



State of New Jersey

DEPARTMENT OF LAW AND PUBLIC SAFETY
OFFICE OF THE ATTORNEY GENERAL

ROBERT J. DEL TUFO
ATTORNEY GENERAL

M E M O R A N D U M

TO: COUNTY PROSECUTORS

FROM: ROBERT J. DEL TUFO
ATTORNEY GENERAL

DATE: AUGUST 21, 1991

SUBJECT: CITIZEN COMPLAINTS CONCERNING POLICE MISCONDUCT;
INVESTIGATION OF SERIOUS ALLEGATIONS

1.

For several years the Division of Criminal Justice and the New Jersey State Association of Chiefs of Police have worked together to develop the Police Management Manual as a guide for municipal police management. The manual is designed to provide police executives with practical guidelines necessary to address day-to-day operational concerns.

2.

We have just completed and disseminated Chapter Five of the Police Management Manual, "Internal Affairs Policy and Procedures," which deals with a matter of extreme importance to everyone in law enforcement. This chapter, which was prepared after consultation with numerous law enforcement officials, serves as a supplement to the New Jersey Law Enforcement Agency Standards Program begun in October of last year by the Division of Criminal Justice and the State Chiefs Association. It contains standards, policies and procedures for the internal affairs function. Among other things, it requires the establishment in each police department of a viable process for the receipt and investigation of citizen complaints concerning police conduct. And, in this connection, please note that one of its provisions requires immediate notification of the County Prosecutor in the event an allegation is received of criminal misconduct by a police officer or of a firearms discharge resulting in injury or death. Upon receipt

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of the notice, the County Prosecutor in his or her discretion either may assume responsibility for active direction of the matter or direct that appropriate action be taken by the reporting agency, and shall ensure the appropriate disposition of the matter.

3.

As we all well know, there has recently been growing concern regarding the process for investigating complaints of excessive force by law enforcement officers. As you also know, I have appointed a task force composed of law enforcement officers, other public officials, lawyers, law professors and community leaders to study this issue and to make recommendations as soon as possible. While we are awaiting the report of the task force, it is important and appropriate that interim measures be taken to ensure that excessive force allegations are thoroughly and uniformly investigated throughout the State and to fortify public confidence in the integrity of the inquiry and in the criminal justice system itself.

The particular measures are, by and large, those which we have de facto pursued in the past. But it is clearly better to have an explicitly stated policy concerning the involvement of our offices in serious matters and a defined procedure to be pursued. Such advance guidelines permit both the public and law enforcement alike to be well aware of the process and help to avoid the confusion and false emphasis which ad hoc approaches may engender.

Accordingly, pending the task force report and until further notice, all investigations which involve the use of force by law enforcement officials which have resulted in death or serious bodily injury shall be immediately reported by the County Prosecutor to the Division of Criminal Justice for review, oversight, consultation, and participation as necessary. Moreover, a matter which involves factors indicating the possible use of unjustified force by a law enforcement officer resulting in death or serious bodily injury should ordinarily be presented to a Grand Jury for review and ultimate disposition, especially in cases involving factual dispute. As stated above, this approach has been followed successfully in most of the counties for several years now and should be more formally adopted on a statewide basis.

R.J.D.