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DUTY TO RENDER MEDICAL ASSISTANCE

Use of Force Directive – Core Principle 6

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In December of 2020, Attorney General Gurbir S. Grewal announced the first revision to the statewide "Use of Force Policy." The new policy overhauled the responsibilities of law enforcement officers when interacting with civilians. There are seven core principles outlined in that policy, but for this discussion, we will focus on Core Principle 6 – Duty to Render Medical Assistance. This Core Principle establishes an affirmative "duty to provide medical assistance" *after any use of force, and when the environment is safe, officers shall promptly render medical assistance to any injured person consistent with the officer's training and shall promptly request emergency medical assistance for that person, if needed or requested. Officers also have a duty to monitor individuals for potential medical intervention after any officer uses force.*

The NJMEL requires that Police Command Staff personnel attend risk management training. In 2021, that training was conducted by our law enforcement consultants. During the presentation, our personnel discussed the concept of "reasonable foreseeability." The idea is that a reasonable person, in this case, a law enforcement officer using mechanical or deadly force, should be able to anticipate that their actions may cause serious bodily injury or death. The Attorney General's Policy and the concept of reasonable foreseeability demand our attention when it comes to preparing our personnel for the challenge of providing medical assistance to persons who have been seized under the Use of Force Policy.

When using a conducted energy device or OC spray, agencies have developed policies, protocols, and training on after-use treatment. However, many agencies do not have these policies and training in place for incidents involving deadly force or any use of force where the subject may also experience a simultaneous medical emergency. Such injuries or conditions may include severe bleeding, penetrating wounds, respiratory distress, traumatic brain injury, and more.

The next logical question is, has the officer been properly trained? If an incident occurs and it is reasonably foreseeable that the application of force will occur, it is incumbent on us to prepare our personnel for these types of incidents. First, we must secure the scene and provide medical assistance. Secondly, we need to prepare our personnel for the aftermath; investigations, interviews, social media, and litigation. Experts will be enlisted to give their opinion on what you should have done to prepare your personnel for these challenges. They will claim that your failure to train was due to your incompetency or deliberate indifference. Most likely, there will be allegations of Civil Rights Violations and references to case law that will include; Monroe v. Pape, 365 U.S. 167 (1961); Monell v. Department of Social Services of the City of New York, 436 U.S. 658 (1978), and the City of Canton v. Harris, 489 U.S. 378 (1989).

Body-worn cameras, independent phone, and surveillance recordings will be used to show what the officer did or did not do. We need to plan for this and provide strong policy guidance, training, and supervision.

Take a survey and find out who is trained in emergency first aid and whether employees have the necessary equipment. Questions that need to be asked;

- Who conducted the training, and are they qualified?
- When and how often was the training provided?
- What topics were covered, and is a lesson plan available?
- Were the officers trained in bleeding control and wound management (gunshots & stabbing)?
- Were the use of and deployment of tourniquets discussed both for officers, suspects, and civilians?
- Were the officers properly trained to recognize a person in respiratory distress and how to provide treatment?
- Were officers trained in general first aid treatment, choking, and respiratory failure?
- Was the training based on best business practices?
- Are police vehicles equipped with adequate emergency medical supplies and equipment?
- Is this equipment consistent from vehicle to vehicle or officer to officer?
- Do officers have the ability to quickly replace expended medical supplies?
- Is there an inspection process to ensure that medical equipment and supplies are available and in good condition?

Questions may also arise around the use of "Scoop and Run." Some agencies may employ a practice of transporting critically injured officers, civilian trauma patients, or very young children suffering a life-threatening condition to the closest hospital instead of waiting for EMS to arrive. Agency leaders should evaluate their policies and procedures and confer with their municipal attorney and medical director to ensure that their practices, both formal and informal, are in the best interests of injured persons while also meeting the standards of Core Principle 6. For example, can the below question be appropriately answered while considering the mandates of the new use of force directive?

- An officer is critically injured by gunfire and immediately transported by another officer to the closest hospital before waiting for EMS. One of the suspects was also shot by police and died in the street; why didn't they transport the suspect and save his life? The answer may be that it was not safe to do so because the person was still a threat or no other officers were available as they were attempting to secure the scene for the safety and security of the officers, civilians, victims, and or EMS. Policy guidelines, training, and recognizing mitigating factors will help officers with the process of making good decisions when confronted with these types of incidents. Questions will be asked once the incident is over; they may include the "why" the officer didn't transport the critically injured suspect in the same manner as the officer. The allegation will be made that the officer did not fulfill their responsibilities under the requirements of Core Principle 6.

If an agency is exploring the idea of adopting a "Scoop and Run" Policy, some considerations may include:

- What legal issues must be addressed before implementing a "Scoop and Run" policy?
- Does the County Prosecutor have an opinion on this practice?
- Do Fire and EMS services have any additional information that may be helpful if a policy such as this were to be implemented?
- Seek the advice of your Municipal Attorney!
- What is the threshold of waiting time or anticipated arrival of EMS before proceeding with officer transport?
- What is considered a close treatment facility, and are those facilities capable of handling a trauma patient known to all officers?
- What type of injuries are permitted for officer transport? Child not breathing? If so, is there an age threshold?

- What types of injuries are not permitted to be transported by the officer? Those injured from falls or motor vehicle crashes that may sustain more injury when not appropriately cared for?
- If suspects are being transported, what particular circumstances for safety and security need to be initiated?
- Would a victim of a crime that has been critically injured or an innocent civilian accidentally injured by police gunfire be transported?

We need to prepare our personnel and get ahead of this challenge before the new Use of Force Policy is implemented. Training, policy, leadership, and front-line supervisors all play an essential role in turning the Attorney Generals Directive into action.