

ATTORNEY GENERAL LAW ENFORCEMENT DIRECTIVE NO. 2006-5

WHEREAS, it is decidedly in the public interest that the entire law enforcement community should use only clearly acceptable force; and

WHEREAS, it is appropriate to ensure and enhance public confidence in the manner in which the use of deadly force by law enforcement is reviewed to assure adequate justification for the use of such force and to ensure that all investigations of the use of force are conducted in a thorough, fair and impartial manner; and

WHEREAS, the Criminal Justice Act of 1970, N.J.S.A. 52:17b-98, states that it is the public policy of this State:

to provide for the general supervision of criminal justice by the Attorney General as chief law enforcement officer of the State, in order to secure the benefits of a uniform and efficient enforcement of the criminal law and the administration of criminal justice throughout the State; and

WHEREAS, the Criminal Justice Act of 1970, N.J.S.A. 52:17B-107a, further states:

Whenever in the opinion of the Attorney General the interests of the State will be furthered by so doing, the Attorney General may (1) supersede a county prosecutor in any investigation, criminal action or proceeding, (2) participate in any investigation, criminal action or proceeding, or (3) initiate any investigation, criminal action or proceeding.

WHEREAS, in order to promote statewide uniformity and accountability, it is appropriate for the Attorney General, in cooperation and consultation with the County Prosecutors, to issue and enforce revised and updated procedures for review of the use of force by law enforcement officers statewide;

NOW, THEREFORE, I, Stuart Rabner, Attorney General of New Jersey, by virtue of the authority vested in me by the Constitution and the Statutes of this State, do hereby direct that:

1. The Director of the Division of Criminal Justice or his designee must be notified immediately, in a manner prescribed by the Division, of any use of force by a law enforcement officer involving death or serious bodily injury to a person, or where deadly force is employed with no injury, or where any injury to a person results from the use of a firearm by a law enforcement officer. For the purposes of this Directive, "immediate" notification to the Division

of Criminal Justice shall mean notification to the Director or his designee before any investigation of the incident is undertaken other than to secure the scene and to render medical assistance as required in the circumstances.

2. Investigations pursuant to this Directive by the State will be conducted by the Attorney General's Shooting Response Team (SRT). The SRT is staffed by Division of Criminal Justice investigators and members of the Major Crimes Unit of the Division of State Police under the direction and supervision of an Assistant Attorney General or Deputy Attorney General. The SRT will report directly to the Attorney General or his designee. All persons assigned to the SRT will operate independently from their ordinary chain of command and will report directly through the Deputy Attorney General supervising the investigation to the Attorney General or his designee.

3. When a law enforcement officer employed by a municipal or county agency is involved in the use of force as defined in Paragraph 1, the County Prosecutor's Office in the county of occurrence will conduct the investigation. The Division of Criminal Justice may supersede in the investigation when there is a conflict or if the matter would be better handled at the state level. In the event that the Division of Criminal Justice supersedes, the SRT shall conduct the investigation.

4. When a Prosecutor's Detective or Investigator, Assistant Prosecutor, or Prosecutor is involved in the use of force as defined in Paragraph 1, or a law enforcement officer assigned to a task force supervised by a County Prosecutor's Office is involved in the use of deadly force as defined in Paragraph 1 while acting in the course of such assignment, the SRT will conduct the investigation as described in Paragraph 2. In all such cases, the Director of Criminal Justice, or his designee, shall be notified immediately of the use of deadly force as defined in Paragraph 1.

5. When a State Investigator, Deputy Attorney General or Assistant Attorney General employed by the Division of Criminal Justice or any other law enforcement officer employed by any State or federal agency is involved in the use of force as defined in Paragraph 1, the Director of Criminal Justice or his designee will be immediately notified and the SRT will conduct the investigation, unless the Attorney General or his designee directs the County Prosecutor's Office in the county of occurrence to conduct the investigation. When a law enforcement officer employed by any State, interstate police, or federal agency other than the Division of Criminal Justice or State Police is involved in the use of force as defined in Paragraph 1, the County Prosecutor's Office in the county of occurrence shall immediately notify the Director of Criminal Justice or his designee. The Director or his designee will determine whether it is appropriate to assign the SRT to conduct the investigation or assist the County Prosecutor's Office in conducting the investigation. A non-inclusive list of other State law enforcement agencies include the Bureau of Parole, Department of Corrections, Juvenile Justice Commission, Transit Police, State university or college campus police, Human Services Police, Commission of Investigation, and any armed member of the Division of Fish and Wildlife or State Park Service.

6. When a member of the State Police or any agency supervised by the State Police is involved in the use of force as defined in Paragraph 1, the State Police shall immediately notify

the Division of Criminal Justice. The Division will have the discretion to assign the SRT to conduct the investigation with the SRT or to refer the matter to the appropriate County Prosecutor to conduct the investigation with the assistance of the SRT. The SRT and the assigned Deputy or Assistant Attorney General or Assistant Prosecutor shall report directly to the Attorney General or his designee.

7. Notwithstanding the provisions of Paragraph 3, when a law enforcement officer employed by a municipal or county agency is assigned to a task force or similar joint or cooperative operation or program supervised by or undertaken in conjunction with the State Police, and such law enforcement officer is involved in the use of force as defined in Paragraph 1 while acting in the course of such assignment, the Director of Criminal Justice, or his designee, shall be notified immediately, and the investigation shall be conducted pursuant to Paragraph 6 unless otherwise directed by the Attorney General or his designee.

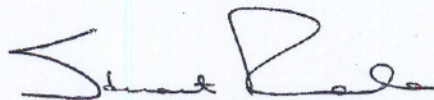
8. The Attorney General may issue and periodically revise Standards governing the investigation of the use of deadly force by law enforcement officers. These Standards may govern the composition, operations, supervision and investigation protocols of the SRT, and may also govern investigations conducted by County Prosecutors' Offices. Any Standards issued by the Attorney General pursuant to this Paragraph are fully incorporated into this Law Enforcement Directive as if set out fully herein, shall be binding upon all affected law enforcement agencies, and shall automatically supersede and take precedence over any rules and regulations, standing operating procedures, guidelines or protocols issued or employed by the affected law enforcement agencies.

9. Where the undisputed facts indicate that the use of force was justifiable under the law, a grand jury investigation and/or review will not be required, subject to review by and prior approval of the Division of Criminal Justice, except under Paragraphs 5 and 6 where the final decision will be made by the Attorney General or his designee. In all other circumstances, the matter must be presented to a grand jury.

10. The Director of the Division of Criminal Justice, or his designee, must be informed of the outcome of all investigations into use of force as defined in Paragraph 1 by law enforcement officers immediately after the conclusion of the investigation by the County Prosecutor and prior to the Prosecutor announcing the findings of a grand jury. The Attorney General or his designee and/or the Director of the Division of Criminal Justice, or designee, as appropriate, will review all such investigations to ensure compliance with all applicable laws, directives, standards and policies.

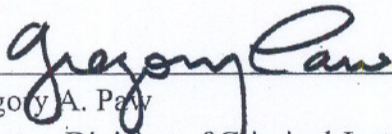
11. While not specifically permitted under case law or court rule, in some counties grand juries have been permitted to issue "reports" of their findings. The Administrative Director of the Courts and the Attorney General have determined that such "reports" are not authorized by law and that their issuance should cease. Henceforth no "reports" are to issue from grand juries. Prosecutors may, when approved by the Director of the Division of Criminal Justice, issue reports and recommendations based upon specific issues or cases. In no event shall such public reports be based on or disclose grand jury material unless approved by the assignment judge.

12. This Directive shall take effect immediately.

A handwritten signature in black ink, appearing to read "Stuart Rabner", written over a horizontal line.

Stuart Rabner
Attorney General

ATTEST:

A handwritten signature in black ink, appearing to read "Gregory A. Paw", written over a horizontal line.

Gregory A. Paw
Director, Division of Criminal Justice

Dated: Dec. 13, 2006