

Use of Force

514.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines governing application of force, limitations on the use of force, supervisor's responsibilities, and reporting requirements for incidents involving the application of force (15 CCR 1357).

514.2 POLICY

It is the policy of the Department to accomplish its functions with minimal reliance on the use of force.

514.3 USE OF FORCE

Officers may use force as reasonably appears necessary in the performance of their duties, but excessive force shall not be used. Officers must use only that amount of force that appears reasonably necessary under the circumstances in order to gain control of the youth; protect and ensure the safety of youths, staff, and others; prevent serious property damage; prevent escape; obtain compliance with facility rules and staff orders; or ensure the institution's security and good order, or for other lawful purposes.

The Department provides tools, weapons, and training on techniques to use when responding to resistance and violent encounters. While various degrees of force exist, each officer is expected to use only that degree of force that is reasonable under the circumstances to successfully accomplish the legitimate and lawful purpose in accordance with this policy.

Circumstances may arise in which officers may reasonably believe it would be impractical or ineffective to use any of the standard tools, weapons, or methods provided by the Department. Officers may find it more effective or practical to improvise their response to rapidly unfolding conditions they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be objectively reasonable and utilized only to the degree reasonably necessary to accomplish a legitimate government purpose.

In any review of an incident to determine whether a particular use of force conforms to this policy, the Department will evaluate the apparent need for an application of force, the relationship between that need and the amount of force used, the threat reasonably perceived, any efforts made to temper the severity of a forceful response, and the extent of any injury to the youth.

Prior to resorting to the use of force, officers should, when practicable, attempt verbal persuasion, orders, or other tactics to avoid or mitigate the need for forceful action (15 CCR 1357).

Force shall never be used as punishment, retaliation, discipline, or treatment (15 CCR 1357).

Medical checks will be performed by a qualified health care professional on all youths who have been subjected to force as soon as practicable regardless of apparent injury. If no qualified health care professional is available, the youth shall be transported to the designated health care facility.

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Nothing in this policy is intended to require that force options be used in a particular order. However, the force option used must be objectively reasonable under the circumstances to accomplish a lawful objective.

514.3.1 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit.

These factors include but are not limited to:

- (a) The apparent immediacy and severity of the threat to officers or others (Penal Code § 835a).
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- (c) Officer/youth factors (e.g., age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available versus youths).
- (d) The conduct of the involved members (Penal Code § 835a).
- (e) The effects of drugs or alcohol on the youth.
- (f) Youth's apparent mental state or capacity (Penal Code § 835a).
- (g) The youth's apparent ability to understand and comply with officer commands (Penal Code § 835a).
- (h) Proximity of weapons or dangerous improvised devices.
- (i) The degree to which the youth has been effectively restrained and the youth's ability to resist despite being restrained.
- (j) The availability of other reasonable and feasible methods to resolve the situation without using force, including de-escalation (Penal Code § 835a).
- (k) The seriousness of the suspected offense or reason for contact with the youth.
- (l) Training and experience of the officer.
- (m) Potential for injury to officers, youths, and others.
- (n) Whether the youth appears to be resisting or is attacking the officer.
- (o) The risk and reasonably foreseeable consequences of escape.
- (p) The apparent need for immediate control of the youth or a prompt resolution of the situation to maintain or restore order.
- (q) Whether the conduct of the youth being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (r) Awareness of the youth's propensity for violence.
- (s) The feasibility of giving the youth a warning prior to using force.
- (t) Any other exigent circumstances.

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514.3.2 LIMITATIONS

Any immediate means of overcoming resistance and controlling the threat of imminent harm to any person including the youth should only be applied when deemed reasonable and necessary (15 CCR 1302; 15 CCR 1357).

514.3.3 DUTY TO INTERCEDE

Any officer present and observing another staff member using force that is clearly not within this policy is expected, when reasonable to do so, to intercede to prevent the use of such force as soon as practicable and in all cases report the use promptly to a supervisor (15 CCR 1357).

514.3.4 HEALTH CARE

The Deputy Chief of Institutional Services should include the medical provider in developing policies and procedures related to the use of force.

A youth who has been the subject of a use of force should be seen by medical and mental health staff, even in cases where no emergency care appears necessary (15 CCR 1357).

514.4 USE OF CHEMICAL AGENTS

Chemical agents shall only be used in the facility as authorized by the Division Chief or the authorized designee and in accordance with the Chemical Agents Training policy. Oleoresin capsicum (OC) spray should not be used in the medical unit or other designated areas where youths are assigned to respiratory isolation or on any youth who is under control with or without restraints.

Department-approved OC spray may be possessed and used only by officers who have received department-authorized training in its use.

Youths who have been affected by chemical agents should be promptly provided with the proper solution to decontaminate the affected areas.

If the youth refuses to decontaminate, such a refusal shall be documented. If a youth has been exposed in the youth's room and not removed from the room where the exposure occurred, in-room decontamination shall be afforded to the youth, including:

- (a) Appropriate staff advising the youth how to decontaminate in the youth's room.
- (b) Clean clothing if the youth's clothing was contaminated.
- (c) Monitoring of the in-room youth as much as practicable, but at least every 5 minutes, for a period of not less than 60 minutes, by an officer.

Youths who have been exposed to chemical agents should not be left unattended until it reasonably appears the youth is fully decontaminated or no longer suffering any effects of the chemical agent (15 CCR 1357).

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514.4.1 FACILITY MANAGER RESPONSIBILITIES

The Division Chief will develop procedures for the use of chemical agents, including methods for decontamination, notification to parents/guardians, and documentation. The Division Chief shall identify the approved types, sizes, and methods of deployment of chemical agents (15 CCR 1357).

514.5 IMMEDIATE AND CALCULATED USE OF FORCE

An immediate use of force occurs when force is used to respond without delay to a situation or circumstance that constitutes an imminent threat to security or safety. For example, the immediate or unplanned use of force by staff may be necessary to stop a youth from inflicting life-threatening self-injuries or to stop an assault on any other person, including other youths. The destruction of government property may require the immediate use of force by staff in some circumstances. A verbal warning should be given before an immediate use of force unless the circumstances preclude it.

If there is no need for immediate action, staff should attempt to resolve the situation through voluntary compliance or, if it reasonably appears necessary, the calculated use of force. A calculated use of force is called for when a youth's presence or conduct poses a threat to safety or security and the youth is in an area that can be controlled or isolated, or when time and circumstances permit advance planning, staffing, and organization.

The assistance of available non-custodial staff (e.g., psychologists, counselors) should be considered when attempting to resolve a situation without confrontation.

A supervisor shall be present in any situation involving the calculated use of force.

514.5.1 CONFRONTATION AVOIDANCE PROCEDURES

Prior to any calculated use of force, the supervisor should confer with appropriate parties to gather pertinent information about the youth and the immediate situation. Based on the supervisor's assessment of the available information, the supervisor should direct staff to attempt to obtain the youth's voluntary cooperation and consider other available options before determining whether force is necessary.

The supervisor should consider including the following persons and resources in the process:

- (a) Mental health specialist
- (b) Qualified health care professional
- (c) Chaplain
- (d) Treatment staff
- (e) Any other relevant resources

Regardless of whether discussions with any of the above resources are accomplished by telephone or in person, the purpose is to gather information to assist in developing a plan of action, such as the youth's medical/mental history (e.g., asthma or other breathing related illness, hypoglycemia, diabetes), any recent incident reports, or situations that may be contributing to the youth's present condition (e.g., pending criminal prosecution or sentencing, recent death

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of a loved one, divorce). The assessment should include discussions with staff members who are familiar with the youth's background, criminal charges, and present status. This may provide insight into the cause of the youth's immediate agitation. It also may identify other staff members who have a rapport with the youth and could possibly resolve the incident peacefully, without the use of force.

If force is determined to be necessary and other means of gaining control of a youth are deemed inappropriate or ineffective, then the use of force team technique should be used to control the youth and to apply restraints, if required.

Consideration should also be given to preventing exposure to communicable diseases in calculated use of force situations, and to ensuring that medical services personnel are available.

514.6 REPORTING THE USE OF FORCE

Every staff use of force is an incident that shall be reported on the appropriate report form (15 CCR 1362). Any staff member who uses force and any staff directly observing the incident shall make a verbal report to a supervisor as soon as practicable and shall submit the appropriate documentation prior to going off-duty, unless directed otherwise by a supervisor.

The documentation will reflect the actions and responses of each staff member participating in the incident, as witnessed by the reporting staff member.

The report should include (15 CCR 1357):

- (a) A clear, detailed description of the incident, including any application of weapons or restraints.
- (b) The identity of all individuals involved in the incident (e.g., youths, staff, others) to include any individuals consulted.
- (c) The specific reasons for the application of force.
- (d) The threat as perceived by the staff involved.
- (e) Efforts made to temper the severity of a forceful response, and if there were none, the reasons why.
- (f) Description of any injuries to anyone involved in the incident, including the result of any medical checks that show the presence or absence of injury.
- (g) Documentation regarding the use of force including chemical agents (e.g., type of chemical agents deployed, decontamination procedures, notification to medical staff and parents/guardians) (15 CCR 1357).

The supervisor responsible for gathering the reports may allow a reasonable delay in preparation of a report in consideration of the immediate psychological and/or physical condition of the involved officer.

Absent supervisor approval, written reports on the use of force should be submitted by the end of the shift (15 CCR 1362).

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514.6.1 VIDEO RECORDING OF ROOM EXTRACTIONS

A video recording is required for room extractions and should include the introduction of all staff participating in the process. The recording and documentation will be part of the incident review materials. The supervisor should ensure the recording is properly processed for retention and a copy is forwarded with the report to the Division Chief.

514.6.2 REQUIRED NOTIFICATIONS

Supervisors should ensure that a written report of all use of force incidents that resulted in an injury, a serious threat of injury, or death is prepared and submitted to the Division Chief or designee by the end of the shift (15 CCR 1362).

In addition to the notification of medical and mental health staff, the Division Chief or designee should ensure the parent or legal guardian of the youth is informed of any use of force, including the use of chemical agents, as soon as practicable (15 CCR 1357).

514.7 SUPERVISOR RESPONSIBILITY

When a supervisor responds to an incident in which there has been a reported use of force, the supervisor is expected to (15 CCR 1357):

- (a) Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- (b) In cases involving the use of deadly force or when serious injury has resulted, obtain an oral statement from the employee. The statement should be restricted to concerns of anything that may present an ongoing threat to the security of the facility or public safety.
- (c) Take appropriate measures to address safety concerns, document the essence of the oral statement in writing, and submit it to the Watch Commander.
- (d) Ensure that the appropriate investigative authority is notified, if needed.
- (e) Ensure that any parties involved in a use of force situation are examined by medical staff, regardless of whether any injuries are reported or detectable, and afforded medical treatment as appropriate.
- (f) Separately debrief with all youths upon whom force was used.
- (g) Identify any witnesses not already included in related reports.
- (h) Review and approve all related reports.
- (i) Complete an addendum to each report with the supervisor's assessment.

If the supervisor determines that any application of force was not within policy, they should discuss those findings with the Division Chief. All incident reports for use of force are submitted to the Division Chief for review. If there is an injury or complaint of an injury, it should be documented in the supervisor's addendum.

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In the event that a supervisor is unable to respond to the scene of an incident involving a reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit and direct a designee to assist with the remainder.

If a youth has made an allegation of an unnecessary or excessive use of force, the supervisor shall conduct a fact-finding investigation and document the findings in the Supervisor addenda. If further administrative review is needed, it will be addressed in the addenda of the Division Chief.

514.7.1 GRIEVANCES

Supervisors responding to, or reviewing, a reported use of force should provide the involved youth a grievance form and explain the process as needed (15 CCR 1357). Grievances alleging excessive force should be referred to the Internal Affairs Unit, as appropriate.

514.8 USE OF DEADLY FORCE

If an objectively reasonable officer would consider it safe and feasible to do so under the totality of the circumstances, officers should evaluate the use of other reasonably available resources and techniques when determining whether to use deadly force (Penal Code § 835a).

An officer may use deadly force to protect the officer or others from what the officer reasonably believes is an imminent threat of death or serious bodily injury to the officer or another person (Penal Code § 835a).

Officers shall not use deadly force against youths based on the danger that the youths pose to themselves if an objectively reasonable officer would believe the youths do not pose an imminent threat of death or serious bodily injury to the officer or to another person (Penal Code § 835a).

An “imminent” threat of death or serious bodily injury exists when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a youth has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the officer or another person. An officer’s subjective fear of future harm alone is insufficient as an imminent threat. An imminent threat is one that from appearances is reasonably believed to require instant attention (Penal Code § 835a).

514.8.1 USE OF DEADLY FORCE - REPORTING

An employee who intentionally or accidentally uses deadly force, whether on- or off-duty, shall ensure that a supervisor is notified of the incident without delay.

The supervisor shall ensure that the chain of command is notified and all necessary health and safety, medical, and security measures are initiated.

The Watch Commander shall promptly notify the Division Chief of any incident involving a staff member employing deadly force, or any incident where a death or serious bodily injury may have been caused by a staff member. The Division Chief will then make appropriate notifications through the chain of command.

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514.9 USE OF FORCE REVIEW

The Watch Commander shall review all related reports of use of force incidents occurring on the Watch Commander's command. The review is to determine whether the use of force complied with policy, procedure, and applicable law, and to determine if follow-up action or investigation is necessary. The Watch Commander should also ensure that a review packet containing a copy of all pertinent reports and materials is prepared and forwarded to the Use of Force Review Committee (15 CCR 1357).

514.9.1 USE OF FORCE REVIEW COMMITTEE

The review committee shall meet monthly and review all use of force cases from the preceding month. It is the responsibility of the Watch Commander to ensure these meetings occur. The committee will include the following staff:

- (a) The Division Chief
- (b) One supervisor assigned on a rotational basis
- (c) Training
- (d) Other staff as selected by the Deputy Chief or designee

The committee should render a single finding as to whether the use of force was within policy. Any recommendations for areas identified as needing training, changes in policy, or further investigation into incidents that may lead to employee discipline shall be addressed in a separate memorandum to the Training Manager and/or the Internal Affairs Unit, as appropriate.

514.9.2 TRAUMA MITIGATION

The use of force committee should also make recommendations for mitigating the effects of trauma that may have been experienced by staff and/or youths involved as appropriate (15 CCR 1357).

514.10 TRAINING

The Deputy Chief of Institutional Services or designee shall work with the Training Manager to ensure legal and facility training mandates are met. This training shall include the following (15 CCR 1322; 15 CCR 1357):

- (a) Use of force
- (b) Weapons training
- (c) Self-defense
- (d) Confrontation avoidance procedures:
 - 1. Communication techniques
 - 2. De-escalation techniques
 - 3. Communicating and interacting with the mentally ill
 - 4. Communicating and interacting with juveniles
 - 5. Application of restraints

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- (e) Forced room extraction techniques
- (f) Use of force team techniques
- (g) General restraint training (soft and hard restraints)
- (h) Reporting procedures
- (i) Any additional state-mandated training (e.g., medical conditions that would affect the application of force, instruction on constitutional limitations) (15 CCR 1357)
- (j) Options when a particular use of force is ineffective
- (k) Specific use of force options that may or may not be used in the facility

514.10.1 TRAINING FOR CONTROL DEVICES

The Training Manager shall ensure that all personnel who are authorized to carry a control device have been properly trained and certified to carry the specific control device and are retrained or recertified as necessary.

- (a) Proficiency training shall be monitored and documented by a certified control-device weapons or tactics instructor.
- (b) All training and proficiency for control devices will be documented in the officer's training file.
- (c) Officers who fail to demonstrate proficiency with the control device or knowledge of this department's Use of Force Policy will be restricted from carrying the control device until demonstrating proficiency. If an officer cannot demonstrate proficiency with a control device or knowledge of this department's Use of Force Policy after remedial training, the officer may be subject to discipline.

514.10.2 PERIODIC TRAINING

Supervisors should conduct and document periodic briefings concerning this policy and the storage and use of weapons and control devices. Any test sheets or documentation of performance should be forwarded to the Training Manager to be included in the employee's training record.

514.11 DEFINITIONS

Definitions related to this policy include:

Deadly force - Any use of force which creates a substantial risk of causing death or serious bodily injury, including but not limited to the discharge of a firearm (Penal Code § 835a).

Excessive force - The use of more force than is objectively reasonable under the circumstances to accomplish a lawful purpose.

Use of force - Any application of physical techniques or tactics, to include chemical agents or weapons, to another person. It is not a use of force when the youth allows others to search, escort, handcuff, or restrain the youth.

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Use of force team technique - The use of force team technique ordinarily involves trained staff clothed in protective gear who enter the youth's area in tandem, each with a specific task, to achieve immediate control of the youth.