

FACT SHEET

Attorney General Directive on Deadly Force Investigations

A 2006 Attorney General directive established procedures for investigating police deadly force incidents in New Jersey. In sum, when a municipal police officer is involved, the county prosecutor investigates. The 2006 directive creates a presumption that all cases will be presented to a grand jury, consisting of 23 civilians, for independent review unless the undisputed facts establish that the use of force was justified. If the prosecutor determines that the case need not be presented to a grand jury, then the Director of the Division of Criminal Justice reviews the case and may agree or overrule regarding the grand jury presentation, or may remand the case to the county for further investigation. When a county- or state-level officer uses deadly force, the case is investigated by the Attorney General's Shooting Response Team, made up of deputy attorneys general and detectives of the Division of Criminal Justice and detectives of the State Police Major Crime Unit, all of whom operate independently of their usual chain of command and report directly to the Director of the Division of Criminal Justice or a designee.

The new directive announced by the Attorney General today does not change the fundamental structure established in 2006, including the multi-tiered review process, but makes changes to further promote independence, transparency, and public confidence. Specifically, the directive:

- Requires county prosecutors to conduct a comprehensive conflicts check within 72 hours of any deadly force incident and report to the Division of Criminal Justice. The Division of Criminal Justice will determine whether any individuals should be walled off from a case, or whether the entire case should be superseded to another county prosecutor.
- Requires that, where a municipal police officer is the subject of an investigation, that particular municipal police department must be walled off from the investigation, except for necessary crime scene services, first-responder services, or specialized forensic services.
- Establishes best practices for grand jury presentations, including (1) model grand jury instructions to ensure cases are presented uniformly and in strict compliance with law, and (2) a requirement that a criminal case against a civilian who was the subject of a police use of force (who, for example, possessed a gun or drugs, or committed another crime in connection with the use of force) be presented to one grand jury, while the case relating to the police officer's use of force be presented to a separate grand jury. The Division of Criminal Justice will prepare a course on presenting police deadly force cases to the grand jury which all assistant prosecutors and deputy attorneys general handling these cases will be required to take.
- Requires that county prosecutors or the Division of Criminal Justice release information to the public at the conclusion of any use of force investigation that results either in no grand jury presentation or a vote of "no true bill" by the grand jury, explaining the circumstances of the incident and investigation findings regarding the lawfulness of the police use of force.