



State of New Jersey

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TO: All County Prosecutors

FROM: Gurbir S. Grewal, Attorney General

DATE: June 5, 2020

SUBJECT: **Guidance Regarding Police Use of Force**

Like all of you, I am still reeling from the footage of George Floyd's murder in Minneapolis. His death reminds us that our country has a long way to go—not only in healing our nation's racial divides, but also in addressing the systemic and implicit biases that prevent all Americans from equally securing our country's great promises. Now more than ever, we must redouble our commitment to building trust between law enforcement and the people we serve, especially those from historically marginalized communities.

Here in New Jersey, we are absolutely committed to a criminal justice system that is fair, just, and free of bias. I wholeheartedly agree with the statement that the County Prosecutors Association of New Jersey issued earlier this week, noting our "solemn responsibility" as law enforcement officers and reiterating our shared commitment to a culture of professionalism, accountability, and transparency.

As you know, earlier this week, I announced a number of additional reforms we will be implementing in the coming months. These reforms build upon those announced last December as part of the "Excellence in Policing" initiative and are designed to strengthen New Jersey's status as a national leader on policing practices. Most significantly, we will be revising our statewide Use of Force Policy, which has not been updated in two decades. I expect to codify these revisions in a Law Enforcement Directive before the end of 2020, and I look forward to consulting with all of you—and a wide range of stakeholders—during that process.

However, as protests continue to roil New Jersey and the nation, I feel compelled to reiterate a few of our existing policies and ask that you remind police departments within your jurisdiction to comply with these rules.



Chokeholds and Neck Restraints

New Jersey law enforcement officers are not permitted to perform chokeholds, carotid artery neck restraints, or similar tactics on any individual, except in the very limited situations when deadly force is necessary to address an imminent threat to life. Our state's police academies have long instructed recruits on the dangers of "positional asphyxiation," a form of asphyxia that prevents suspects from breathing adequately, including by kneeling or otherwise placing weight on a subject's neck. Police Training Commission Defensive Tactics Manual § 5.3.2 (2009). Because these tactics create a substantial risk of death or serious bodily harm, officers who cause a subject's death or injury while performing them face potential criminal liability.

Media Covering Public Demonstrations

The media has a right to cover protests and public demonstrations from any location where the public is normally allowed, and law enforcement officers should allow credentialed journalists to film, broadcast, and otherwise report on these demonstrations without undue interference.

The Reporters Committee for Freedom of the Press has published useful guidance on the rights and responsibilities of reporters covering protests. The guidance notes, for example, that journalists "cannot trespass on private property or engage in other unlawful conduct that occurs during a protest under the guise of gathering news," but makes clear that "police cannot arrest journalists in retaliation for negative coverage or to prevent reporting on a public demonstration."¹ If you have not already done so, I strongly encourage you to consult with the law enforcement agencies in your counties to ensure that they take all reasonable steps to safeguard the First Amendment rights of journalists during this turbulent time.

Community Engagement

Many of our state's residents are angry, and understandably so. Now more than ever, we must take the time to listen to the fears and frustrations of our fellow New Jerseyans. As County Prosecutors, you have done extraordinary work building relationships with members of your community, and now is the time to leverage those relationships and ensure that you are maintaining open lines of communication with as many residents as possible.

Over the next several weeks, I ask that you use whatever time you have available to talk with community members, either through virtual town halls or in-person gatherings (consistent with appropriate social distancing and gathering rules). I also encourage you to talk with as many young people as possible, as their views are particularly important right now.

¹ REPORTERS COMMITTEE FOR FREEDOM OF THE PRESS, POLICE, PROTESTERS, AND THE PRESS 1 (2018), available at https://www.rcfp.org/wp-content/uploads/2018/12/Police_Protesters_and_the_Press_2018.pdf.