



CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lieutenant Governor

State of New Jersey
OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
PO Box 080
TRENTON, NJ 08625-0080

JEFFREY S. CHIESA
Attorney General

MEMORANDUM

TO: Stephen J. Taylor
Director, Division of Criminal Justice

Colonel Joseph R. Fuentes
Superintendent, New Jersey State Police

All Other Chief Executives of State-Level Law Enforcement Agencies

All County Prosecutors

FROM: Jeffrey S. Chiesa, Attorney General *JSC*

DATE: July 13, 2012

SUBJECT: Clarification of CED Incident Reporting Procedures for State-Level Law Enforcement Agencies Under the Revised Policy on Conducted Energy Devices

The purpose of this memorandum is to clarify and amend the investigation and reporting procedures to be followed by the New Jersey State Police and other State-level law enforcement agencies when a State Police member or other State law enforcement officer fires or discharges a conducted energy device (CED).

The Revised Attorney General Policy on Conducted Energy Devices, which was issued on October 7, 2010, prescribes the steps that must be taken when a law enforcement officer acting under the authority of State law fires or discharges a CED during an actual operation. The investigation and reporting procedures spelled out in Section X (Reporting and Evaluation) are different from the reporting procedures that are generally followed after an officer deploys non-lethal force, and these special procedures are designed to ensure that this new form of enhanced mechanical force is deployed properly and in accordance with the strict limitations imposed by the Revised CED Policy.



Specifically, Section X (2) and (3) of the Revised CED Policy requires that whenever an officer fires or discharges a CED during an actual operation, his or her department must investigate the incident, and the chief executive must issue a finding on whether the firing and all discharges complied with the Attorney General's CED policy. The chief executive of the officer's department must then forward the investigation report and findings to the county prosecutor within 3 business days of the firing/discharge, unless the prosecutor grants a reasonable extension of time. The county prosecutor must then promptly forward the report to the Director of the Division of Criminal Justice along with a memorandum or letter indicating whether the prosecutor concurs or disagrees with the findings of the chief executive. The Director must then report to the Attorney General on the propriety of the firing/discharge(s).

The Revised CED Policy, as it is presently written, does not draw a distinction between State law enforcement agencies and county and municipal law enforcement agencies for purposes of the reporting chain. It has been brought to my attention that in other use-of-force reporting contexts, the State Police and other State-level law enforcement agencies typically transmit reports or data directly to the Division of Criminal Justice. Accordingly, and in order to streamline the reporting process, the Revised CED Policy is hereby amended and shall hereinafter be interpreted to provide that when a CED is fired/discharged by a law enforcement officer who is employed by or who is otherwise acting under the direct authority of a State-level law enforcement agency, the chief executive of the State agency shall forward the report and findings required by Section X(2) of the Revised CED Policy directly to the Director of the Division of Criminal Justice, who shall thereafter perform the review functions that otherwise would have been performed under Section X(3) by the county prosecutor, in addition to the review and reporting functions specified in that Section for the Director.

Nothing in this clarifying memorandum should be construed in any way to amend the provisions of the Revised CED Policy concerning the nature, thoroughness, and promptness of post-incident investigations and the findings that must be made and reported ultimately to the Attorney General, and except for the chain of reporting for State-level law enforcement agencies, all other reporting and evaluation provisions of the Revised CED Policy remain in full force and effect.