not be fired or discharged against a person who is exhibiting only passive resistance to officer's command to move from or to a place, to get onto the ground, or to exit a vehicle. A CED shall not be fired or discharged against a person, for example, who is attempting instinctively to reduce the leverage of a wristlock, hammerlock, or other pain-compliance hold applied by an officer, or who is bracing or pulling against an officer's attempt to pull/move him or her.
 - 3. A CED shall not be fired or discharged for the sole purpose of preventing a person from committing property damage.
 - 4. A CED shall not be fired or discharged against the operator of a moving vehicle unless the use of deadly force against the operator would be authorized.
 - 5. Two or more CEDs shall not be discharged upon a person at the same time, unless the initial CED device malfunctions.
- O. During the deployment of a CED, the deploying officer shall, when feasible, continually evaluate the options selected against changing circumstances.
- P. Officers trained and authorized to carry a CED should be aware of any targeting recommendations made by the manufacturer.
- Q. To ensure officer safety and when feasible, at least one law enforcement officer other than the one deploying the CED should be present, and be armed with lethal ammunition, and be prepared to deploy deadly force in the event that the use of a CED for any reason fails to incapacitate the suspect and prevent him or her from causing death or serious bodily injury to the officer equipped with the device, or any other person.

- R. When feasible, the officer should warn the person against whom the CED is directed of his/her intent to fire the CED. If a second or subsequent discharge is authorized, when feasible, the officer should warn the person that he/she intends to discharge the CED again. It shall not be necessary for an officer to warn the person of the impending firing/discharge of the device or to provide the person with an opportunity to submit to law enforcement authority before firing/discharging the device if the person's conduct is creating a risk of death or serious bodily injury that is so immediate that any delay in firing/ discharging the device would likely result in death or serious bodily injury (e.g., where the person is actively engaged in committing an aggravated assault, or is actively engaged in an attempt to commit suicide or an act of self-mutilation).
- S. Officers shall not un-holster a CED during an actual operation unless he/she reasonably believes that it may be necessary for him/her to use the CED. Officers shall not exhibit a CED to a person or conduct a spark display during an actual operation unless he/she reasonably believes that display of the device and/or a demonstration of its ability to discharge electricity as an exercise of constructive authority would help to establish or maintain control in a potentially dangerous situation in an effort to discourage resistance and ensure officer safety.
- T. Officers may also un-holster and/ or exhibit a CED and/or conduct a spark display if another officer on the scene has un-holstered and/or exhibited a firearm in accordance with this SOP.
- U. Through verbal commands, officers may threaten to use a CED, so long as the officer's purpose is limited to creating an apprehension that the device will be used if necessary.
- V. In all instances when a CED is fired at or discharged upon a person, the shift commander (or his/her designee if the shift commander discharges the CED) shall take custody of the CED including discharged parts (i.e. AFIDS and darts/electrodes), place them into an evidence receptacle, affixed with a biohazard label, and secured as evidence in accordance with this department's SOP on *Property and Evidence*.
1. The internal affairs commander or other supervisor designated to download CED data shall download all data from the device onto the department server and backup the data to digital preservation media-such as electronic, magnetic, or optical storage media (i.e. DVD or other optical discs, USB flash memory/drive, solid-state drives, memory sticks, or other reliable technology) to preserve a record of the event as evidence.
 2. The internal affairs commander or other supervisor designated to download CED data shall print out a copy of the related firing data and submit it with the use of force report of the incident. The firing data report shall also be scanned and attached with the respective report and entered into evidence as appropriate.
 3. Once the data is secure on the department server and burned to digital preservation media, the event shall be erased from the device and the unit shall be placed back in service unless otherwise directed by the Passaic County Prosecutor's Office or the Division of Criminal Justice.

4. Under no circumstances, shall any Little Falls police personnel access, view, tamper with, delete, alter or disseminate any recordings or associated data contained within a CED except in compliance with this policy. Under no circumstances, shall any Little Falls police personnel direct any other person(s) to access, view, tamper with, delete, alter or disseminate any recordings or associated data contained within a CED except in compliance with this SOP.
- W. Any firing or discharge of a CED against a person, except as authorized by this SOP, is prohibited. Any intentional misuse or reckless abuse of any such device will not be tolerated and will result in administrative discipline, criminal prosecution, or both.

IV. EXHIBITING A FIREARM OR CED

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

V. AFTER ACTION REQUIREMENTS

- A. Following the use of force, officers shall immediately evaluate the need for medical attention or treatment for the person upon whom the force was used and provide first aid to the extent of their training except where the application of first aid will expose the officer to immediate danger.
1. In any instance where force is used and results in bodily injury, officers shall summon EMS (and paramedics if a serious injury) as soon as practicable. While EMS and paramedics will not enter an area that is not tactically secure, they should still be summoned to a secured area near the scene to expedite treatment for the person being brought to that location.
 2. If a baton is used, officers shall observe the affected subject(s) for obvious changes in condition or breathing and shall immediately summon medical assistance if the subject appears to be in need of medical aid.

3. Following the use of OC, officers shall sit the subject upright and allow the subject to decontaminate as soon as practicable. Officers shall monitor subjects who had been exposed to OC staying alert to any adverse changes in condition, breathing or excited delirium and shall immediately summon medical assistance if these conditions persist.
4. 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. Officers shall be on constant alert for medical problem(s) or difficulty that the exposed subject may experience. Officers shall also monitor for positional asphyxiation.
 - g. If the affected area(s) remain inflamed or discomfort continues beyond 45 minutes, arrangements may be made for medical treatment if necessary.

B. Summon EMS to transport subjects to a medical facility for examination if any of the following circumstances exist:

1. The subject requests medical attention;
2. The subject had been rendered unconscious or unresponsive;
3. The subject, after being subjected to a discharge, does not appear to have recovered normally, as described in CED training;
4. The subject has exhibited signs of excited delirium prior to, during, or after the discharge of the CED;
5. The subject has suffered bodily injury requiring medical attention as a result of a fall, or otherwise reasonably appears to be in need of medical attention;
6. The subject was exposed to three or more discharges from a CED during the encounter;

7. The subject has been exposed to a continuous discharge lasting 15 seconds or more;
 8. No one present at the scene is qualified or authorized to remove the CED darts/electrodes from the subject's person;
 9. An officer trained and authorized to remove darts/electrodes experiences difficulty in removing a dart/electrode; or
 10. Any part of a CED dart/electrode has broken off and remains imbedded.
- C. An officer is authorized to remove a CED dart/electrode from a subject only if the officer has received training on dart/electrode removal, provided, however, that an officer is not authorized to remove a CED dart/electrode from any part of the person's head or neck, or where the dart/electrode is located in the area of the subject's genitalia, or female breast. In the absence of exigent circumstances requiring immediate action, only qualified medical personnel can remove a CED dart/electrode from these areas.
- D. Any person requesting and/or deemed in need of medical attention shall be transported by ambulance to the nearest available emergency medical treatment center or hospital. Officers shall contact EMS to request such transportation assistance.
1. Officers should not ordinarily transport the subject in a Little Falls Police Department vehicle.
 2. The extent of the injury and the treatment offered/provided shall be documented in the narrative of the incident report.
- E. Under no circumstances shall officers sign or endorse any medical authorization indicating that the Township of Little Falls is the responsible billing party for any person under arrest or in custody.
- F. The internal affairs commander shall be notified of any firearms or CED discharge, excluding training discharges at the practice range. The shift commander or his/her designee shall:
1. Ensure that affected persons receive the necessary assistance, including medical attention;
 - a. If the officer was injured during the incident, he/she shall be removed from the scene as soon as possible; and
 - b. Treated by a competent physician.
 2. In all cases of a firearm's discharge by a police officer, the appropriate support staff shall be notified, e.g. detective bureau, internal affairs office, Passaic County Prosecutor's Office, etc.
- G. Any officer whose action(s) or use of force in an official capacity results in death or serious bodily injury to any person shall be removed from line-duty assignment pending a meaningful review.

1. The meaningful review shall normally be conducted by the patrol operations commander and shall determine whether policy, training, equipment or disciplinary issues should be addressed. This review shall be coordinated with the Passaic County Prosecutor's Office. The patrol operations commander shall forward the use of force reports, incident reports 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 compartment with agency SOP.
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 department's SOP on property and evidence. The weapon(s) will be reissued once the Passaic County Prosecutor's Office or the Attorney General adjudicates the case.
 - 1) An officer from whom the duty sidearm has been taken and there is reason to not rearm him/her is prohibited from carrying an off duty handgun until authorized by the Passaic 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 Passaic County Prosecutor's Office for approval and issue a spare sidearm without delay.
5. The Chief of Police 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.

VI. ARRESTS REQUIRING THE USE OF FORCE

- A. Except when dealing with an EDP, whenever a person resists the officer's action and force is used, one of the following charges (whichever is applicable) should be made against the subject. This charge is in addition to the charges that precipitated the arrest.
 1. N.J.S.A. 2C: 29-2a(1) – a person is guilty of a disorderly persons offense if he purposely prevents a law enforcement officer from effectuating a lawful arrest; or

2. N.J.S.A. 2C: 29-2a (2) – a person is guilty of a crime of the fourth degree if, by flight, he purposely prevents or attempts to prevent a law enforcement officer from effectuating an arrest.
3. N.J.S.A. 2C: 29-2a (3) – a person is guilty of a third degree crime if he used or threatened to use physical force or violence against the law enforcement officer or another; or, (2) subject used any other means to create a substantial risk of causing physical injury to the public servant or another.

VII. NOTIFICATION AND INVESTIGATION REQUIREMENTS

- A. Immediately notify the Chief of Police, division commander, internal affairs commander, and the Passaic 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 whenever a firearm is discharged causing any injury by agency personnel.
 1. The prosecutor's office will conduct the investigation into such use of force in accordance with the *New Jersey Attorney General's Supplemental Directive Amending Attorney General's Directive 2006-5*. The prosecutor's office is also responsible for making the necessary notifications to the Division of Criminal Justice. DCJ may supersede the investigation where there may be a conflict or if the matter is better handled at the state level.
 - a. The internal affairs commander shall only investigate the administrative issues surrounding the incident. If the officer's actions are potentially criminal in nature, then the administrative internal investigation must cease.
 - b. The internal affairs commander's report shall be confidential and forwarded directly to the Chief of Police.
 - c. Copies of reports shall not be distributed to anyone unless authorized by the Chief of Police and the Passaic County Prosecutor's Office.
 2. When a prosecutor's detective or investigator, assistant prosecutor, or the prosecutor is involved in the use of force incident, the Division of Criminal Justice (DCJ) will be the lead-investigating agency.
 3. If the DCJ becomes the lead-investigating agency, a shooting response team consisting of DCJ investigators and members of the New Jersey State Police Major Crimes Unit shall normally conduct the investigation.
 4. When a state investigator, deputy attorney general, or assistant attorney general, or any other law enforcement officer employed by a state or federal agency is involved in a use of force incident, the Passaic County Prosecutor's Office will generally conduct the subsequent investigation unless otherwise directed by the Attorney General.
 5. When a member of the New Jersey State Police or a member of any agency supervised by the New Jersey State Police is involved in a use of force incident, DCJ is normally the lead investigating agency, but DCJ may refer the case to the Prosecutor's Office.

- B. All firearms discharges by a police officer shall be reported to the Passaic County Prosecutor's Office. This requirement extends to unintentional discharges and in all on duty and off duty incidents, but does not extend to recreation, training and/or requalification discharges.
- C. Following the deployment of a CED or the discharge of a CED against a person, the shift commander or his/her designee shall contact the Passaic County Sheriff's Office at 973-389-5900, as soon as practicable, but within three (3) hours.
 - 1. The Passaic County Sheriff's Office will contact the Passaic County Prosecutor's Office CED designee and provide a contact name and call back number.
 - 2. Upon a return call from the CED designee, the shift commander or his/her designee will provide, at minimum, the following information:
 - a. Agency name;
 - b. Contact person's name and telephone number;
 - c. Type of CED deployment (i.e., cartridge (probe) and/or drive-stun);
 - d. Location of incident;
 - e. Date and time of incident;
 - 3. Following the deployment of a CED or the discharge of a CED against a person resulting in serious bodily injury and/or death, the shift commander or his/her designee shall IMMEDIATELY contact the Passaic County Prosecutor's Office and provide the above information.

VIII. REPORTING REQUIREMENTS

- A. In all instances when physical, mechanical, enhanced mechanical or deadly force is used, whether on or off duty, each officer who had employed such force shall complete and submit:
 - 1. A use of force report, which must be completed prior to viewing any MVR footage. NOTE: in deadly force incidents, officers are prohibited from viewing MVR footage except with the expressed consent of the Passaic County Prosecutor's Office or Division of Criminal Justice. The original use of force report must be placed in the case file of the incident; and
 - 2. A *Conducted Energy Device Deployment Review Report* (when a CED is deployed); and
 - 3. The incident report made necessary by the nature of the underlying incident; except:
 - a. In accordance with *New Jersey Attorney General's Supplemental Directive Amending Attorney General's Directive 2006-5*, supervisors shall not require officers deploying force, which results in death or serious bodily injury, to submit incident or supplemental reports. Officers are still required to submit *Use of Force* reports.

- b. Only the Passaic County Prosecutor's Office or the Division of Criminal Justice can order such reports. In lieu of reports, the involved officers' statements to the Passaic County Prosecutor's Office or Division of Criminal Justice could 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 also be required to submit investigation and/or supplemental reports upon approval of the lead investigating agency (i.e., Passaic County Prosecutor's Office or Division of Criminal Justice).
 4. Following the discharge of a CED as an element of force, a supervisor designated to download CED data shall print out a copy of the related firing data and submit it with the *Use of Force Report*.
 5. When dealing with emotionally disturbed persons or medical calls requiring force, officers shall note such in the incident report. If excited delirium is suspected, the following information should be included in the report:
 - a. Conditions at the incident scene;
 - b. Description of the subject's behavior and its duration;
 - c. Description of what the subject said during the encounter;
 - d. Type and duration of resistance;
 - e. Identity of all officers at the scene;
 - f. Actions taken to control the subject;
 - g. Restraints used on the subject and the length of time applied;
 - h. Location of the restraints on the subject;
 - i. Means of transport;
 - j. Behavior of the subject during transport;
 - k. Means of resuscitation, if applicable;
 - l. Information from relatives and friends of the subject that can provide insight to the potential causation of the incident.
- B. In all instances where constructive authority results in the pointing of a firearm or CED at another person, the facts and circumstances shall be reported on the incident report or CAD record made necessary by the nature of the precipitating incident.
- C. A firearms discharge report is required in all instances when an officer unintentionally discharges a firearm for any reason, or intentionally discharges a firearm for other than training or recreational purposes.

1. In the event an officer, who has discharged a firearm is physically incapacitated or fatally injured during the shift and is therefore incapable of submitting this report, the shift commander shall prepare the report.
 2. Except for instances where a firearm is used to euthanize an animal, the shift commander or his/her designee shall immediately notify the patrol operations commander of the discharge. Discharges for animal destruction can be reported to the patrol operations commander the next business day.
- D. An *Incident Report* is required in all instances when an officer unintentionally discharges a CED for any reason, or intentionally discharges a CED for other than training.
- E. An incident report is required in all instances where an officer takes an official action that results in, or is alleged to have resulted in death or injury to another person.
- F. The shift commander (or detective supervisor in the case of a detective using force) 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. Recommendations to modify policy, apply remedial training beyond what can be performed by a supervisor, change weapons, equipment, or tactics, or apply discipline shall be thoroughly documented and forwarded through the chain of command to the Chief of Police.
1. If a supervisor uses force, the patrol operations commander (or detective supervisor) shall conduct the initial review.
 2. If a commanding officer uses force, the internal affairs commander or his/her designee shall conduct the initial review.
- G. The patrol operations commander shall review all use of force incidents to determine whether:
1. The relevant SOP was clearly understandable and effective to cover the situation;
 2. Department equipment is adequate;
 3. Department training is currently adequate;
 4. Departmental rules, policy or procedures were followed.
- H. All instances when a CED has been fired or discharged against a subject:
1. The internal affairs office commander will review the incident and report on the incident to the Chief of Police, providing the Chief of Police information on all relevant circumstances, deployment, and outcome, including whether the deployment avoided injury to an officer and avoided the need to use deadly force.
 2. Upon receipt, the Chief of Police shall render a finding on whether the firing and all discharges complied with the *New Jersey Attorney General's Supplemental Policy on Conducted Energy Devices* and this SOP.

3. The Chief of Police or his/her designee shall forward the report to the Passaic County Prosecutor's Office Public Integrity Unit within three (3) business days of the firing/discharge, unless the Passaic County Prosecutor's Office Public Integrity Unit grants the Chief of Police's request for a reasonable extension of time within which to forward the report for good cause shown.
4. Such report shall contain:
 - a. The Chief of Police's findings;
 - b. The completed *Use of Force Report(s)*;
 - c. *A CED Deployment Review Report(s)*;
 - d. The officer(s) written report(s) on the use of force and any other associated incident reports;
 - e. Two copies of the CED downloaded video;
 - f. Two copies of any other related video (e.g., MVR footage, surveillance footage, etc.);
 - g. A copy of the deploying officer's training records;
 - h. A copy of the officer's last CED qualification record; and
 - i. A printed copy of the CED downloaded firing data
- I. The internal affairs commander or his/her designee is responsible for completing the annual use of force summary report and submitting it to the Prosecutor's Office.
- 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 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.

IX. TRAINING

- A. All officers authorized to carry agency lethal, enhanced mechanical force weapons, and mechanical force weapons shall be issued copies of, and be instructed in, this SOP prior to being authorized to carry a weapon. This issuance and instruction shall be documented and may be accomplished electronically.
- B. Use of force training shall be conducted concurrent with the semiannual firearms training and qualification sessions. This training must reflect current standards established by statutory and case law, as well as state and county policies, directives, and guidelines. The training program will include the use of force in general, the use of physical and mechanical force, the use of deadly force, decision making skills; the limitations that govern the use of force and deadly force; and all applicable aspects of agency SOPs. This instruction shall be documented and may be accomplished electronically.
- C. The training coordinator is responsible for submitting all use of force training summary reports to the Prosecutor's Office with a copy forwarded to the Chief of Police.