

# Use of Force Policy

CPC Subcommittee Follow Up to Use of Force Data Analysis

July 8, 2021

# Background

- At the June CPC meeting we reviewed data captured in the beta Use of Force database
- During that discussion police partners gave some “color” on the incidents that is not easily captured in the database
- Discussion about whether CPC works at the state level to create a better database, or we work at the local level to make it better for our community
- Subcommittee follow-up:
  - Goal of reducing injuries to law enforcement staff, individuals involved in the incident, and community members
  - Use of de-escalation techniques

# NJ State AG - Core Principles

The Sanctity of Human Life and Serving the Community - respect and uphold the dignity of all persons at all times;

Force as a Last Resort and Duty to De-Escalate -- verbal commands, critical decision making, tactical deployment or de-escalation techniques;

Duty to Use Only Objectively Reasonable, Necessary, and Proportional Force; Safely Achieve the legitimate law enforcement objective

Duty to Use Deadly Force Only as an Absolute Last Resort and Duty to Avoid Actions which create a Substantial Risk of Death or Serious Bodily Harm;

Duty to Intervene and Report; regardless of rank, title, seniority, or status;

Duty to Render Medical Assistance – after any use of force, and when environment is safe, officers shall promptly render medical assistance; and

Duty to Report and Review Uses of Force - meaningful command level review

# Use of Force Policy Updates – Dec 2020

First time in two decades, New Jersey Updated the Use of Force Policy.

Prohibiting all forms of physical force against a civilian, except as a last resort and only after the officer attempts to de-escalate the situation and provides the civilian with an opportunity to comply with the officer's instructions;

Prohibiting all forms of deadly force against a civilian – including chokeholds and strikes to the head or neck – except as an absolute last resort 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;

Prohibiting officers from firing weapons at a moving vehicle or engaging in a high-speed car chase, except under narrowly limited circumstances;

Providing new guidance on the use of less-lethal force as an alternative to deadly force and as a tool for de-escalation;

Establishing an affirmative “duty to intervene” that requires all officers – regardless of rank, title, or seniority – to intercede if they observe another officer engage in illegal or excessive force against a civilian; and

Establishing an affirmative “duty to provide medical assistance” that requires officers to request – and, where appropriate, personally provide – medical assistance after any use of force against a civilian.

# Research Basis

- Police Executive Research Forum (PERF) outlined very similar principles in their **2016** report *Critical Issues in Policing: Guiding Principles in Use of Force*. (surveys, conferences, law enforcement interviews for 18 months prior)
- Constitutionally moving from “Can you use deadly force?” to “Did you absolutely have to use deadly force?”
- Significant focus on addressing the split-second decision making that is often utilized in moments of immediate physical threat, as well as times when the perceived threat is less pressing
- Agencies can help prevent officers from being placed in situations that endanger themselves or others, where the officers have no choice but to make split-second decisions to use deadly force.

# Definition – De-escalation – NJ AG

- 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.
- Time as a tactic. 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.

# Definition – Clear Institute Training

- This was the training up on the NJ website, dated October 2017 - so not sure whether it is still in use given the December 2020 directives.
- They follow the L.E.A.P.S Model
  - L – listen
  - E – empathize
  - A – ask
  - P – paraphrase
  - S – summarize
- Be quick but don't hurry
- Emphasize communication and listening, but still being in charge
- Included cultural awareness and sensitivity during communications

# Some Missing pieces of the PERT Recommendations in NJ

- NJ AG emphasizes use of force only to accomplish lawful objectives, whereas PERT outlines intent to support community calls for help
- NJ AG emphasizes control of the situation whereas PERT acknowledges space and time often diffuses situations naturally – retreating is not failure, spending time for resolution is not wasted
- NJ AG emphasizes tactical nature of decision making with the goal of *compliance* whereas PERT emphasizes decision making that starts with defining the law enforcement goal. NJ AG also doesn't refer to the guiding principle of the **sanctity of all life** at the heart of decision making.
- NJ AG had no immediate mention of officer self health or trauma training whereas PERT recognized the critical nature of caring for officers so they can make good decisions in caring for others.

# CPC questions

- Is this relevant and worth further follow up?
- Are there better resources to review? There is research challenging the effectiveness of de-escalation.
- How has the SOPD policy and procedures been updated?
- Do all “calls for service” result in legitimate law enforcement objectives (calls for help with Emotionally Disturbed Individual)?
- Can we work in a collaborative manner to research, review SOPD policy and procedures, and develop better understanding for our community?
- Can we collaboratively create the annual report that highlights SOPD use of force incidents?