



CHARLESTOWN POLICE DEPARTMENT

4901 Old Post Road, Charlestown, Rhode Island 02813

ORDER	EFFECTIVE DATE	NUMBER	ISSUING DATE
GENERAL	JULY 1, 2020	300.01	JULY 1, 2020
SUBJECT TITLE		SUBJECT AREA	
USE OF FORCE (LETHAL AND LESS LETHAL)		LAW ENFORCEMENT OPERATIONS	
RIPAC REFERENCE		PREVIOUSLY ISSUED DATES	
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DISTRIBUTION		REVIEW DATE	PAGES
ALL		AS NECESSARY	17

I. PURPOSE

The purpose of this policy is to provide police officers with guidelines on the use of force.

II. POLICY

It is the policy of the Charlestown Police Department to recognize and respect the value and special integrity of each human life. In vesting police officers with the lawful authority to use force to protect the public welfare, a careful balancing of all human interests is required.

Therefore, it is the policy of this department that police officers will use only that force that is objectively reasonable to accomplish lawful objectives.

III. DEFINITIONS

A. Lethal Force: Any use of force that is likely to cause death or serious bodily injury. Lethal Force is also referred to as deadly physical force.

B. Reasonable Belief: Those facts and circumstances that would lead a normally prudent police officer to believe that an imminent threat of death or bodily injury exists.

- C. Serious Bodily Injury:** Physical injury that (1) creates a substantial risk of death, serious disfigurement or (2) protracted loss or impairment of the function of any bodily part, member, or organ, or (3) causes serious permanent disfigurement.
- D. Imminent:** Such an appearance of threatened and impending injury as would cause a reasonable police officer to act to stop the threat.
- E. Less Lethal Force Option:** Any use of force other than that which is considered lethal, or deadly force.
- F. Objectively Reasonable Force:** Objectively reasonable force is that level of force which is necessary and appropriate when analyzed from the perspective of a reasonable officer possessing the same information and faced with the same circumstances as the officer who has actually used force. Objectively reasonable force is not judged with hindsight, and will take into account, where appropriate, the fact that officers must make rapid decisions regarding the amount of force to use in tense, uncertain, and rapidly evolving situations. Important factors to be considered when deciding how much force can be used to apprehend or subdue a subject include, but are not limited to, the severity of the crime at issue, whether the subject poses an imminent threat to the safety of the officers or others, and whether the subject is actively resisting arrest or attempting to evade arrest by flight. This policy guideline applies to all uses of force, including lethal force.
- G. Appropriate Medical Aid:** Appropriate medical aid may include, increased observation to detect obvious changes in condition, flushing chemical agents from the eyes, applying first aid, evaluation by rescue personnel, or for more serious or life threatening incidents, immediate aid by medical professionals.

IV. PROCEDURES

A. PARAMETERS FOR USE OF LETHAL FORCE

1. Police officers are authorized to use lethal force in order to:
 - a. Protect him/herself, another officer, or other person(s) when the officer has a reasonable belief that an imminent threat of death or serious bodily injury exists to him/herself, another officer or other person(s).
 - b. To prevent the escape of a fleeing violent felon who the officer has probable cause to believe will pose a significant threat of death or serious physical injury to the officer or others.

2. When feasible, police officers will identify themselves and state their intent to use lethal force.
3. A police officer may also discharge a firearm under the following circumstances:
 - a. During range practice or competitive sporting events.
 - b. To euthanize an animal that represents a threat to public safety, or as a humanitarian measure where the animal is seriously injured.
4. Police officers will adhere to the following restrictions when their firearm is exhibited:
 - a. Except for maintenance or during training, police officers will not draw or exhibit their firearm unless circumstances create reasonable cause to believe that it may be necessary to use the firearm in conformance with this policy.
 - b. Warning shots are prohibited.
5. Discharging a firearm **from** a moving vehicle shall be avoided. However, whenever a situation exists where an officer must consider discharging a firearm from a moving vehicle in order to stop an imminent threat of death or serious bodily injury to him/herself or others, the use of lethal force by the officer must not constitute a greater hazard to the public than does the imminent threat, and must be the most reasonable course of action under the circumstances. Officers must weigh the need to use lethal force against the potential harm to innocent bystanders caused by such use.
6. Discharging a firearm **at** a moving vehicle shall be avoided unless a person in the vehicle poses an imminent threat of death or serious bodily injury to the officer or another person. Officers shall avoid intentionally placing themselves in a position where a vehicle may be used against them. Escape from the path of an oncoming vehicle should be considered prior to, or in lieu of, the implementation of lethal force whenever escape is possible.
7. In both sections 5 and 6 above, the officer's focus will be to stop that person presenting the imminent threat, and not to disable the vehicle of which the suspect is an occupant. (This provision will not preclude tactical responses in a tactical operation by its members.)

B. PARAMETERS FOR USE OF LESS LETHAL FORCE

1. Where lethal force is not authorized, officers should assess the incident in order to determine which less lethal force option will best de-escalate the incident and bring it under control in a safe manner.
2. Police officers are authorized to use department-approved less lethal force options to accomplish lawful objectives, as follows:
 - a. To protect themselves or another from physical harm.
 - b. To restrain or subdue a resistant individual.
 - c. To bring an unlawful situation safely and effectively under control.
3. It is not the intent of this policy to direct officers to try each of the force options before moving to another. The officer may employ that force option which he/she believes is objectively reasonable to accomplish lawful objectives.
4. Nothing contained in this section limits an officer's ability to use those means objectively reasonable for self-defense, or to accomplish lawful objectives.

C. GENERAL REQUIREMENTS ON USE OF FORCE

1. De-escalation – When safe under the totality of the circumstances, and time and circumstances permit, officers will assess the situation to determine if a de-escalation tactic is in order and if so, which tactic is appropriate in order to reduce the potential need for force.
2. Duty to Intervene – All officers present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances, shall, when in a position to do so, safely intercede to prevent the use of such force. Officers shall report these observations to a supervisor as soon as practicable.
3. Providing First Aid – Appropriate medical aid will be provided as needed as soon as is practical in all lethal force and less lethal force option usage resulting in injury, or allegation of injury, to include injuries incurred during apprehension.

D. TRAINING AND QUALIFICATIONS REGARDING LETHAL FORCE

1. Firearms

- a. While on and off-duty, police officers, acting within the course and scope of their employment with the Charlestown Police Department, will carry and use only firearms and ammunition authorized by and documented with the department.
- b. Authorized firearms are those with which the police officer has qualified and received departmental training on proper and safe usage, and that are registered and comply with departmental specifications.
- c. The department shall have a separate policy addressing the authorization of duty, off-duty and specialized firearms, weapons and ammunition. (See: Firearms Policy 310.01)
- d. A police officer, qualified as a firearms instructor or armorer as per agency directive, will inspect and approve all firearms authorized for duty prior to issuance and annual qualifications.
- e. Unsafe or defective department issued firearms will be replaced or repaired.
- f. At least annually, and in accordance with Rhode Island General Law, the police department will schedule training and qualification sessions for duty, off-duty and specialized firearms, which will be graded and documented on a pass/fail basis by a certified firearms instructor.
- g. Any recent graduates of the Rhode Island Municipal Police Training Academy, or Rhode Island POST certified police officers that are transferring employment between agencies, shall be qualified by the hiring agency's range officer(s) using that agency's POST certified qualification course. This qualification shall take place prior to the officer carrying their department assigned weapon in any official capacity.
- h. Police officers who are unable to qualify with their duty firearm(s), in accordance with department testing procedures will be given individual training by the department's firearms training officer.

Upon successful completion of this training, the officer will again be tested. If after a second attempt, the officer does not qualify, a report will be forwarded to the Chief of Police by the firearms training officer.

The Chief of Police will then take such action, as he/she deems necessary, not inconsistent with this policy.

- i. A police officer will not be permitted to carry or use any firearm, while acting within the course and scope of their employment with the Charlestown Police Department, with which he/she has not been able to qualify during the most recent qualification period.
- j. A police officer that has suffered an illness or injury that could affect his/her ability to use firearms will be required to requalify before returning to enforcement duties.
- k. At least annually, the department will ensure that each officer receives training on the department's use of force policies, and document same. This includes any recent graduates of the Rhode Island Municipal Police Training Academy, or Rhode Island POST certified police officers that are transferring employment between agencies, and who enter service into that agency prior to that agency's annual use of force training session.
- l. All officers will sign for and receive copies of the use of force policies and any revisions as they occur.

E. TRAINING AND QUALIFICATIONS REGARDING LESS LETHAL FORCE

Less Lethal Force Options:

The degree of force used by an officer is directly related to the facts and circumstances encountered by that officer. Force options currently available to officers include, but are not limited to:

Command Presence- An officer's appearance may be enough to dissuade some persons from engaging in resistive behavior.

Verbal Commands- Dialogue used by an officer can serve to diffuse potentially violent situations.

Physical Strength and Skills - Physical techniques used by an officer to diffuse potentially violent situations.

Chemical Spray- Used in compliance with General Order 310.03 entitled "OC Spray".

Impact Tools- Striking tools used in compliance with General Order 310.02 entitled, "Police Baton".

Electronic Control Devices- Taser X2- Used in compliance with General Order 310.04 entitled "Deployment of Taser X2".

Techniques intended or designed to cut off blood flow or oxygen to the brain will not be used unless lethal force is authorized.

It is understood that when requesting mutual aid assistance, the available force options of the responding agency may be different from those of the requesting agency. Officers shall be subject to the policies and procedures of their employing agencies at all times.

Authorized less lethal weapons are those with which the police officer has received department approved training on proper and safe usage, and that comply with departmental specifications.

A certified instructor will inspect and approve all less lethal weapons authorized for duty prior to issuance and trainings.

1. Training and Proficiency on Less Lethal Force Options:

- a. At least biennially, each sworn officer is required to demonstrate proficiency with Charlestown Police Department approved less lethal force options, which he/she is authorized to use. In the case of electronic control devices, i.e. Taser®, said demonstration of proficiency will be on an annual basis. Proficiency standards are established as follows:
 - (1) Attain minimum qualification requirements in accordance with performance standards as determined by current training doctrine, methods, or trends;
 - (2) Being familiar with recognized safe-handling techniques;
 - (3) Knowledge of department directives pertaining to the use of less lethal force options;
 - (4) The program of instruction will be conducted by a qualified instructor who has achieved and maintained certification in the respective less lethal force option(s).
- b. The Charlestown Police Department will maintain training documentation to include lesson plans, attendance sheets, and proficiency records.
- c. Officers requiring remedial training will be given personal instruction on the subject matter by a certified instructor as described in Section IV(E)(1)(a)(4) above, who will document the session and provide a subsequent opportunity to achieve proficiency standards.

- d. Remedial training will be provided and proficiency standards satisfied prior to an officer being authorized to carry the less lethal force option(s).

F. REPORTING USES OF FORCE

1. Officers will notify a supervisor, without unnecessary delay, when reportable force is used. This includes instances where department members take enforcement action while off-duty and a use of force occurs. The supervisor notified of a reportable use of force will comply with investigative procedures as required by the department.
 - a. A reportable use of force is defined as any incident in which a sworn department member exercises their police powers and uses lethal force or any force option including physical force.
 - b. Exceptions to reportable force: command presence; verbal commands; physical strength and skills which do not result in injury, the appearance of injury or complaint of pain (e.g., the use of a grip to control a suspect's hand while searching or handcuffing); or, that force objectively reasonable to overcome resistance due to physical disability or intoxication, which does not result in injury, the appearance of injury or complaint of pain (e.g., lifting an intoxicated person to a standing position).
 - c. Personnel responsible for conducting use of force investigations under this section will receive training commensurate with the types and levels of investigations to be conducted, as defined by the department. (The provisions set out in this sub-section shall become effective July 1, 2017)
2. Where officers respond to an incident involving reportable use of force, a **“Response to Resistance / Non-Compliance - Use of Force”** form must be completed. A single form will be submitted for the incident by the primary responding officer. The form will identify all officers applying a reportable use of force during this incident. Incidents of this nature will include:
 - a. Discharges, or displays of firearm on a person for the purpose of obtaining and/or maintaining control of that person.
 - b. Takes an action that results in, or is alleged to have resulted in, injury or death of another person.
 - c. Applies force through the use of lethal or less lethal weapons.
 - d. Applies weaponless physical force at a level as defined by the agency.

3. If the agency establishes a use of force review committee composed of senior leadership and other appropriate practitioners, as defined by the Chief of Police, it reviews such incidents and makes recommendations on corrective or adverse actions, to include non-disciplinary actions such as training or tactical improvements.
4. A written report (**other than** a “Response to Resistance/ Non-Compliance - Use of Force” form) prepared according to departmental procedures will be required when the following have occurred:
 - a. A firearm is discharged outside of the firing range.
 - b. A firearm is discharged to euthanize an animal, as set forth in Section IV (A) (3) (b).

G. DEPARTMENTAL RESPONSE

1. Lethal force incident:

- a. Where a police officer's use of force causes death or serious bodily injury, the officer will be placed on a non-punitive administrative leave pending completion of an administrative review, and until a post-shooting intervention is conducted by a licensed mental health professional preferably experienced in working with law enforcement personnel.
- b. The department will conduct both an administrative and criminal investigation of the incident.
- c. All police-involved shootings and in-custody deaths, will be investigated in accordance with the *Rhode Island Attorney General's Protocol Regarding Use of Deadly Force Incidents and Custodial Deaths*.

2. Administrative review of use of force incidents:

- a. All reported uses of force will be reviewed by the Charlestown Police Department to determine whether:
 - (1) Departmental rules, policy, or procedures were violated;
 - (2) The relevant policy was clearly understandable and effective to cover the situation;

- (3) Department training is currently adequate.
- b. All findings of policy violations or training inadequacies will be reported to the appropriate unit for resolution and/or discipline.
- c. All completed “Response to Resistance / Non-Compliance - User of Force” forms will be retained as required by department policy. There will be a documented annual analysis of those reports required under Section IV(F), (2) and (3) of this policy by the Chief of Police or his/her designee.
- d. The analysis identified in “C” above should, at a minimum, identify the following:
 - (1) Date and time of incidents,
 - (2) Types of encounters resulting in use of force,
 - (3) Trends or patterns related to race, age and gender,
 - (4) Trends or patterns resulting in injury to any person including employees,
 - (5) Impact of findings on policies, practices, equipment, and training.
- e. An annual summary report of this analysis will be compiled and made available to the public upon request.

By Order Of:



Michael J. Paliotta
Chief of Police

DATE:	TIME:	LOCATION:	CASE#:
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SUSPECT INFORMATION:

DOB:	AGE:	HEIGHT:	WEIGHT:	SEX:	RACE:
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TYPE OF INCIDENT / CHARGES:	PHONE #:
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☐ Effect Arrest ☐ Prevent Escape ☐ Defend Another Officer/Person ☐ Defend Self
☐ Prevent Violent Felony ☐ Protective Custody / Subject Safety ☐ Unintentional ☐ Handcuff/Restrain
☐ Warrant Execution by SWAT/Entry Team ☐ SWAT/Entry Team Operation ☐ Other (Explain)

At the time of arrest, the subject was:	<input type="checkbox"/> No visible impairment
<input type="checkbox"/> Under the influence of alcohol	<input type="checkbox"/> Mentally Impaired / Emotionally Disturbed
<input type="checkbox"/> Under the influence of drugs	<input type="checkbox"/> In possession of /threatening use of a weapon <input type="checkbox"/> Other:

Presence: Uniformed ☐ Plainclothes ☐

☐ Compliance Techniques: Force used to gain control (restraint, takedowns, hands, arms, feet, legs)

☐ O.C. Spray

Number of Bursts:	Duration of Bursts:	Distance from Subject:
Impact Location:	Time between application/decontamination:	
Desired Effect Achieved: <input type="checkbox"/> YES <input type="checkbox"/> NO		Complications: (Describe in narrative): <input type="checkbox"/> YES <input type="checkbox"/> NO

☐ ASP/IMPACT WEAPON

☐ Taser CEW: ☐ Probe Deployment ☐ Drive Stun

Impact Location:	# of cycles:	# of cartridges fired:
Taser Serial #:	Cartridge Type used:	Distance from Subject:
Probe Contact: <input type="checkbox"/> YES <input type="checkbox"/> NO Probe Contact Penetrate Skin: <input type="checkbox"/> YES <input type="checkbox"/> NO Drive Stun Contact: <input type="checkbox"/> YES <input type="checkbox"/> NO		

☐ Firearm (presented)

☐ Firearm (discharged) *NOTE: If a firearm was discharged, a firearm discharge report must be completed.*

☐ K-9 ☐ Other (List)

Presence: Uniformed ☐ Plainclothes ☐

☐ Compliance Techniques: Force used to gain control (restraint, takedowns, hands, arms, feet, legs)

☐ O.C. Spray

Number of Bursts: _____ Duration of Bursts: _____ Distance from Subject: _____

Impact Location: _____ Time between application/decontamination: _____

Desired Effect Achieved: ☐ YES ☐ NO Complications: (Describe in narrative): ☐ YES ☐ NO

☐ ASP/IMPACT WEAPON

☐ Taser CEW: ☐ Probe Deployment ☐ Drive Stun

Impact Location: _____ # of cycles: _____ # of cartridges fired: _____

Taser Serial #: _____ Cartridge Type used: _____ Distance from Subject: _____

Probe Contact: ☐ YES ☐ NO Probe Contact Penetrate Skin: ☐ YES ☐ NO Drive Stun Contact: ☐ YES ☐ NO

☐ Firearm (presented)

☐ Firearm (discharged) *NOTE: If a firearm was discharged, a firearm discharge report must be completed.*

☐ K-9 ☐ Other (List) _____

OFFICER #3**FORCE OPTION(S) USED: (Check all that apply)**Presence: Uniformed ☐ Plainclothes ☐☐ Compliance Techniques: Force used to gain control (restraint, takedowns, hands, arms, feet, legs)☐ O.C. Spray

Number of Bursts:

Duration of Bursts:

Distance from Subject:

Impact Location:

Time between application/decontamination:

Desired Effect Achieved: ☐ YES ☐ NOComplications: (Describe in narrative): ☐ YES ☐ NO☐ ASP/IMPACT WEAPON☐ Taser CEW: ☐ Probe Deployment ☐ Drive Stun

Impact Location:

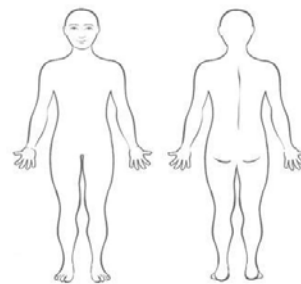
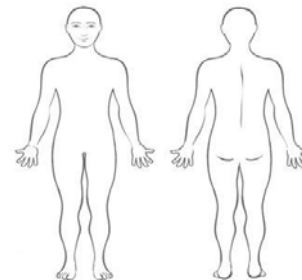
of cycles:

of cartridges fired:

Taser Serial #:

Cartridge Type used:

Distance from Subject:

Probe Contact: ☐ YES ☐ NO Probe Contact Penetrate Skin: ☐ YES ☐ NO Drive Stun Contact: ☐ YES ☐ NO☐ Firearm (presented)☐ Firearm (discharged) *NOTE: If a firearm was discharged, a firearm discharge report must be completed.*☐ K-9 ☐ Other (List)**WAS SUBJECT INJURED?** ☐ YES ☐ NO☐ Subject Visibly Injured ☐ Subject Complained of Injury☐ Photos Taken ☐ Subject Treated ☐ Subject Refused☐ Transported to Hospital (name):☐ Admitted to Hospital (name):☐ Physical Injuries ☐ Psychiatric Evaluation**Mark injuries with an "X" on diagram****ANY OFFICER(S) INJURED?** ☐ YES ☐ NO☐ Officer Visibly Injured ☐ Officer Complained of Injury☐ Photos Taken ☐ Officer Treated ☐ Officer Refused☐ Transported to Hospital (name):☐ Admitted to Hospital (name):☐ Officer(s) Name: _____**Mark injuries with an "X" on diagram****WITNESS(ES):****ADDRESS:****PHONE #:****CONNECTION TO INCIDENT:**

AUDIO/VIDEO RECORDING OF THE INCIDENT☐ Yes ☐ No ☐ Unknown**If Yes, was the video/audio secured?** ☐ Yes ☐ No ☐ Unknown**Source of the video/Audio Recording:****SUPERVISOR REVIEW:****NAME:****RANK/BADGE #:****SUPERVISOR
REVIEW:**Use of Force in compliance with Policies and Procedures: ☐ YES ☐ NO*The supervisor or Officer-In-Charge must submit a separate memorandum concerning the use of force when it is not in compliance with the department policy and procedure describing the variations and corrective action to be taken. The memorandum will be submitted to Professional Standards/Internal Affairs.***SUPERVISOR SIGNATURE:****DATE/TIME:**

APPENDIX



State of Rhode Island and Providence Plantations OFFICE OF THE ATTORNEY GENERAL

Peter F. Neronha, Attorney General



THE ATTORNEY GENERAL'S PROTOCOL FOR THE REVIEW OF INCIDENTS INVOLVING THE USE OF DEADLY FORCE, EXCESSIVE FORCE AND CUSTODIAL DEATHS

June 17, 2020

BACKGROUND

It has been the long-standing practice in this State that when a police officer uses deadly force, or where there has been a custodial death, the law enforcement agency reports the incident to the Office of the Attorney General for review and joint investigation. This Protocol updates and expands upon the Attorney General's Protocol Regarding The Review Of Incidents Involving The Use of Deadly Force and Custodial Death (last revised in 2007). It is designed to promote greater uniformity, accountability and impartiality in the investigation of police use-of-force incidents where deadly force was employed, where there has been an allegation of excessive use of force by police, and where a custodial death occurs. **It is applicable to all Rhode Island state and municipal law enforcement agencies.** For convenience, the terms "police officer" and "police department" are used in this Protocol.

A police officer's use of deadly force, alleged use of excessive force and the death of a person in police custody are some of the most sensitive matters that law enforcement agencies investigate. These investigations frequently pose complex factual and legal issues and are closely followed by the public we serve. It is critical that the public have confidence that when police use force, and deadly force in particular, that that use of force was reasonable and lawful. This Protocol sets forth the policies and practices of the Office of the Attorney General for the investigation of deadly force and custodial death incidents and for the investigation of allegations of the use of excessive force. It also provides guidance on potential *Garrity* issues.

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USE OF THE PROTOCOL

The Protocol shall be followed whenever:

A police officer uses deadly force, whether or not death or injury of any person results.

A person dies while in police custody or dies during the apprehension or attempted apprehension of a person.

A police officer uses less than deadly force that results in serious bodily injury to any person.¹

A police department receives a complaint alleging that a police officer used excessive force during his/her interaction with a person, and there is evidence, including but not limited to video or other electronic evidence, to warrant additional investigation.

This Protocol may also be followed:

Whenever a person dies or is injured as a result of a police interaction even if the police did not intentionally use force or deadly force. For example, motor vehicle accidents involving the police where there is a fatality or serious injury.

In any situation, not explicitly addressed above, where the police department and the Attorney General jointly agree that review by the Attorney General would be in the public interest.

OBLIGATIONS OF THE EMPLOYING POLICE DEPARTMENT

The police department employing the police officer whose action prompts the application of this Protocol ("Employing Police Department") shall immediately notify the Office of the Attorney General (after hours, an Assistant Attorney General may be reached through the Bureau of Criminal Identification at 401-732-7629) and, in situations involving the use of deadly force or a custodial death, the Rhode Island State Police (401-444-1000). Where the action of a member of the Rhode Island State Police prompts the application of this Protocol, notification shall include the police department of the city or town where the action occurred.

¹ Serious bodily injury" means physical injury that: (1) creates a substantial risk of death; (2) causes protracted loss or impairment of the function of any bodily part, member, or organ; or (3) causes serious permanent disfigurement

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The Employing Police Department shall limit the investigative steps taken prior to assembly of the multi-agency investigative team (see “Investigative Team” section below) to those measures necessary to secure the scene, preserve evidence, identify witnesses, and any other measures necessary to address exigent circumstances.

The Employing Police Department shall immediately collect, preserve, and turn over to the multi-agency investigative team all video and audio recordings that pertain to the incident in question. Any public release of video and audio recordings in the possession of law enforcement shall be done in accordance with the law and in a manner that preserves the integrity of the criminal investigation, protects the rights of the accused, and respects the privacy of civilians captured on the recording. Absent extraordinary circumstances, video and audio recordings should not be released until all witness statements have been collected and the criminal investigation has concluded.

The Chief of Police of the Employing Police Department, or, where the matter involves the conduct of a member of the Rhode Island State Police, the Colonel of the State Police, shall serve as the primary point of contact for media inquiries, coordinating all responses with the Attorney General and other members of the multi-agency investigative team. The Chief of Police, or, where applicable, the Colonel of the State Police, may also refer such inquiries to the Attorney General.

ROLE OF THE ATTORNEY GENERAL

The Attorney General shall assign a senior prosecutor (or prosecutors) to work with and provide legal advice to investigators throughout the course of the investigation.

As a general rule, the Attorney General will present every police-involved use of force incident resulting in death or serious bodily injury to a grand jury for its review and consideration.

Incidents involving use of force that did not result in death or serious bodily injury and where the undisputed facts indicate that the use of force was objectively reasonable under the law may be concluded without a formal grand jury presentation.

The Attorney General may, however, present any matter to a grand jury where doing so is necessary to obtain evidence, develop the testimony of witnesses, and otherwise conduct a full and complete investigation.

INVESTIGATIVE TEAM

Matters Involving the Use of Deadly Force and Custodial Death

Where a police officer uses deadly force, regardless of whether death or injury results, or where a person dies in police custody or during apprehension or attempted apprehension by police, the investigative team will be comprised of members of the Attorney General's Office, the Rhode Island State Police and the Employing Police Department.

Where a member of the Rhode Island State Police uses deadly force, regardless of whether death or injury results, or where a person dies in State Police custody or during apprehension or attempted apprehension by the State Police, the investigative team will be comprised of the Attorney General's Office, the Rhode Island State Police, and the municipal police department of the city or town where the incident occurred.

The investigative team will respond to the scene immediately after notification of the incident initiating application of this Protocol.

Matters Involving Less than Deadly Force and Allegations of Excessive Use of Force

Whenever a police officer uses less than deadly force that results in serious bodily injury to a person, or is alleged to have used excessive force and the evidence supporting such allegation, including but not limited to video or other electronic evidence is sufficient to warrant additional investigation, the Employing Police Department shall:

- Promptly notify the Attorney General; and
- Provide the Office of the Attorney General with copies of all non-compelled statements and any other evidence pertaining to the matter.

The Attorney General and the Employing Police Department will jointly review the evidence pertaining to the matter and pursue any follow up investigation as necessary. It is strongly preferable that members of the Employing Police Department's Professional Standards Unit or equivalent be assigned to the investigation.

The Attorney General will determine whether criminal charges are appropriate, and, if charges are appropriate, the nature of such charges, including whether the appropriate charge or charges constitute a misdemeanor or felony or

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both. The Attorney General will determine whether presentation to a grand jury is necessary to obtain additional evidence or develop the testimony of witnesses.

GARRITY ISSUES

Pursuant to the United States Supreme Court's decision in *Garrity v. New Jersey*, 385 U.S. 493 (1967), when a police officer is compelled by a supervisor to make a statement in the course of an administrative or internal investigation or face termination, such statement and any evidence derived from that statement cannot be used in any subsequent criminal investigation or prosecution of that officer.

If a police officer agrees to provide a voluntary statement, the officer's statement may be shared with all investigators and prosecutors assigned to the matter.

If an officer is not willing to provide a voluntary statement, the investigative team, in consultation with the Attorney General, must determine whether a statement should be compelled by a supervisor. If the decision is to compel a statement, under *Garrity*, his or her statement and evidence derived from that statement cannot be used in any subsequent prosecution. Accordingly, under these circumstances, the investigative and prosecution team must be divided into two groups. The first group will be allowed access to the compelled statement and any evidence obtained as a result. The second group must be walled off from the contents of any compelled statement and the evidence derived from such statement.

The first group will be assigned to investigate any administrative and departmental violations allegedly committed by the police officer providing the compelled statement. They may also participate in the criminal investigation and/or prosecution of any other individual, including a police officer, whose statement was not compelled.

The second group will be assigned to pursue the criminal investigation and/or prosecution of any officer whose statement was compelled.

A handwritten signature in blue ink, appearing to read 'P. F. Neronha', written in a cursive style.

PETER F. NERONHA
ATTORNEY GENERAL