



*State of New Jersey*  
DEPARTMENT OF LAW AND PUBLIC SAFETY  
DIVISION OF CRIMINAL JUSTICE

JOHN J. FARMER, JR.  
*Attorney General*

PO Box 085  
TRENTON, NJ 08625-0085  
TELEPHONE (609) 984-6500

KATHRYN FLICKER  
*Director*

**TO: ALL COUNTY PROSECUTORS  
COL. CARSON J. DUNBAR, JR., SUPERINTENDENT, NJSP**

**FROM: KATHRYN FLICKER, DIRECTOR  
DIVISION OF CRIMINAL JUSTICE**

**DATE: November 6, 2000**

**SUBJECT: ATTORNEY GENERAL LAW ENFORCEMENT DIRECTIVE -  
2000-1 SHOOTING DIRECTIVE - REVISED NOVEMBER 2000**

The attached **Revised** Directive No. 2000-1, dated November 3, 2000, replaces Directive No. 2000-1 dated August 4, 2000.

Paragraph Nos. 6 and 8 have been revised and are self-explanatory.

jak

Attachment

c Attorney General John J. Farmer  
First Assistant Paul H. Zoubek  
Administrator Thomas O'Reilly  
Director of State Police Affairs Martin Cronin  
Chief of Staff Debra L. Stone  
Chief State Investigator John A. Cocklin  
Deputy Director Wayne S. Fisher, Ph.D.  
Deputy Director Anthony J. Zarrillo, Jr.  
Chief Greta Gooden Brown, Pros. & Police Bureau



*New Jersey Is An Equal Opportunity Employer*

**ATTORNEY GENERAL LAW ENFORCEMENT  
DIRECTIVE NO. 2000-1**

**Revised November 2000**

**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

**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**, 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 procedures for review of the use of force by law enforcement officers statewide;

**NOW, THEREFORE**, I, John J. Farmer, Jr., 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 Division of Criminal Justice, Operations Bureau, must be notified within twenty-four (24) hours, in a manner prescribed by the Division, **of any use of force by a law enforcement officer involving death or serious bodily injury or where any injury results from the use of a firearm by a law enforcement officer.**

2. 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 a state level. In the event that the Division of Criminal Justice supersedes, a shooting response team consisting of Division of Criminal Justice investigators and members of the Major Crimes Unit of the Division of State Police under the direction of a Deputy Attorney General, shall conduct the investigation. The shooting response team will report directly to the Deputy Director of the Operations Bureau.

3. When a Prosecutor's Detective or Investigator, Assistant Prosecutor, or Prosecutor is involved in the use of force as defined in Paragraph 1, the Division of Criminal Justice will conduct the investigation as described in Paragraph 2.

4. 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 a State or federal 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, unless otherwise directed by the Attorney General.

5. 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 conduct the investigation with the shooting response team described in Paragraph 2 or to refer the matter to the appropriate County Prosecutor to conduct the investigation with the assistance of the shooting response team described in Paragraph 2. The shooting response team and the assigned Deputy Attorney General or Assistant Prosecutor shall report directly to the Division of Criminal Justice, Operations Bureau.

6. 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 the Division of Criminal Justice, except under Paragraph 4 where the final decision will be made by the Attorney General. In all other circumstances,

the matter must be presented to a grand jury.

7. The Division of Criminal Justice, Operations Bureau, 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 the grand jury. The Division of Criminal Justice, Operations Bureau, will review all such investigations to ensure compliance with all applicable law, directives and policies.

8. 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 agree 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 reports be based on grand jury material unless approved by the assignment judge.

9. This Directive shall take effect immediately.



---

John J. Farmer, Jr.  
Attorney General

ATTEST:



---

Kathryn Flicker  
Director, Division of Criminal Justice

Dated: November 3, 2000



*State of New Jersey*  
DEPARTMENT OF LAW AND PUBLIC SAFETY  
DIVISION OF CRIMINAL JUSTICE

PO Box 085

TRENTON, NJ 08625-0085

TELEPHONE (609) 984-6500

KATHRYN FLICKER

*Director*

JOHN J. FARMER, JR.  
*Attorney General*

**TO: ALL COUNTY PROSECUTORS  
COL. CARSON J. DUNBAR, JR., SUPERINTENDENT, NJSP**

**FROM: KATHRYN FLICKER, DIRECTOR** *KF*  
**DIVISION OF CRIMINAL JUSTICE**

**DATE: August 4, 2000**

**SUBJECT: ATTORNEY GENERAL LAW ENFORCEMENT DIRECTIVES:  
2000-1 SHOOTING DIRECTIVE  
2000-2 CONSENT DECREE WITH U. S. DIST. CT. DIRECTIVE**

**2000-1 SHOOTING DIRECTIVE**

The attached Directive No. 2000-1 replaces Directive 1996-2, which is hereby repealed. This Directive is designed to ensure that officers involved in shootings are investigated in a manner which ensures the public and the police community that these matters will be fully and fairly investigated. This Directive makes a number of changes from Directive 1996-2. The most significant change is **all** police involved shootings will now be presented to a grand jury as recommended by the Use of Force Policy Committee.

**2000-2 CONSENT DECREE WITH U. S. DISTRICT COURT DIRECTIVE**

The attached Directive No. 2000-2 is promulgated to comply with the Consent Decree entered in the United States District Court. Your compliance with this Directive is imperative in order that we may fulfill our obligations under the Consent Decree.

jak

c

Attorney General John J. Farmer  
First Assistant Paul H. Zoubek  
Administrator Thomas O'Reilly  
Director of State Police Affairs Martin Cronin  
Chief of Staff Debra L. Stone  
Chief State Investigator John A. Cocklin  
Deputy Director Wayne S. Fisher, Ph.D.  
Deputy Director Ronald Susswein  
Chief Greta Gooden Brown, Pros. & Police Bureau



*New Jersey Is An Equal Opportunity Employer*



## State of New Jersey

DEPARTMENT OF LAW AND PUBLIC SAFETY  
OFFICE OF THE ATTORNEY GENERAL  
P.O. Box 080  
TRENTON, NJ 08625-0080

CHRISTINE TODD WHITMAN  
*Governor*

JOHN J. FARMER, JR.  
*Attorney General*

PAUL H. ZOUBEK  
*First Asst. Attorney General*

### **ATTORNEY GENERAL LAW ENFORCEMENT DIRECTIVE NO. 2000-1**

**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

**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**, 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 procedures for review of the use of force by law enforcement officers statewide;

**NOW, THEREFORE**, I, John J. Farmer, Jr., 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 Division of Criminal Justice, Operations Bureau, must be notified within twenty-four (24) hours, in a manner prescribed by the Division, **of any use of force by a law enforcement officer involving death or serious bodily injury or where any injury results from the use of a firearm by a law enforcement officer.**

2. 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 a state level. In the event that the Division of Criminal Justice supersedes, a shooting response team consisting of Division of Criminal Justice investigators and members of the Major Crimes Unit of the Division of State Police under the direction of a Deputy Attorney General, shall conduct the investigation. The shooting response team will report directly to the Deputy Director of the Operations Bureau.

3. When a Prosecutor's Detective or Investigator, Assistant Prosecutor, or Prosecutor is involved in the use of force as defined in Paragraph 1, the Division of Criminal Justice will conduct the investigation as described in Paragraph 2.

4. 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 a State or federal 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, unless otherwise directed by the Attorney General.

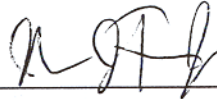
5. When a member of the State Police or any agency supervised by the State Police is involved in the use of force as defined in Paragraph 1, the State Police shall immediately notify the Division of Criminal Justice. The Division will have the discretion to conduct the investigation with the shooting response team described in Paragraph 2 or to refer the matter to the appropriate County Prosecutor to conduct the investigation with the assistance of the shooting response team described in Paragraph 2. The shooting response team and the assigned Deputy Attorney General or Assistant Prosecutor shall report directly to the Division of Criminal Justice, Operations Bureau.

6. In all circumstances set forth in Paragraph 1, the matter must be presented to a grand jury.

7. The Division of Criminal Justice, Operations Bureau, 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 the grand jury. The Division of Criminal Justice, Operations Bureau, will review all such investigations to ensure compliance with all applicable law, directives and policies.

8. While not specifically permitted under case law or court rule, a number of assignment judges have permitted grand juries to issue "reports" of their findings. Because of the danger in using "reports" to bypass the legal safeguards in a Presentment, the Attorney General disfavors the use of this vehicle for conveying the grand jury's views. Therefore, no report is to issue from any grand jury unless approved by the Director of the Division of Criminal Justice. Any report which is permitted shall not reflect the views of the minority of the grand jurors and should not be issued under the auspices of the Prosecutor's Office. Where the majority of a jury indicates it wishes to issue a report rather than a Presentment, the Prosecutor's Office shall immediately contact the Director of the Division of Criminal Justice or his or her designee.

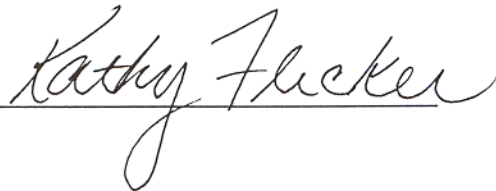
9. This Directive shall take effect immediately.



---

John J. Farmer, Jr.  
Attorney General

ATTEST:



Dated: August 4, 2000





## State of New Jersey

DEPARTMENT OF LAW AND PUBLIC SAFETY  
OFFICE OF THE ATTORNEY GENERAL  
P.O. Box 080  
TRENTON, NJ 08625-0080

CHRISTINE TODD WHITMAN  
*Governor*

JOHN J. FARMER, JR.  
*Attorney General*

PAUL H. ZOUBEK  
*First Asst. Attorney General*

### ATTORNEY GENERAL LAW ENFORCEMENT DIRECTIVE NO. 2000-2

**WHEREAS**, the State of New Jersey entered into a Consent Decree with the United States Department of Justice on December 30, 1999 requiring the State to implement a method by which it will be notified of allegations and findings of criminal misconduct or constitutional violations by members of the New Jersey State Police; and


**WHEREAS**, said Consent Decree also requires that the State be notified of all incidents in which a civilian is charged by a State Trooper with obstruction of official business, resisting arrest, assault on a State Trooper, or disorderly conduct, where said charges are dismissed by a Prosecutor or Judge before or during a trial and the dismissal is not part of a plea agreement; and

**WHEREAS**, the Consent Decree also requires that the State make reasonable efforts to implement procedures to receive notification whenever there is a finding of a constitutional violation or misconduct by a State Trooper in a criminal proceeding;

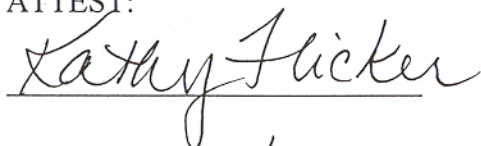
**NOW, THEREFORE**, I, John J. Farmer, Jr., Attorney General of New Jersey, by virtue of the authority vested in me by the Constitution and the Statutes of this State, do hereby direct that:

1. Each County Prosecutor's Office must ensure that notifications to the Division of Criminal Justice are timely made in accordance with this Directive.
2. Because the County Prosecutors exercise supervisory authority over Municipal Prosecutors pursuant to N.J.S.A. 2B:12-27, the County Prosecutors must ensure that notifications to the Division of Criminal Justice include all municipal prosecutions within the scope of the Consent Decree as stated herein.
3. The reporting requirements are as follows:
  - a) A Prosecutor must notify the Division of Criminal Justice within 10 working days if a Prosecutor or Court dismisses a charge of obstruction of official business, resisting arrest, assault on a State Trooper, or disorderly conduct, where said charges are dismissed by a Prosecutor or Judge before or during a trial and the dismissal is not part of a plea agreement;

- b) A Prosecutor must notify the Division of Criminal Justice within 10 working days when there is a finding in a criminal proceeding of a constitutional violation or misconduct by a State Trooper, which includes, but is not limited to, the granting of an order suppressing evidence inappropriately obtained by a State Trooper;
  - c) A Prosecutor must notify the Division of Criminal Justice within 10 working days of an Appellate Court's determination that due to a constitutional violation or misconduct by a State Trooper, a motion to suppress evidence was erroneously denied by a lower court; and,
  - d) A County Prosecutor must notify the Division of Criminal Justice within 1 working day after receiving information from any source, including, but not limited to, a municipal court or local law enforcement agency, indicating that a State Trooper is the subject of allegations of misconduct, quasi-criminal or criminal charges or complaint, or has been indicted by a grand jury.
4. In order to facilitate uniform notification, County Prosecutors are directed to use the attached *State Police Incident Complaint Reporting Form* in order to make the within stated notifications to the Division of Criminal Justice.
5. This Directive also applies to Assistant and Deputy Attorneys General in cases being prosecuted by the Division of Criminal Justice.
6. This Directive shall take effect immediately and shall apply to criminal proceedings arising on or after this date, regardless of the date of the police incident giving rise to said proceedings.

  
\_\_\_\_\_  
John J. Farmer, Jr.  
Attorney General

ATTEST:

  
\_\_\_\_\_  
Kathy Flicker

Dated: August 4, 2000

Attachment

# State Police Incident Complaint Reporting Form

State Police Case No:	Trooper(s) Involved:	
State Police Case Name:	Name	Badge No.
Incident Date:		
Incident Time:                      am pm (circle one)		

**Identify dismissed charge(s) and by whom:**

Obstruction of official business or justice     Prosecutor's Office     Court (*specify*) \_\_\_\_\_  
 Resisting arrest     Prosecutor's Office     Court (*specify*) \_\_\_\_\_  
 Assault on a State Trooper                                       Prosecutor's Office     Court (*specify*) \_\_\_\_\_  
 Disorderly conduct filed by the Trooper     Prosecutor's Office     Court (*specify*) \_\_\_\_\_

**Describe criminal charge against State Trooper:**

Quasi-criminal \_\_\_\_\_  
 Criminal \_\_\_\_\_

**Identify the conduct deemed to be unlawful:**

<input type="checkbox"/> traffic stop <input type="checkbox"/> ordering passenger(s) from vehicle <input type="checkbox"/> frisk of driver <input type="checkbox"/> frisk of passenger(s) <input type="checkbox"/> vehicle frisk <input type="checkbox"/> arrest <input type="checkbox"/> miranda warnings <input type="checkbox"/> custodial interrogation	searches: <input type="checkbox"/> search incident to arrest <input type="checkbox"/> probable cause search (automobile exception) <input type="checkbox"/> consent search <input type="checkbox"/> inventory search <input type="checkbox"/> plain view/feel search <input type="checkbox"/> other _____ _____
--	--

**Description of the Trooper's error and what the Trooper should have done:**

*(e.g., stop was too long and amounted to an arrest without probable cause; passenger ordered out of vehicle without articulable facts warranting heightened caution; inadequate basis for conducting frisk; illegal frisk for drugs rather than weapons [nature of non-weapon item not "immediately apparent" during lawful frisk]).*