

	<b>RUTGERS UNIVERSITY POLICE DEPARTMENT WRITTEN DIRECTIVE SYSTEM</b>		<b>1:8</b>
	<b>USE OF FORCE</b>		
	<b>Effective Date: 01-07-2025</b>		<b>Supersedes: 1:8 (01-25-2022)</b>

**1:8-1**

## **PURPOSE**

The purpose of this directive is to provide clear and concise guidelines regarding the use of force by members of this agency.

**1:8-2**

## **POLICY**

Although officers are necessarily granted the authority to use force to accomplish lawful objectives, **force must only be used as a last resort**. The Fourth Amendment further requires that an officer's use of force be "objectively reasonable." *Graham v. Connor*, 490 U.S. 386 (1989). This provision, however, provides a constitutional "floor" for officer use of force that all officers must meet. This directive goes beyond the minimum constitutional requirements set forth in *Graham*.

This directive is premised on seven core principles that guide every law enforcement interaction and are designed to ensure that law enforcement officers preserve the sanctity of life, as well as the dignity, rights and liberties of the public at every turn. It requires, whenever feasible, that officers use "critical decision-making" and de-escalation techniques to reduce the amount of force used or avoid it altogether. Force is only authorized when necessary as a last resort and requires that the amount of force used always be reasonable and proportional to further a lawful law enforcement objective. This directive also provides more detailed guidelines for officers to use in the face of situations that may require the use of force. In addition, it establishes a robust duty for all officers to intervene to prevent or stop improper uses of force.

Officers face dynamic, quickly evolving, and potentially dangerous situations that require split-second decisions. Therefore, officers who act in good faith consistent with this directive will be strongly supported in any subsequent review of their conduct regarding their use of force. However, those who do not follow the directive may face administrative action, or disciplinary action—up to and including termination—and, depending on the conduct, criminal consequences.

As detailed herein, to ensure adherence to the Use of Force Policy, every use of force must be reported prior to the employee reporting off duty and will undergo a meaningful command-level review.

Finally, strict adherence to this directive will ensure a mutually respectful relationship between the public and law enforcement, allowing law enforcement to effectively do their jobs as guardians of public safety. If the public understands that officers prioritize de-escalation and only when necessary as a last resort, use force with restraint and in an even-handed, non-discriminatory manner, they will be more likely to support law enforcement and comply with their lawful requests. This, in turn, will reduce the number of instances in which force is needed and improve both public and officer safety.

## CORE PRINCIPLES

New Jersey's Use of Force Policy for law enforcement and this directive requires all officers to adhere to the following seven principles:

- 1) **The Sanctity of Human Life:** Officers must make every effort to preserve and protect human life and the safety of all persons; respect and uphold the dignity of all persons at all times; and never deploy force in a discriminatory manner.
- 2) **De-Escalation & Force as a Last Resort:** Officers must focus on de-escalation techniques including use of verbal commands. Force must only be used as a last resort and only when necessary to accomplish lawful objectives, when other steps cannot achieve such objectives. Force shall never be used as a retaliatory or punitive measure.
- 3) **Reasonable, Necessary, and Proportional Force:** In situations where officers are authorized to use force, they shall use the least amount of force that is reasonable, necessary, and proportional to safely achieve a lawful law enforcement objective.
- 4) **Deadly Force as a Last Resort:** Even where force is authorized, deadly force shall only be used as an absolute last resort and in compliance with the strict conditions set forth in the new policy.
- 5) **Duty to Intervene:** Every officer has an affirmative duty to take steps to prevent illegal or excessive uses of force by other officers and to immediately report any such incidents.
- 6) **Duty to Render Medical Assistance:** After any use of force, officers shall promptly provide medical assistance to any injured person, and request emergency medical assistance if needed or requested. Officers must also monitor individuals for potential medical intervention after any officer uses force.
- 7) **Duty to Report and Review Uses of Force:** Every use of force must be reported using the statewide Use of Force Portal, and all uses of force must undergo a meaningful command level review, including review by the law enforcement chief executive.

## DEFINITIONS

**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.

**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.

**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. See N.J.S.A. 2C:11-1(a); N.J.S.A. 2C:3-11(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.

**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 are prohibited, unless deadly force is warranted.

**Conducted Energy Device (CED)** is any device approved by the Attorney General that is capable of firing darts/electrodes that transmit an electrical charge or current intended to temporarily disable a person.

**Constructive Authority** is not considered a use of force because it does not involve physical contact with the subject. Rather, constructive authority is the use of the officer's authority to exert control over a subject. Examples include verbal commands, gestures, warnings, and un-holstering a weapon. Pointing a firearm at a subject is an example of constructive authority to be used only in appropriate situations.

**Cooperative Person** is a person who responds to and complies with an officer's directions.

**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.

**De-escalation** refers to the action of communicating verbally or non-verbally in an attempt 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.

**Deadly Force** is force which an officer uses with the purpose of causing, or which the officer knows creates a substantial risk of causing, death or serious bodily injury. Discharging a firearm, constitutes deadly force, unless the discharge occurred during the course of a law enforcement training exercise, routine target practice at a firing range, a lawful animal hunt, or the humane killing of an injured animal. 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.

**Enhanced Mechanical Force** is an intermediate force option between mechanical force and deadly force, generally requiring a greater level of justification than that pertaining to physical or mechanical force, but a lower level of justification than that required for the use of deadly force. Unlike deadly force, enhanced mechanical force does not require an imminent threat of death or serious bodily injury. *Examples include conducted energy devices and less-lethal devices and ammunition.*

**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.

**Imminent Danger** means threatened actions or outcomes that are immediately likely to occur during an encounter absent action by the officer. The period of time involved is dependent on the circumstances and facts evident in each situation and is not the same in all situations. The threatened harm does not have to be instantaneous, for example, imminent danger may be present even if a subject is not at that instant pointing a weapon at the officer, but is carrying a weapon and running for cover to gain a tactical advantage.

**Law Enforcement Executive** is the Chief of University Police. In situations where the Chief of University Police is recused from a matter, then “law enforcement executive” refers to the next highest-ranking officer without a conflict.

**Law Enforcement Officer** is any person who is employed as a sworn member of any state, county, or municipal law enforcement agency, department, or division of those governments who is statutorily empowered to act for the detection, investigation, arrest, conviction, detention, or rehabilitation of persons violating the criminal laws of this State. The term law enforcement officer shall include sworn members of the New Jersey State Police, the Division of Criminal Justice and the Juvenile Justice Commission. It shall also include College and University Police Officers pursuant to N.J.S.A. 18A:6-4.2 et seq., State Parole Officers pursuant to N.J.S.A. 2A:154-4, State Correctional Police Officers pursuant to N.J.S.A. 2A:154-4, County Correctional Police Officers pursuant to N.J.S.A. 2A:154-3, Special Law Enforcement Officers of all classes pursuant to N.J.S.A. 40A:14-146.8 et seq., Humane Law Enforcement Officers appointed pursuant to N.J.S.A. 4:22-14.1 or 4:22-14.4, Auxiliary Police Officers appointed pursuant to N.J.S.A. App.A:9-45(c), and Constables appointed pursuant to N.J.S.A. 40A:9-120.

**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 an asp, baton, or other object, oleoresin capsicum (OC) spray or the physical apprehension by canines.*

**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.

**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. For purposes of the application of the provisions of this directive, inmates and detainees in a correctional institution who fail to comply with an order from a correctional police officer shall not be considered peaceful demonstrators.

**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.

**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.*

**Positional Asphyxiation** is insufficient intake of oxygen as a result 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.

**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.

**Reasonable Belief** is an objective assessment based upon an evaluation of how a reasonable 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.

**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).

**Strategic Redeployment** means the 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.

**Tactical Communication** are 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.

**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.

**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 (S.W.A.T.), Special Response Team (S.R.T.), Technical Emergency and Mission Specialists (T.E.A.M.S.), Entry Teams, Rapid Deployment Teams, and Fugitive Teams.

**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.*

**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.

**1:8-5 CORE PRINCIPLE #1 – THE SANCTITY OF HUMAN LIFE AND SERVING THE COMMUNITY**

- a. 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.
- b. 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.
- c. In carrying out their duties as guardians of public safety, officers shall at all times 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.

**1:8-6 CORE PRINCIPLE #2 – FORCE AS A LAST RESORT AND DUTY TO DE-ESCALATE**

- a. **Authority to use force.**

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;
  - 2. carrying out a lawful search;
  - 3. overcoming resistance directed at the officer or others;
  - 4. preventing physical harm to the officer or to another person (including intervening in a suicide or other attempt of self-inflicted injury);
  - 5. protecting the officer or a third party from unlawful force; or
  - 6. preventing property damage or loss.
- b. **Prohibitions on certain force.**

Officers may not use or threaten to use force for any following reasons:

  - 1. To punish a person or to retaliate against them for past conduct;
  - 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.
- c. **Force as a last resort.**
  - 1. Officers shall exhaust all other reasonable means to gain compliance before resorting to force, if feasible.
  - 2. If a safe alternative would achieve law enforcement's objective, force shall not be used.
  - 3. Officers shall use verbal commands, critical decision making, tactical deployment and de-escalation techniques to gain voluntary compliance, when feasible.

4. Officers shall never engage in unnecessary, overly aggressive, or otherwise improper actions that create a situation where force becomes necessary.
- d. 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;
  2. collect available information;
  3. assess situations, threats, and risks;
  4. identify options for conflict resolution;
  5. determine the best course of action; and
  6. act, review, and re-assess the situation as it evolves.
- e. De-escalation is the action of communicating verbally or non-verbally in an attempt 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 person and the other officers remain detached as safety permits as to not escalate the situation; and splitting up individuals at the scene who may be 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); and
  8. Avoiding the unnecessary display of weapons, including firearms, Conducted Energy Devices (CEDs), batons, or OC Spray.
- f. Officers should generally not use force immediately when encountering noncompliance with verbal directions. Instead, whenever feasible, before using force, officers shall:
  1. Provide clear instructions and warnings;
  2. Attempt to determine whether the person has a special need, mental condition, physical limitation, developmental disability, or language barrier (See 1:8-6(g), *below*);
  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.
- g. 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;
  2. Drug interaction;
  3. Medical condition;
  4. Mental impairment;
  5. Physical limitation;
  6. Developmental disability, including autism spectrum disorder;
  7. Cognitive impairment or intellectual disability;
  8. Hearing loss or impairment;
  9. Communication disorder, including speech impairment;
  10. Language barrier;
  11. Visual impairment;
  12. Age; or
  13. Other factors beyond the individual's control.
- h. Whenever an officer determines that one of the above listed factors exists 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;
  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;
  3. Slowing down the pace of the incident by the officer slowing their speech, taking deep breaths, and/or applying strategic and critical thinking;
  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 less-lethal devices;
  5. Using time as a de-escalation strategy, thereby creating an opportunity to calm the non-compliant person;
  6. Using simplified speech and shorter verbal directions or instructions;
  7. Eliminating or reducing sensory distractions (bright flashing lights, sirens, or other loud noises); and
  8. Reasonable strategy that lessens the emotional anger, frustration, combativeness of a subject or others who may be present may be appropriate.



- i. 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.

**1:8-7 CORE PRINCIPLE #3 – DUTY TO USE ONLY OBJECTIVELY REASONABLE, NECESSARY, AND PROPORTIONAL FORCE**

- a. **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.
- b. The decision to use force and the appropriate amount of force requires careful attention to the facts and circumstances of each incident. The officer must, as time permits and is feasible, 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;
  - 2. The conduct of the individual being confronted, as reasonably perceived by the officer at the time;
  - 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);
  - 4. The effects of drugs or alcohol;
  - 5. The individual's mental state or capacity;
  - 6. The proximity of weapons or dangerous improvised devices;
  - 7. The degree to which the subject has been effectively restrained and their ability to resist despite being restrained;
  - 8. The availability of other options and possible effectiveness;
  - 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)*
  - 10. The officer's training and experience; and
  - 11. The potential for injury to officers, suspects, and the public.
- c. 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, in order 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.**
- d. The level of resistance that an officer encounters is a key factor in determining the appropriate amount of force that may 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. Consistent with training, 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, CEDs, or less lethal devices shall not be used.
  3. Active Resistor. When dealing with an active resistor, in addition to the options available for passive resisters, officers may use physical strikes with hands or feet, OC spray, batons or asps 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. Police canines shall not be utilized against an active resistor.
  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 batons or asps, less lethal ammunition, and CEDs. 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 baton or asp are considered deadly force and can only be used when deadly force is allowed.
  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 Four of this Policy.
- e. 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. 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. 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 Four of this Policy.
- f. 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. 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. 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.
- g. Special requirements must be met before an officer may 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. At the same time, however, unnecessarily or prematurely drawing a firearm could limit an officer's options in controlling a situation, could create greater anxiety on the part of citizens, and may result in an unwarranted or accidental discharge of the firearm.

1. Pointing a firearm. Consistent with training, officers may 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. 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.
  2. Reporting the pointing of a firearm. Pointing a firearm, though not a use of force, constitutes a seizure that must be reported as a Show of Force on the Attorney General's Use of Force Reporting Portal.
  3. An officer engaged in the operation of a tactical team shall be required to report the pointing of a firearm only when the pointing involves a sustained active engagement with a person in order to gain that person's compliance. A member of a tactical team who quickly "sweeps" a room during an operation need not report each person at whom a firearm was momentarily pointed during the sweep.
- h. Pain compliance techniques may be effective in controlling a passive or active resistor. Officers may only apply pain compliance techniques for 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;
  2. the potential risk of serious injury to the individual being controlled;
  3. whether the pain compliance technique is effective in achieving an appropriate level of control or a different technique should be employed;
  4. the nature of the offense involved;
  5. the level of resistance of the individuals(s) involved;
  6. whether immediate resolution is necessary;
  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.
- i. 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. 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, in the course of using force officers shall be alert to the following heightened risk factors for positional asphyxiation:
1. alcohol or drug intoxication;

2. possible mental health episode or incident;
  3. a substantially overweight individual;
  4. possible suffering of respiratory muscle fatigue (exhaustion);
  5. possible airway obstruction; and
  6. unconsciousness.
- j. Officers shall take the following actions to reduce the risk of positional asphyxiation:
1. 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;
  2. Care should be taken not to put sustained pressure on the neck or back, as breathing can be restricted even if the person is placed in the recovery position. This includes sitting, kneeling, or standing on a person's chest, back, or neck for a prolonged period of time;
  3. 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;
  4. Whenever possible during team restraint, a "Safety Officer," with the responsibility to monitor the health and welfare of the person during restraint, should be designated;
  5. The arrested person must not be transported in the prone position; and
  6. The arrested person should be monitored prior to, during, and at the conclusion of the transport.
- k. Officers shall continually monitor the condition of the subject(s) in their custody for the following warning signs of positional asphyxiation:
1. verbal complaints of being unable to breathe properly, although be aware that a person suffering breathing difficulties may not be able to complain about their crisis;
  2. visual signs that the subject is struggling or exhibiting increased effort to breathe;
  3. gurgling/gasping sounds with foam or mucus coming from the nose or mouth;
  4. 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;
  5. sudden behavioral changes, such as going from being violent and noisy to passive, quiet, and tranquil, or alternatively, suddenly becoming more aggressive;
  6. blue discoloration of facial skin (cyanosis);
  7. swelling, redness or blood spots to the face or neck; and
  8. any loss or a reduced level of consciousness.
- l. Conducted Energy Devices (CEDs) and other authorized less-lethal devices and ammunition are forms of Enhanced Mechanical Force which may be utilized against a Threatening Assailant or an Active Assailant, but only within the parameters outlined in this directive and Directive 12:10 – Conducted Energy

Devices (CEDs). CEDs and other authorized less-lethal devices and ammunition shall not be utilized against a passive resistor or an active resistor. Officers shall always strive to use only that degree of force that is objectively reasonable, necessary and proportional considering the totality of the circumstances; specifically:

1. An officer authorized to use a CED or a less-lethal device pursuant to this Policy may fire, discharge, or utilize drive stun mode of the device during an actual operation, consistent with Directive 12:10 – Conducted Energy Devices, only against:
    - (a) an active assailant;
    - (b) a threatening assailant who will not voluntarily submit to custody after having been given a reasonable opportunity to do so considering the exigency of the situation and the immediacy of the need to employ law enforcement force;
    - (c) a person who is attempting to cause death or serious bodily injury to themselves; or
    - (d) a fleeing suspect, if clear and convincing evidence exists to believe the suspect has committed a crime in which the suspect caused or attempted to cause death or serious bodily injury.
  2. Officers shall reevaluate the situation and reassess the need to use force before any second or subsequent firing or discharge or utilization of drive stun mode of the device against the same person. Any second or subsequent firing or discharge or utilization of drive stun mode of the device must be necessary and justified by the circumstances at that moment.
  3. CEDs shall not be utilized in the following manner:
    - (a) against a person in drive stun mode more than twice unless deadly force would be authorized and permitted pursuant to this Policy;
    - (b) against a handcuffed subject unless deadly force would be authorized and permitted pursuant to this Policy;
    - (c) against the operator of a moving vehicle unless deadly force would be authorized and permitted pursuant to this Policy;
    - (d) to prevent a subject from damaging property; or
    - (e) against a person simultaneously with two or more CEDs.
  4. The officer shall activate the BWC prior to utilization of the CED, unless exigent circumstances make it unsafe or not feasible for the officer to do so.
  5. CED spark displays shall be considered constructive authority, but must be reported as a Show of Force in the Attorney General's Use of Force Reporting Portal as discussed at section 1:8-11(d).
- m. Use of force for crowd management is discussed at Directive 8:29 – First Amendment Assemblies; Section 8:29-7.

**1:8-8      CORE PRINCIPLE #4 – DUTY TO USE DEADLY FORCE ONLY AS A LAST RESORT AND DUTY TO AVOID ACTIONS WHICH CREATE A SUBSTANTIAL RISK OF DEATH OR SERIOUS BODILY INJURY**

- a. 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 the course of a law enforcement training exercise, routine target practice at a firing range, a lawful animal hunt, or the humane killing of an injured animals.

- b. Deadly force includes the following potentially lethal actions:
  - 1. applying a chokehold, carotid artery restraint, or similar technique that involves pressure on the neck;
  - 2. sitting, kneeling, or standing on a person's chest, back, or neck for a prolonged period of time;
  - 3. intentionally driving a vehicle at or in the direction of a person with the intent to strike the individual; and
  - 4. using a baton or other weapon to intentionally strike an individual in the head or neck area.
- c. Strict requirements must be met before an officer may use deadly force. There are, however, occasions when deadly force is necessary to protect officers and the public. 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. as discussed in Core Principle Three (1:8-7), when feasible, officers shall attempt to de-escalate situations, issue verbal warnings, or use non-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; and
  - 4. officers shall not use deadly force when the use of deadly force creates a substantial risk of injury to innocent persons.
- d. In addition to all of the requirements at section 1:8-8(c), 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.
- e. 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;
  - 2. to issue a warning shot;
  - 3. to prevent property damage or loss;
  - 4. to prevent the destruction of evidence. *For example, under no circumstances shall an officer use a chokehold, or any lesser contact with the neck area, in order to prevent the destruction of evidence by ingestion; or*
  - 5. against a person who poses a threat only to themselves and not to others.

- f. 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 in order 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; and
  4. While any firearm discharge entails some risk, discharging a firearm at a moving vehicle entails an even greater risk to innocent persons and passengers because of the risk that the fleeing suspect may lose control of the vehicle. Due to this greater risk, and considering that firearms are not generally effective in bringing moving vehicles to a rapid halt, 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:
    - 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
    - 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
    - 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.
- n. 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, law enforcement 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.
- o. A chokehold is considered deadly force. **Officers shall not use a chokehold** on any person except in situations in which the use of deadly force is necessary to prevent the death or serious bodily harm of the officer or another person.

**1:8-9****CORE PRINCIPLE #5 – DUTY TO INTERVENE AND REPORT**

- a. A law enforcement officer's duty to intervene is rooted in the commitment to protect public safety at all times. Interventions that prevent improper use of force will lead to fewer citizen 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 as a whole. 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.
- b. Thus, 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.
- c. 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. If officers observe a situation where another officer is attempting to intervene in an improper use of force, officers shall assist in that effort.
- d. All employees have an affirmative duty to intervene and notify appropriate supervisory personnel as well as the Internal Affairs Bureau if they observe another officer or employee engage in any unreasonable, illegal, excessive or use of force which is otherwise inconsistent with this directive or department policies or if they become aware of any violation this directive, those policies enumerated within Chapter 12 of the Written Directive system, state or federal law, or local ordinance.
- e. Law enforcement agencies, supervisors, and officers are prohibited from retaliating in any form against an officer who intercedes in or reports illegal or inappropriate uses of force.

**1:8-10****CORE PRINCIPLE #6 – DUTY TO RENDER MEDICAL ASSISTANCE**

- a. Medical aid shall be rendered as quickly as reasonably possible follow any law enforcement actions in which injuries have been sustained including, but not limited to when: obvious severe injuries have occurred, medical distress is apparent or if the individual is unconscious.
- b. If the use of force results in an injury to any party, prompt emergency medical attention ***shall*** be offered and/or provided, this includes injuries incurred during apprehensions. The extent of the injury and the treatment offered/provided shall be documented in the body of the investigative report.
- c. An officer's duty to render medical assistance and monitor for potential medical intervention is particularly important following any use of force. When the force involves the use of OC spray, officers shall take immediate action to address the effects of the OC spray, consistent with training.
- d. The duty to render medical assistance and monitor applies to all officers on scene and continues throughout any transportation and custody of the individual.



- e. 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.

#### **1:8-11 CORE PRINCIPLE #7 – DUTY TO REPORT AND REVIEW USE OF FORCE**

- a. Notification and investigation of fatal and serious bodily injury law enforcement incidents shall be made in accordance with AG Directive 2019-4 and Department Directive 2:11 – Police Action Death Investigations. For the purposes of this section, these incidents include:
  - 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) by an officer, regardless of whether such force resulted in injury;
  - 4. The death of any civilian during an encounter with an officer; and
  - 5. The death of any civilian while in the custody of law enforcement.
- b. The attending supervisor shall ensure that the Chief of University Police, respective Chief of Campus Police and the Professional Standards Division (PSD) Commander are **immediately** notified through the chain of command in connection with any of the incidents described above at 1:8-11(a). This notification should be noted on the investigative document and as a Time-Stamp entry in the CAD record of the incident. The PSD Commander or designee shall cause notifications consistent with Directive 2:11-4(i) to the respective County Prosecutor's Office and the New Jersey Attorney General's Office of Public Integrity and Accountability (OPIA).
- c. When an officer uses force, as discussed in this directive, and the result is not fatal, the officer shall complete a report in the Use of Force Portal established by the Attorney General's Office.
  - 1. The report shall be completed by the officer before the end the shift in which the force was used. If the officer who used force is unable to complete the report prior to the end of the shift, it shall be completed within 24 hours.
  - 2. In the event the officer is unable to complete the report within 24 hours, the report shall be completed by a supervising officer within 48 hours. Such report shall clearly denote that it is being filed by a superior officer due to incapacity of the attending officer.
- d. When an officer un-holsters and exhibits a firearm or CED with a spark display; the officer shall complete a Show of Force Report, through the Attorney General's reporting system, as well as document the action in the incident report made necessary by the nature of the underlying incident.
  - A Conducted Energy Device Deployment Review Report is required when a CED is deployed at or upon a person in addition to the completion of a report in the Use of Force Portal established by the Attorney General's Office.
  - When a Conducted Energy Device is displayed, however no CED spark display is conducted; the officer shall complete a Show of Force Report in the BlueTeam reporting system and not the Attorney General's reporting system.
- e. The above provisions (1:8-11c) shall not apply when a firearm is discharged for training or recreational purposes, or when such force is used in an effort to

euthanize an animal. When used to euthanize an animal, an incident report as well as a Firearms Discharge (BlueTeam) report shall be completed and submitted. The above provisions (1:8-11d) shall not apply when a CED is discharged for training purposes.

- f. Whenever an agency employee, regardless of position within the agency, takes an action that results in or is alleged to result in, injury or death of another person; the employee taking such action is required to file a written report detailing the circumstances of the incident.
- g. When completing the Use of Force Report(s), particular attention should be paid to injuries sustained prior to police action as questions regarding injuries regard only those either caused or made necessary by police.
- h. Questions regarding hospitalization should apply to the totality of the incident and not be limited to hospitalizations made necessary only by police use of force.
- i. 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:
  - 1. Conditions at the incident scene;
  - 2. Description of the subject's behavior and its duration;
  - 3. Description of what the subject said during the encounter;
  - 4. Type and duration of resistance;
  - 5. Identity of all officers at the scene;
  - 6. Actions taken to control the subject;
  - 7. Restraints used on the subject and the length of time applied;
  - 8. Location of the restraints on the subject;
  - 9. Response time and actions taken by EMS, including a list of drugs given to the patient;
  - 10. Means of transport and total elapsed time of transport;
  - 11. Behavior of the subject during transport;
  - 12. Means of resuscitation, if applicable;
  - 13. Information from relatives and friends of the subject that can provide insight to the potential causation of the incident.
- j. All Use of Force incidents shall be subjected to a multifaceted administrative review process intended to address any issues as they may pertain to policy changes, training, weapons or equipment, discipline or supervision. These reviews include the immediate supervisor, internal affairs, training officers or command staff. At least one reviewer must be two levels or more above the officer who used force.
  - 1. The attending supervisor shall review the incident report and the Use of Force report for accuracy and completeness and ensure the provisions of this directive are properly addressed. Supervisors should forward any recommendations for remedial training and/or corrective action in writing through the normal chain of command to their Division Commander.
  - 2. The Division Commander of the involved employee shall conduct an administrative review of the incident and forward same, in written form, to the PSD Commander within 72 hours of the incident. Should the Division

Commander be unavailable during the time frame, the administrative review shall be assigned to a Supervisor that is at least two levels above the officer who used force to complete the administrative review. The administrative review shall properly address any issues as they may pertain to policy changes, training, weapons or equipment, or corrective action. Moreover, this review should include commendation of the officer or, if appropriate, referral for criminal prosecution.

3. The Use of Force report shall be forwarded to the Professional Standards Division, where it shall be stored in a file separate from the incident. The PSD Commander, and/or designee, shall review these reports to notice any trends or issues that need to be studied, analyzed, and/or addressed.
  4. The review shall 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.
  5. The review shall 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.
  6. The PSD Commander shall complete a command review of each use of force investigation and approve or reject the recommendations of the supervisors who conducted the review. The PSD Commander shall forward the results of the administrative review and the command review to the Chief of University Police for a final review. The decision of the PSD Commander and Chief of University Police shall be memorialized and retained in the use-of-force investigative file. The PSD Commander shall review these reports to notice any trends or issues that need to be studied, analyzed, and/or addressed.
  7. After the review is completed, supervisory and/or training officers should examine and analyze the use of force incident, including any body-worn or other video evidence, with the officer as a training tool. This examination should analyze the circumstances that led to the use of force as well as the force that was used, so that the 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.
  8. Notwithstanding this provisions of this section, if the Chief of University Police uses force, the Director of the Office of Public Integrity and Accountability, or their designee, shall be notified and, consistent with this directive, shall determine the process for the meaningful command level review of the incident, which may include staff from that office.
- k. The PSD Commander, or designee, is responsible for completing the annual use of force analysis report and submitting it to the Chief of University Police. This analysis should be completed by February 15<sup>th</sup> of the following year.
- l. The annual Use of Force Analysis shall identify: (1) incidents by date and time; (2) types of encounters resulting in use of force; (3) trends or patterns related to race, age, gender of subjects involved; (4) trends or patterns resulting in injury to persons including employees and (5) impact of findings on policies, practices, equipment, and training. In addition, the analysis shall include a review of all assaults on law enforcement officers to determine trends or patterns, with

recommendations to enhance officer safety, revise policy, or address training issues. The annual analysis shall minimally also include the following:

1. Analytical reports from the Attorney General's Use of Force Portal;
  2. An audit of body worn cameras and other videos on a risk-based and randomly selected basis;
  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.
- m. The Chief of University Police shall be responsible to review the Annual Use of Force Analysis and determine whether changes in departmental structure, policy, training, or equipment are appropriate. The Chief of University Police shall then provide a written report documenting the annual review to the OPIA.

#### **1:8-12 TRAINING REQUIREMENTS**

- a. This department will conduct and document semi-annual training for all officers on the lawful and appropriate use of force and deadly force. This training will be designed to reflect current standards established by statutory and case law, as well as state, county and departmental policy 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 and the limitations that govern the use of force and deadly force.
1. Officers, at all ranks, will be required to complete a written test with a passing score when attending this training.
  2. This training will be conducted as part of this agency's firearms qualification program.
- b. Qualification & training requirements for agency approved weapon systems are discussed throughout Chapter 12 of the Written Directive System; that notwithstanding:
1. All agency personnel authorized to carry and use lethal weapons are required to demonstrate proficiency at least biannually.
  2. All agency personnel authorized to carry and use less lethal weapons and weaponless control techniques shall receive training at least biennially.

#### **1:8-13 ANIMAL DESTRUCTION**

- a. Destroying an animal is justified only in the following circumstances:
1. Officers may use a firearm to destroy an animal where the animal poses an imminent threat of significant bodily harm to human life; or
  2. Officers may use a firearm to destroy an animal that is so badly injured that humanity requires its relief from further suffering and animal control has been notified and either cannot or is unable to respond. If the injured animal is domesticated, personnel shall make every reasonable effort to notify an owner. The firearm discharge shall create no substantial risk to personnel or third parties and must be approved by the shift supervisor or tour commander.
- b. 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.

- c. When there is suspicion that the animal may be rabid, the point of aim should be the front shoulder area and not the head.
- d. Personnel shall not touch an animal without first protecting themselves from blood borne pathogens. Personnel shall protect any area contaminated with animal body fluids for cleansing by animal control personnel.
- e. Additional provisions relative to the use of Use of Deadly Force with respect to the destruction of an injured animal are discussed at Directive 7:9 – Animal Complaint Investigations.

#### **1:8-14 SUPPLEMENTAL**

- a. Only weapons and ammunition authorized by the department may be used by agency personnel in the performance of their responsibilities.
- b. Only agency personnel demonstrating proficiency in the use of agency authorized weapons are approved to carry such weapons.
- c. Arrests Requiring the Use of Force  
Except when dealing with an emotionally disturbed person (EDP), whenever a person resists the officer's action and force is used, one of the following charges (whichever is applicable) should be considered to be made against the subject. This charge is in addition to the charges that precipitated the arrest.
  - 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
  - N.J.S.A. 2C: 29-2a (2) – a person is guilty of a crime of the fourth degree, if by flight, he purposely prevents or attempts to prevent a law enforcement officer from effectuating an arrest; or
  - N.J.S.A. 2C: 29-2a (3) – a person is guilty of a crime of the third degree if he used, or threatened to use, physical force or violence against the law enforcement officer or another; or, (2) subject used any other means to create a substantial risk of causing physical injury to the public servant or another.
- d. Any employee, whose action(s) or use of force in an official capacity results in death or serious physical injury, be removed from operational assignment, pending an administrative review.