

Newark Police Division

USE OF FORCE REPORTING, INVESTIGATION AND REVIEW Draft Policy

What You Need to Know

Background

Police officers are authorized to use force in carrying out their job duties. However, force that is excessive and/or discriminatorily administered goes against both legal and societal standards. This white paper breaks down how NPD will monitor use of force to ensure it meets community and legal expectations. This policy supplements the main NPD Use of Force policy by outlining the reporting, investigation, and review of use of force. Section VIII of the Consent Decree outlines and references guidelines and requirements for NPD's use of force reporting, investigation, and review.

Use of Force Reporting, Investigation and Review Draft Policy Summary

The current draft use of force reporting, investigation and review policy contains the following ten sections: (1) purpose; (2) policy; (3) definitions; (4) All Force Investigations and Tracking Team (A-FIT) structure and responsibilities; (5) general requirements for use of force reporting and investigation; (6) notifications; (7) use of force reporting and investigative responsibilities; (8) use of force review; (9) training; and (10) effects of this order.

WHAT IS THE PURPOSE OF THIS POLICY?¹

The policy exists to “set out the reporting, analytical, and investigatory responsibilities for use of force incidents involving Newark Police Division members.” The policy also establishes the All-Force Investigations & Tracking (A-FIT) Team.

WHAT DIFFERENT TYPES OF FORCE WILL BE REPORTED AND INVESTIGATED?²

This policy states that “Newark Police Division members will report anytime they use force [and the] Newark Police Division will investigate and review all uses of force.” Officers involved in a use of force incident must provide notification to the Communications Division/911 Call Center as soon as feasible. The Call Center will then make supervisory and other notifications.

Use of force incidents will be categorized into three levels based on seriousness:

1. Low-level use of force – any use of force that is not likely to *and* does not result in bodily harm or complaint of bodily harm. Includes hand controls or escort techniques such as an elbow grip or shoulder grip.
2. Intermediate-level use of force – any use of force that is likely to *or* actually does result in bodily harm or complaint of bodily harm. Includes wrestling a person to the ground, the use of chemical agents used to disorient and distract, and the use of a baton for non-striking purposes.
3. Serious-level use of force – any use of force that results *or* is likely to result in serious bodily harm or death. Includes use of deadly force, stun guns, canine bites, neck holds, and any force that results in loss of consciousness.

WHAT IS THE A-FIT TEAM?³

The A-FIT Team is housed in NPD's Office of Professional Standards (OPS) and is responsible for reviewing, tracking, and analyzing all Police Division members' use of force incidents. It will be staffed by experienced investigators and will include a commander, supervisory, and investigative personnel.

The A-FIT Team is responsible “for investigating serious and intermediate use of force incidents, except for use of force incidents investigated by the Essex County Prosecutor's Office or other Law Enforcement Agencies.” Specifically, it will respond to and investigate the following types of use of force incidents:

¹ See NPD General Order (“Use of Force Reporting, Investigation and Review”) at I.

² See Use of Force Reporting, Investigation and Review at II and VI.

³ See Use of Force Reporting, Investigation and Review at III, IV, and VII.

- a. “Serious use of force” incidents;
- b. Any use of force incident, upon notification by a field supervisor, where the incident potentially involves criminal conduct or misconduct on the part of the member; and
- c. Any other use of force incidents as directed by the A-FIT Team Commander.

Other duties of A-FIT Team members include, but are not limited to, assisting and guiding field supervisors with the handling of use of force incidents, reviewing and analyzing all use of force incidents, developing and maintaining a system to track all use of force incidents, and forwarding findings of use of force investigations to the Risk Analysis and Review Board (RARB) (see below). **Note:** The A-FIT Team is not required to respond to the scene for low-level uses of force.

WHAT ARE THE PROCEDURES AND REQUIREMENTS FOR USE OF FORCE REVIEW?⁴

Under the policy, any use of physical, mechanical, enhanced mechanical, or deadly force (as defined in the main Use of Force policy) by Division members shall be reported and investigated. All A-FIT Team investigations shall be reviewed by a number of parties after they leave the hands of A-FIT investigators. The A-FIT Team supervisor will review all completed use of force investigations by A-FIT investigators, as well as those conducted by field supervisors. They will review pertinent reports to ensure investigations are complete and thorough, ensure that findings are supported by the preponderance of the evidence standard, determine whether the force used was lawful and consistent with policy, and forward the investigation to the A-FIT Team Commander. Section VII of the policy outlines use of force reporting and investigative responsibilities for low-level, intermediate-level, and serious-level use of force investigations.

The A-FIT Team Commander will review all completed use of force investigations and either (1) recommend changes to the findings if it appears that they are not legally supported or (2) if the investigation is complete, supported by evidence, and free from deficiencies, forward the investigation to the Risk Analysis and Review Board (RARB) for final review.

The RARB is “a panel of Police Division command and executive-level members responsible for reviewing and analyzing a variety of Division matters [...], which include all use of force investigations.” It will consist of members from various commands. Once an investigation reaches the RARB, the members of the Board will conduct “timely, comprehensive, and reliable reviews of all use of force investigations” for the purpose of determining whether the findings so far in the investigative process have been consistent with law and policy, are supported by the preponderance of the evidence standard, are thorough and complete, and bring up policy or other considerations for NPD.

WHAT ARE THE TRAINING REQUIREMENTS FOR USE OF FORCE REPORTING AND INVESTIGATION?⁵

All NPD members are required to undergo training on using the BlueTeam database for use of force reporting and investigation purposes. On top of that, new supervisors receive training on the tenets of this policy during their supervisor academy training program.

Finally, under the draft policy, the new members of the A-FIT Team will attend specialized use of force investigations training within 30 days of being assigned to the team. This training will include (but will not be limited to) the main Use of Force policy for the NPD, state and federal law concerning use of force, New Jersey Attorney General guidelines on use of force, the firearms and weapons policy for the NPD, and de-escalation techniques. RARB members will receive a minimum of 8 hours of annual training.

⁴ See Use of Force Reporting, Investigation and Review at III, V, VII, and VIII.

⁵ See Use of Force Reporting, Investigation and Review at IX.