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**ATTORNEY GENERAL LAW ENFORCEMENT DIRECTIVE NO. 2019-4**

**TO:** All Law Enforcement Chief Executives

**FROM:** Gurbir S. Grewal, Attorney General

**DATE:** December 4, 2019

**SUBJECT: Directive Ensuring the Independent Investigation of Criminal Cases Involving Police Use-of-Force or In-Custody Deaths**

There are few investigations more important—or more challenging—than those involving the use of force by law enforcement officers against civilians. The purpose of this Directive is to outline clear procedures governing such investigations and to ensure that they are done fully, fairly, and independently of any potential bias.

Broadly speaking, the Directive outlines a ten-step process for conducting independent investigations of use-of-force and death-in-custody incidents in compliance with State law. Although the precise timing will vary depending on the case, the first three steps generally occur simultaneously in the immediate aftermath of the incident, while the remaining steps unfold over the course of the investigation:

1. Notification to Attorney General
2. Arrival of First Responders
3. Selection of Independent Investigator
4. Initial Investigation & Evidence Collection
5. Public Release of Incident Footage (if requested)
6. Completed Investigation
7. Independent Supervisory Review of Investigative Findings
8. Grand Jury Proceedings (if applicable)
9. Announcement of Criminal Charges or Declination
10. Referrals for Administrative Review



Although this ten-step process applies regardless of whether the officer's use of force resulted in a civilian's death, there are a number of additional important procedural requirements that apply when a death does occur. *See* N.J.S.A. 52:17B-107 (P.L. 2019, c.1). For that reason, it is vital that any officials conducting an independent investigation pursuant to this Directive familiarize themselves with both this document and relevant state law.

Pursuant to the authority granted to me under the New Jersey Constitution and the Criminal Justice Act of 1970, N.J.S.A. 52:17B-97 to -117, which provides 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, I hereby direct all law enforcement and prosecuting agencies operating under the authority of the laws of the State of New Jersey to implement and comply with the procedures outlined below. This Directive repeals and supersedes the provisions of Attorney General Law Enforcement Directive ("AG Directive") 2006-5, the supplement to that Directive issued on July 28, 2015, and AG Directive 2018-1.

## **I. Scope of Directive**

- A. ***Types of Incidents.*** This Directive applies to investigations involving the following types of incidents ("Law Enforcement Incidents") occurring within the State of New Jersey:
1. Any use of force by a law enforcement officer resulting in death;
  2. Any use of force by a law enforcement officer resulting in serious bodily injury;
  3. Any use of deadly force (including the discharge of a firearm) by a law enforcement officer, regardless of whether such force resulted in injury;
  4. The death of any civilian during an encounter with a law enforcement officer; and
  5. The death of any civilian while in the custody of law enforcement.
- B. ***Types of Officers.*** This Directive applies to criminal investigations involving any municipal, county, state, or other law enforcement officer, regardless of whether the officer was acting in the performance of their official duties ("on duty") or in their personal capacity ("off duty").
- C. ***Definitions.*** For the purposes of this Directive:
1. "Law Enforcement Incident" (or "LE Incident") means any incident described in Section I.A subject to the procedures outlined in this Directive.

2. “Principal of the Investigation” (or “Principal”) means any officer(s) described above in Section I.B. subject to investigation for their role in a LE Incident.
3. “Independent Investigator” means the law enforcement entity tasked with primary responsibility for investigating a specified LE Incident and, where appropriate, determining whether to present a proposed indictment regarding the Principal(s) for their role(s) in an LE Incident.
4. “Independent Supervisory Reviewer” means the official tasked with reviewing the factual findings, legal analysis, and charging recommendations prepared by the Independent Investigator at the conclusion of the investigation.
5. “Office of Public Integrity & Accountability” (or “OPIA”) refers to an Office established pursuant to Attorney General Administrative Executive Directive 2019-8 to conduct sensitive investigations, including those involving allegations of misconduct by law enforcement officers. The Office is run by an Executive Director (“OPIA Director”), who reports directly to the Attorney General.

## **II. Process for Conducting Independent Investigations**

- A. ***Step 1: Notification to Attorney General.*** As soon as any local, county, or state law enforcement agency learns of a Law Enforcement Incident, the agency should immediately notify the County Prosecutor’s Office of the county in which the incident occurred, who shall in turn immediately notify the OPIA Director or their designee.
- B. ***Step 2: Arrival of First Responders.*** In the moments immediately following a LE Incident, emergency first responders have a duty to address any imminent threats to public safety and minimize the loss of life. First responders can and should carry out those duties, while also ensuring that they do not take any actions that would undermine the integrity of a subsequent investigation into the LE Incident. As a result, nothing in this Directive should be construed to preclude any law enforcement officer or emergency medical professional from responding to the scene of the LE Incident for following purposes:
  1. Providing or facilitating prompt medical assistance to any injured person;
  2. Responding to any ongoing threat to public safety;
  3. Preserving evidence and securing the scene, including by controlling traffic or preventing members of the public from interfering with the activities of first responders;

4. Identifying eyewitness and asking them to remain near the scene until appropriate investigators can interview them; and
5. Participating in the pursuit or be-on-the-lookout (BOLO) search for any person suspected of committing a crime related to the LE Incident, including taking any investigative steps (*e.g.*, canvassing, interviewing) in furtherance of such pursuit.

C. ***Step 3: Selection of Independent Investigator.*** As soon as possible after learning of the LE Incident, the OPIA Director shall determine which state or county law enforcement agency shall serve as the Independent Investigator. The OPIA Director shall appoint the Independent Investigator taking into account the default rules described below, unless the selected law enforcement agency is unable to do so because of an actual, potential, or perceived conflict of interest, in which case the OPIA Director shall either seek to mitigate the conflict or identify another agency to serve as Independent Investigator.

#### 1. **Default Rules for Appointment of Independent Investigator**

- a. As a general rule, the Independent Investigator cannot be the law enforcement agency that employs the Principal of the Investigation. In addition, the Independent Investigator cannot possess any other actual, potential, or perceived conflict of interest, as described below in Section II.C.2, and cannot rely on the investigative assistance of any individual who works for the same law enforcement agency as the Principal, except pursuant to the narrow exceptions described below in Section II.D.
- b. OPIA shall serve as the “default” Independent Investigator in the following circumstances, subject to a conflict check conducted pursuant to Section II.C.2 below:
  - i. The use of force by a law enforcement officer resulting in death or serious bodily injury likely to result in death;
  - ii. The death of a civilian during an encounter with a law enforcement officer;
  - iii. The death of a civilian while in the custody of law enforcement, where the death could be plausibly linked to the actions of a law enforcement officer, whether through the intentional use of force or a reckless indifference to human life;<sup>1</sup>
  - iv. Where the Principal of the Investigation is a member of the Division of Criminal Justice or the New Jersey State Police; or

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<sup>1</sup> In cases involving a death inside a prison, jail, or other detention facility, the investigation shall be subject to the protocols described below in Section III of this Directive.

- v. Any other LE Incident where, in the discretion of the OPIA Director, justice would be served by appointing OPIA as the Independent Investigator.
- b. The County Prosecutor's Office in the county where the LE Incident occurred shall serve as the "default" Independent Investigator in the following circumstances, subject to a conflict check conducted pursuant to Section II.C.2 below:
  - i. The use of force by a law enforcement officer resulting in serious bodily injury, but unlikely to result in death; or
  - ii. The use of deadly force by a law enforcement officer acting in their official capacity, except those resulting in death or likely to result in death.

## **2. Review for Conflicts of Interest**

- a. Before the OPIA Director appoints a law enforcement agency as Independent Investigator, that agency shall conduct a comprehensive inquiry to determine whether it has any actual, potential, or perceived conflicts of interest that might undermine public confidence in the impartiality and independence of the investigation, and shall promptly report its findings to the OPIA Director.
- b. As part of the conflict review, the agency shall identify whether any of the following circumstances exist:
  - i. Whether any person who will supervise<sup>2</sup> or participate in the investigation has had any personal or professional interaction with or relationship to the Principal that might reasonably call the person's impartiality into question;
  - ii. Whether the law enforcement agency is prosecuting any case in which the Principal is expected to testify on behalf of the State; or
  - iii. Whether, within the past five years, the Principal has been assigned to a task force operating under the direct supervision of the law enforcement agency.
- c. As part of the conflict review, the OPIA Director may request from any local, county, or state law enforcement agency, and such agency shall provide, any

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<sup>2</sup> For the purposes of this provision, "any person who will supervise" includes all members of the agency's leadership team. For a County Prosecutor's Office, this includes the Prosecutor, First Assistant Prosecutor, Chief of Detectives, and any mid-level supervisors who will oversee the investigation.

information that the OPIA Director deems necessary to determine whether any law enforcement agency has a conflict of interest.

- d. To facilitate the conflict review process, the OPIA Director may issue standardized statewide forms and other materials for use by law enforcement agencies.

### 3. Addressing Conflicts of Interest

- a. If the OPIA Director becomes aware of an actual, potential, or perceived conflict, the Director must take one or more of the following remedial measures:
  - i. Appoint the law enforcement agency to serve as the Independent Investigator, but only on the condition that any person who has a conflict be recused from the investigation;
  - ii. Appoint a different law enforcement agency to serve as the Independent Investigator; or
  - iii. Require any other action as necessary to ensure the impartiality and independence of the investigation.
- b. Should the OPIA Director decide to mitigate a conflict by appointing a different law enforcement agency to serve as the Independent Investigator, the Director may do so using the following guidelines:
  - i. Where OPIA is the “default” agency, *see* Section II.C.1.b above, the OPIA Director shall appoint the Division of Criminal Justice as the Independent Investigator.<sup>3</sup>
  - ii. Where a County Prosecutor’s Office is the “default” agency, *see* Section II.C.1.c above, the OPIA Director shall appoint a different County Prosecutor’s Office as the Independent Investigator. If the OPIA Director is unable to identify a County Prosecutor’s Office able to serve in this capacity, or if justice so requires, the Director may appoint OPIA as the Independent Investigator.

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<sup>3</sup> In situations where both OPIA and the Division of Criminal Justice are unable to serve as the Independent Investigator, the Attorney General shall designate a member of the Office of the Attorney General to supervise the investigation and shall deputize other state or county law enforcement officers to serve as Special Deputy Attorneys General operating under the supervision of the Attorney General’s designee.

#### 4. **Timing of Selection of Independent Investigator**

- a. The OPIA Director shall seek to complete the conflict review and select the Independent Investigator as soon as possible after learning of the LE Incident, and no later than 24 hours after the LE Incident occurs.
- b. In order to avoid delay in the collection of evidence in the immediate aftermath of an LE Incident, the OPIA Director may temporarily designate one or more persons employed by the County Prosecutor's Office where the LE Incident occurred as "Special Deputy Attorneys General" or "Special State Investigators," who, for the purposes of the temporary designation, will report directly to the OPIA Director and will carry out any investigative functions deemed necessary by the OPIA Director.<sup>4</sup>
- c. Once selected, the Independent Investigator has an ongoing responsibility to notify the OPIA Director of any actual, potential, or perceived conflicts of interest that arise during the course of the investigation, whether involving the entire agency or one or more persons operating under the supervision of the Independent Investigator.
- d. If the OPIA Director becomes aware of a conflict during the course of the investigation, the Director shall seek to address the conflict pursuant to the procedures outlined in Section II.C.3 above.

D. ***Step 4: Initial Investigation & Evidence Collection.*** Upon selection by the OPIA Director, the Independent Investigator shall promptly begin investigating the LE Incident. Such investigation shall include whatever steps are deemed appropriate by the Independent Investigator, including canvassing, witness interviews, evidence collection, forensic analysis, and the issuance of grand jury subpoenas. As part of this initial investigation, the Independent Investigator shall make all reasonable efforts to preserve and obtain any video or audio recordings that depict any aspect of the LE Incident. To ensure the independence of the investigation, only law enforcement officers working under the direct supervision of the Independent Investigator may participate in the investigation or share or receive information about any aspect of the investigation, except as authorized pursuant to the exceptions below.

**1. Authorized Investigative Assistance.** Subject to the authorization process described in Section II.D.3 below, the following personnel may assist the Independent Investigator in the investigation of an LE Incident:

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<sup>4</sup> To facilitate such designations, the OPIA Director may issue standing orders, procedures, or standardized forms to County Prosecutor's Offices that outline the process for establishing temporary designees in response to LE Incidents, including designation of such persons in advance of an LE incident.

- a. Personnel employed by OPIA, New Jersey State Police, or the Division of Criminal Justice, including members of the Attorney General's Shooting Response Team;
  - b. Law enforcement personnel with expertise in crime scene investigation (CSI), for the purpose of collecting or documenting physical evidence at the scene;
  - c. Law enforcement personnel with expertise in forensic examinations, including but not limited to the examination of DNA, fiber, fingerprints, firearm, hair, serology, or toxicology evidence, as well as personnel assigned to the state medical examiner's office or such county medical examiner's offices as the OPIA Director may designate, for the purpose of conducting forensic analysis or an autopsy;
  - d. Foreign language translators;
  - e. Any other personnel who can assist the investigation through their specialized knowledge or skills, provided that the Independent Investigator lacks sufficient specialized expertise; and
  - f. A designee of any local, county, state, or federal law enforcement agency who can serve as a liaison to the Independent Investigator and facilitate the performance of ministerial functions, such as the obtaining of agency documents and information (including personnel or internal affairs records) and providing contact information for employees, witnesses, and other local residents.
2. **Authorized Dissemination of Investigative Information.** Subject to the authorization process in Section II.D.3 below, the Independent Investigator can share investigative information with other law enforcement personnel only under the following circumstances:
- a. The Independent Investigator may provide updates on the status of the investigation to the leadership of the County Prosecutor's Office where the LE Incident occurred, as well as the law enforcement executive in the municipality where the LE Incident occurred, so that these officials may address or prepare for any public safety concerns in that county, provided that they do not share the information publicly or with other law enforcement personnel; or
  - b. Any other circumstance where the Independent Investigator concludes that the dissemination of investigative information would serve the public interest.



3. **Authorization Process for Investigative Assistance or Dissemination of Investigative Information.**
  - a. Before seeking investigative assistance or disseminating investigative information, the Independent Investigator shall conduct a conflict check and take any necessary remedial actions, using the same procedures required of the OPIA Director in Sections II.C.2 and II.C.3 above.
  - b. After addressing any actual, potential, or perceived conflicts, the Independent Investigator may, for good and sufficient cause, authorize the use of investigative assistance or the dissemination of investigative information as described in Sections II.D.1 and II.D.2 above. If such authorization is granted, then the Independent Investigator shall record the names and titles of any personnel who will provide investigative assistance or will receive investigative information, and provide a record of such information to OPIA.
  - c. In any case involving any of the circumstances described above in Section II.C.1.A (use of force resulting death or likely death; death of civilian during law enforcement encounter; death of civilian while in custody), the Independent Investigator may not obtain investigative assistance from the personnel described above in Section II.D.1, unless those personnel are designated as Special Deputy Attorneys General or Special State Investigators and are operating under the direct supervision of the Independent Investigator.
  - d. To facilitate the prompt designation of Special Deputy Attorneys General or Special State Investigators, the OPIA Director may issue standing orders, procedures, and standardized forms for use for by local, county, state, or federal law enforcement agencies.
4. **Public Statements Regarding Law Enforcement Incidents.** No law enforcement officer other than the Independent Investigator shall make any public statement regarding the conduct of a law enforcement officer in connection with a LE Incident during the pendency of an investigation of that incident.

E. ***Step 5: Public Release of Incident Footage, If Requested.*** During an initial investigation, the Independent Investigator will sometimes obtain audio or video recordings of the LE Incident, including recordings captured by an officer's body-worn camera ("body-worn footage"), a camera mounted in an officer's patrol vehicle ("dash-cam footage"), a camera embedded in an officer's conductive energy device ("CED footage"); a surveillance or security camera ("surveillance footage"), or a camera or smartphone belonging to witnesses ("witness footage") (collectively, "LE Incident footage"). Such footage should be released to the public according to the following procedures:

1. **Presumption of Release upon Substantial Completion of Initial Investigation.** If any individual or organization sends a written request to the Independent Investigator seeking the release of LE Incident footage, the Independent Investigator shall authorize the release of such footage once they have concluded that the initial investigation is substantially complete, subject to the conditions described in Sections II.E.2 to II.E.5 below and any other legal restrictions that would limit public release. Generally speaking, the initial investigation shall be deemed substantially complete once all available material witnesses have been interviewed and the physical and documentary evidence most relevant to the case has been gathered. Typically, these steps take no more than 20 days to complete.
2. **Consultation with Persons Depicted in Footage.** Before releasing any LE Incident Footage, the Independent Investigator shall consult with persons depicted in the footage, including law enforcement officers and civilians involved in the LE Incident, but excluding bystanders or those appearing only in the background of the footage. In the case of decedents, the Independent Investigator shall consult with the decedent's family or next of kin. During these consultations, the Independent Investigator shall seek to learn whether the depicted persons believe that the release of the footage would threaten their safety or privacy.
3. **Digital Blurring of Footage.** The Independent Investigator may, in their discretion, authorize the digital blurring of footage to obscure the identity of any person, including a law enforcement officer, if the Independent Investigator concludes that the public release would substantially threaten the safety or privacy of that individual. The editing shall be done in a way that does not conceal the *actions* of any person who is using physical force against another.<sup>5</sup> Any digital blurring shall be made to a *copy* of the recording intended for public release; under no circumstances may the Independent Investigator alter in any way the master copy of the recording.
4. **Release of Non-Officer Footage.** If the Independent Investigator possesses footage recorded by anyone other than a law enforcement officer (e.g., witness footage, surveillance footage), the Independent Investigator should consult with the individuals or entities who provided the footage, unless that individual or entity has previously made it publicly available, and take into account any legitimate safety or privacy concerns they raise. If the footage was obtained through legal process, the release must comply with any applicable laws and procedures for public dissemination of such material.
5. **Delayed Release of Footage.** The Independent Investigator must release the LE Incident Footage within 20 days of the LE Incident, unless the Attorney General, or

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<sup>5</sup> For example, the Independent Investigator will blur the faces of juveniles and images of first responders rendering medical aid.

- designee, authorizes a delayed release. The Independent Investigator may seek a delayed release if, for example, additional time is needed to interview all available material witnesses, complete other essential investigative steps, review or redact videos to protect privacy interests, or conduct a safety assessment associated with the public release of the video.
- F. ***Step 6: Completed Investigation.*** After releasing any relevant video footage, the Independent Investigator shall continue its work to the conclusion of the investigation, at which point the Independent Investigator shall prepare a summary of their factual findings, legal analysis, and preliminary recommendations as to whether any Principal should be criminally charged for their involvement in the LE Incident.
- G. ***Step 7: Independent Supervisory Review of Investigative Findings.*** Upon the conclusion of the investigation, the Independent Investigator shall submit their factual findings, legal analysis, and preliminary charging recommendations for an independent assessment by the Independent Supervisory Reviewer.
1. **Determination of Independent Supervisory Reviewer.**
    - a. Where the Independent Investigator is any law enforcement agency other than OPIA, then the Independent Supervisory Reviewer shall be the OPIA Director.
    - b. Where the Independent Investigator is OPIA, then the Independent Supervisory Reviewer shall be a member of the Attorney General’s Executive Leadership Team.
  2. **Role of Independent Supervisory Reviewer.** The role of the Independent Supervisory Reviewer is to review the sufficiency of the Independent Investigator’s work and decide whether any additional investigative steps should be taken. In addition, the Independent Supervisory Reviewer shall review the Independent Investigator’s charging and grand jury recommendations and determine whether the Independent Supervisory Reviewer agrees or disagrees with that recommendation.
- H. ***Step 8: Grand Jury Proceedings.*** Depending on the facts of the case, the Independent Investigator may or may not have discretion whether to present evidence to a Grand Jury regarding the LE Incident.
1. **LE Incidents Resulting in Death.** In any case involving any of the circumstances described above in Sections II.C.1.b.i – II.C.1.b.iii (use of force resulting in death; death of civilian during law enforcement encounter; death of civilian while in custody), the Independent Investigator is required by state law to present evidence to a Grand Jury concerning the LE Incident. In such cases, the Independent Investigator shall act as follows:

- a. Any presentation of evidence to a Grand Jury shall occur in a county other than the one where the LE incident occurred.
  - b. A prosecutor operating under the supervision of the Independent Investigator shall present sufficient evidence to the Grand Jury to provide the jurors with a full, complete, and accurate representation of the relevant facts of the LE Incident.
  - c. After presenting sufficient evidence, the prosecutor shall instruct the Grand Jury as to the legal elements of the offense, as well as the elements of justification for the use of force by law enforcement, pursuant to N.J.S.A. 2C:3-7 and N.J.S.A. 2C:3-9.
  - d. In cases where the Independent Investigator and Independent Supervisory Reviewer agree that one or more Principals should be charged criminally for their role in the LE Incident, the prosecutor should present the Grand Jury with a draft charging document for the jurors' consideration and vote.
  - e. In cases where the Independent Investigator and Independent Supervisory Reviewer agree that none of the Principals should be charged criminally, the prosecutor may refrain from presenting the Grand Jury with a draft charging document. In such incidents, the Independent Investigator may instruct the Grand Jury on its ability to issue a Presentment addressing matters of public policy in cases in which no criminal charges are returned by the Grand Jury.
2. **LE Incidents Not Resulting in Death.** For all other cases involving LE Incidents (i.e., those not resulting in death), the Independent Investigator shall present the matter to a Grand Jury, except that the Independent Investigator may decline to do so in cases where the Independent Investigator and the Independent Supervisory Reviewer agree that the undisputed facts indicate that the Principal's use of force in the LE Incident was justified.
  3. **Separate Grand Juries to Decide LE Incident and Underlying Criminal Activity that Precipitated the LE Incident.** The underlying offense that gave rise to the LE Incident (e.g., a crime allegedly committed by the civilian injured in the LE Incident) shall be presented to a different Grand Jury than the Grand Jury that will decide whether the Principals should be charged criminally.
- I. ***Step 9: Announcement of Criminal Charges or Declination.*** In any instance where the matter is not presented to a Grand Jury, or where the matter is presented but the Grand Jury declines to criminally charge any of the Principals, the Independent Investigator shall prepare a statement for public dissemination, which shall comply with all rules of

Grand Jury secrecy and be reviewed by the Independent Supervisory Reviewer prior to release. The statement shall include a summary of:

1. The factual findings of the investigation;
2. The legal analysis concerning the lawfulness of the Principal's use of force;
3. The results of the conflicts review conducted pursuant to Section II.C; and
4. An explanation that the matter was reviewed by the Independent Investigator and the Independent Supervisory Reviewer.

- J. ***Step 10: Referrals for Administrative Review.*** At the conclusion of the investigation, the Independent Investigator shall determine whether any Principal should be referred to the appropriate law enforcement agency for administrative review in accordance with the Attorney General's *Internal Affairs Policy & Procedures*. The Independent Investigator shall monitor any resulting review and take such actions as are necessary to ensure that the review is completed in a timely fashion, and that appropriate actions are taken based on the results of that review. *See* AG Directive 2019-5.

### III. **Death-in-Custody Investigations**

- A. ***Special considerations for death-in-custody investigations.*** State law requires that the Attorney General supervise investigations of in-custody deaths, which run the gamut from a jail suicide, to a heart attack in the back of a police vehicle, to a death from natural causes in a prison hospital. As a result, the protocols for investigating an in-custody death turn, in part, on whether the death could be plausibly linked to the use of force by a law enforcement officer.
- B. ***Death involving use of force.*** Where an in-custody death could be plausibly linked to the actions of a law enforcement officer, whether through the intentional use of force or a reckless indifference to human life, OPIA shall investigate the matter pursuant to the protocols described above in Section II.
- C. ***Death not involving use of force.*** Where an in-custody death cannot be plausibly linked to the actions of a law enforcement officer, OPIA shall supervise the investigation of the matter as follows:
1. The OPIA Director shall assign the matter to personnel employed by the County Prosecutor's Office in the county where the death occurred, with the understanding that those personnel shall be designated as Special Deputy Attorneys General or Special State Investigators for the limited purpose of conducting the investigation under the supervision of OPIA.

2. Subject to the approval of the OPIA Director or designee, the investigative personnel assigned to the matter shall take whatever investigative steps they deem necessary to determine whether:
  - a. Any law enforcement officer contributed to the in-custody death; or
  - b. Any person should be criminally charged in connection with the in-custody death.
3. At the conclusion of the investigation, the investigative personnel assigned to the matter shall report their findings to the OPIA Director. If the OPIA Director concludes that a law enforcement officer contributed to the in-custody death and/or any person should be criminally charged in connection with the death, then the matter shall be presented to a Grand Jury pursuant to Section II.H.1 above. If the OPIA Director concludes that neither of these conditions exist, then the matter need not be presented to a Grand Jury.
4. The OPIA Director or designee shall document the reasons for any declination to bring criminal charges and shall ensure that the proper parties comply with the federal Death in Custody Reporting Act, 42 U.S.C. § 60105 *et seq.*

#### **IV. Other Provisions**

- A. ***Non-enforceability by third parties.*** This Directive is issued pursuant to the Attorney General's authority to ensure the uniform and efficient enforcement of the laws and administration of criminal justice throughout the State. This Directive imposes limitations on law enforcement agencies and officials that may be more restrictive than the limitations imposed under the United States and New Jersey Constitutions, and federal and state statutes and regulations. Nothing in this Directive shall be construed in any way to create any substantive right that may be enforced by any third party.
- B. ***Severability.*** The provisions of this Directive shall be severable. If any phrase, clause, sentence or provision of this Directive is declared by a court of competent jurisdiction to be invalid, the validity of the remainder of the Directive shall not be affected.
- C. ***Training.*** Within 90 days of the issuance of this Directive, the Division of Criminal Justice, working in consultation with OPIA, shall develop a training program to explain the requirements of this Directive as they pertain to state, county, and local law enforcement agencies and officers. Such program shall be made available through the NJ Learn System or by other electronic means.
- D. ***Community outreach.*** Each County Prosecutor shall undertake efforts to educate residents within their jurisdiction about the provisions of this Directive, with a specific focus on strengthening trust between law enforcement and the public. Within 120 days of

the issuance of this Directive, each County Prosecutor shall report to the Attorney General on such public education efforts.

- E. **Questions.** Any questions concerning the interpretation or implementation of this Directive shall be addressed to the OPIA Director, or their designee.
- F. **Supersession of prior directives.** This Directive repeals and supersedes the provisions of AG Directive 2006-5, the supplement to that Directive issued on July 28, 2015, and AG Directive 2018-1.
- G. **Effective date.** This Directive shall take effect immediately. The provisions of this Directive shall remain in force and effect unless and until it is repealed, amended, or superseded by Order of the Attorney General.



Gurbir S. Grewal  
Attorney General

ATTEST:



Jennifer Davenport  
First Assistant Attorney General  
Dated: December 4, 2019