

USE OF FORCE

AUTHORITY

Title 15 Regulations:

- Section 1357 Use of Force
- Section 1358 Use of Physical Restraints
- Section 1362 Reporting of Incidents

California Penal Code (PC):

- Section 298.1
- Section 830.5
- Section 832
- Section 3407(a)
- Section 6030(f)
- Section 22820

California Welfare and Institutions Code (WIC):

- Section 222

Related JDF Procedures:

- B5 Special Incident Report
- G5 Grievances
- G11 Physical and Mechanical Restraint
- G20 Pregnant Female Youth
- L3 Medical and Dental Procedures
- L6 Mental Health/Crisis Services

Related Probation Officer Procedures:

- F2 Use of Force
- G11 DNA Testing

Related Probation Department Policy:

- IV10 Employee Conduct

DEFINITIONS

“Use of force” is defined as an immediate means of overcoming resistance and controlling the threat of imminent harm to self or others.

“Reasonable and necessary force” refers to the amount and type of force that an objective, similarly trained, experienced, and competent officer, faced with similar facts and circumstances, would consider necessary and reasonable to ensure the safety and security of the youth, staff, others, and the facility.

OVERVIEW

The El Dorado County Probation Department has established guidelines for the use of force involving youth detained in Juvenile Detention Facilities (JDF). In the JDF “use of force” is manifested as the application of physical techniques or tactics, chemical agents or weapons to a human. It is not a use of force when a youth is searched, escorted, or handcuffed. An officer shall avoid the use of force whenever possible and only utilize force to the extent necessary to ensure the safety and security of the youth, staff, others, and the facility, and that appears reasonable and necessary to overcome the resistance of the youth based on the totality of circumstances presented to the officer at the moment the force is applied. Force is never to be used for

punishment, retaliation, treatment, or discipline.

TRAINING AND AUTHORITY

Officers authorized to use force must:

- Be an El Dorado County Probation Department employee with Peace Officer authority pursuant to Section 830.5 PC.
- Be on duty and authorized through the chain of command to use force.
- Successfully complete a department approved Management of Assaultive Behavior, Defensive Tactics, or Weaponless Defense course.
(These trainings shall include: known medical conditions that would contraindicate certain types of force; methods of application; signs or symptoms that should result in immediate referral to medical or behavioral health; requirements for the decontamination of chemical agents, if such agents are utilized and appropriate response if ineffective; Constitutional Limitations of use of force; and physical training force options that may require the use of perishable skills.)
- Complete all initial and recertification requirements of the above courses.
- Read and sign the acknowledgement of the department's policies and procedures on use of force and chemical agents.

SAFETY CONSIDERATIONS

In the JDF, the department must provide for the safety and security of youth, staff, and visitors, and prevent the destruction of county property. Use of force is authorized:

- In self-defense or defense of another.
- To prevent the escape of a youth.
- To move a youth from one location to another.
- To protect a youth from self-inflicted injuries or suicide.
- To prevent damage to county property.

This procedure does not prohibit officers from using any lawful means of self-defense when faced with a risk of great bodily injury or a life-threatening situation.

THE OBJECTIVE REASONABLENESS STANDARD

Any use of force will be evaluated under the "objective reasonableness standard," taking into consideration the totality of circumstances known to the officer at the time the incident occurs, without benefit of "20/20 hindsight." This standard considers the amount and type of force that an objective, similarly trained, experienced and competent youth supervision officer, faced with similar facts and circumstances, would consider necessary and reasonable to ensure the safety and security of youth, staff, others, and the facility. Any evaluation of reasonableness must consider that an officer must often make split second decisions about the amount and type of force that appears reasonable and necessary in a particular situation, sometimes with limited information and in circumstances that are tense, uncertain and rapidly evolving. Further, the "objective reasonableness standard" is used to determine whether an officer acted reasonably, not whether an officer had less intrusive alternatives available (*Graham v. Connor*).

CONSIDERATIONS FOR THE USE OF FORCE AND RESTRAINT

When a youth’s behavior dictates a use of force or restraint may be necessary, officers shall notify and request that a shift supervisor, Supervisor, or Superintendent respond to the location of the out of control youth. Absent imminent danger to themselves or others, officers must contain the youth until the shift supervisor, Supervisor, or Manager arrives to approve the use of force or restraint.

FACTORS USED TO DETERMINE REASONABLENESS

When determining whether to use force, or when 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:

- Prior contact with the youth or awareness of any propensity for violence.
- The conduct of the youth, as reasonably perceived by the officer at the time.
- The immediacy and severity of the threat to staff or others.
- The potential for injury to self or others.
- The need for immediate control of the youth.
- Officer/youth factors: including age, size, relative strength, medical conditions, skill and ability levels, previous exhibition of violence, injuries sustained, level of exhaustion or fatigue, the number of officers v. the number of youth, etc.
- Whether the youth is resisting, attempting to evade, or attacking the officer.
- The degree of resistance exhibited by the youth.
- The degree to which the youth has been effectively restrained.
- The youth’s mental state or capacity.
- The effects of drugs or alcohol on the youth.
- The seriousness of the current situation or offense.
- The proximity of weapons or dangerous improvised devices.
- The potential for being subject to “gassing.”
- The risk and reasonably foreseeable consequences of escape.
- Training and experience of the officer.
- The availability of other options and their possible effectiveness.
- Any other exigent circumstances.

USE-OF-FORCE CONTINUUM

Reputation and Presence:

An officer’s reputation and presence is the first option in maintaining situational control of youth. An officer’s reputation and presence includes demonstrated professionalism, integrity, and a reputation for fairness. These characteristics, to be effective, must be consistently maintained. Officers should always strive to maintain reputation and presence as an initial means to de-escalate any potentially volatile situation.

Verbal Skills and Commands:

An officer must have strong verbal skills when dealing with youth, and must develop rapport and appropriate relationships with all detained youth. During potentially unsafe situations, discussion with the youth may de-escalate the behavior. Verbal commands may also be used to obtain compliance and to control a situation. When possible, a physically aggressive youth should be given verbal commands to stop the behavior before force is used. To be effective, verbal commands must be firm, clear, concise, and reasonable.

Empty-Hand Control and Restraint:

Control holds and restraint techniques may be applied to take physical control of a youth who has demonstrated, by word or action, an intention to be violent or to physically resist. Further, an officer can use these techniques, including self-defense and escape techniques, when confronted with resistance, or an immediate risk of assault or violence from a youth.

After applying force, an officer should secure and maintain physical control of a youth by applying mechanical restraints. Mechanical restraints are handcuffs, leg irons, waist chains, and the wrap. Mechanical restraints can also be applied on potentially combative youth who need to be moved from one location to another and should be removed as soon as the youth arrives at the intended location, has regained emotional and behavioral control, and has made a verbal commitment to not harm themselves or others.

Under no circumstances shall control holds or restraints be used as a threat, discipline, retaliation, treatment, or punishment. Nor should officers utilize any type of restraint or engage in any restraint technique resembling hobbling or hogtying in which a youth's wrists and ankles are secured to each other. Mechanical restraints shall be applied in a manner consistent with department training standards and JDF Procedure G11, Physical and Mechanical Restraint, including ensuring all mechanical restraints applied on a youth are checked for proper fit and double-locked.

Alternatives should be utilized before control and restraint techniques are applied to a pregnant youth, when there is no imminent threat of injury to the youth or others. Varying degrees of force can be employed to prevent a pregnant youth from escaping custody or self-harm, in order to protect the public, or in response to a physical altercation or assaultive behavior. If physical control and take down of a pregnant youth becomes necessary, every effort shall be made to ensure the youth remains on her side, in a lateral recumbent position (JDF Procedure G20, Pregnant/Post-Partum Youth).

Less-Lethal Methods: Oleoresin Capsicum (OC) Spray:

OC spray may be used for the purpose of self-defense or defense of another in any situation when de-escalation efforts have been unsuccessful or are not reasonably possible and in which the officer has reason to believe a youth has an intention to be violent or to physically resist, and appears to present an imminent threat of harm to the officer, themselves, or others. (JDF Procedure G10.1, Oleoresin Capsicum (OC) Spray)

MEDICAL, MENTAL HEALTH, AND PARENTAL NOTIFICATIONS

Following any use of force incident resulting in the application of control holds or physical restraint, involved youth shall be referred to facility medical staff for evaluation and to address any injuries sustained. If a youth has sustained or complains of injury and facility medical staff is not available, the on-call medical provider shall be contacted to determine what level of medical care is needed (JDF Procedure L3, Medical and Dental Procedures).

Referral to mental health services will be made for any youth involved in a use of force incident to address any potential mental or behavioral health issues the youth may have experienced in conjunction with the incident as outlined in JDF Procedure L6, Mental Health/Crisis Services.

As soon as is determined to be reasonable following a use of force incident, the youth's parents or legal guardians will be notified of the youth's involvement in the incident as well as the youth's status following the incident.

DUTY TO INTERCEDE

It is the duty of any officer who observes another peace officer using any inappropriate use of force to take affirmative action to immediately stop the observed inappropriate use of force and to report it to the appropriate authority. Additionally, any officer, who observes another employee use force that is inappropriate or exceeds the degree of force permitted by law, policy (including Probation Department Policy IV10, Employee Conduct), and procedure, shall report these observations to a shift supervisor, Supervisor, or the Superintendent as soon as possible. By the end of the shift, the officer who observed the inappropriate use of force shall complete a written memorandum detailing the inappropriate use of force, including the date, time, place of occurrence, the identity of all parties involved, a description of the events, a description of the force used, any actions taken to counteract or stop the inappropriate use of force, and any other information deemed necessary in order to completely and accurately describe the use of force incident.

Any officer who has been found by the department, after appropriate investigation, to have used force beyond that which is objectively reasonable or necessary or that exceeds the degree of force permitted by law will be subject to appropriate disciplinary action, up to and including termination of employment.

DOCUMENTATION

Any use of force or restraint on a youth shall be documented in a Special Incident Report (SIR), a Use of Force Report (form #546M), or a Restraint Report (form #524M). This documentation shall be submitted by the officer prior to the end of their shift, unless prior permission is granted from the Supervisor.

A Use of Force Report (form #546M) is completed if physical control/mechanical restraints are needed for 15 minutes or less, or if OC spray is deployed.

A Restraint Report (form #524M) is completed if the use of physical control/mechanical restraints exceeds 15 minutes.

The SIR must include the following, as approved and reviewed by the shift supervisor or Supervisor:

- A full description of the incident, including location and the names and titles of all persons involved, including all youth involved.
- The factors perceived by the officer and factored into the decision to utilize force at the time force was applied.
- Efforts to de-escalate the youth and gain compliance through less severe interventions.
- The risks created by the youth, and why any particular intervention technique(s) was used.
- Efforts to call for additional assistance and the presence of a Supervisor.
- What force options, including control holds, restraint techniques, and/or chemical agents were utilized, and when.
- Why the use of force was “objectively reasonable” and necessary under the

circumstances presented to the officer (e.g., self-defense, defense of another, prevention of self-harm or damage of county property, etc.).

- At what time mechanical restraints were applied and removed, the times at which circulation checks were conducted, and who conducted the circulation checks.
- Effects of force, including OC spray exposure on youth and staff, documenting any injuries, if applicable.
- Decontamination provided to youth and staff, and any first aid given, including results of first aid, if applicable.
- Decontamination provided to any other person(s) present, and any first aid given, including results of first aid, if applicable.
- Pre-existing medical condition(s) of youth or staff, if known, and the effects of any use of force, including OC spray exposure, on these medical condition(s), if applicable.
- Outside agencies contacted, if applicable, and services provided by these agencies.
- Dates and times of referrals made to and treatment provided by medical or mental health service providers.
- Date and time parents or legal guardians were notified of the use of force incident.
- Statements made by the youth involved.
- Any other pertinent information necessary to provide an accurate and detailed account of the use of force or restraint.

An officer involved in a use of force incident or restraint must be able to articulate the factors considered and justify actions taken.

If a Supervisor is on duty in the JDF, the Supervisor must also:

- Review the SIR and Use of Force or Restraint Reports for thoroughness, appropriateness and compliance with policy and procedure.
- Ensure the youth has been referred to medical and mental health services.
- Determine an appropriate disposition following the incident.
- Review the incident and document an initial finding on the use(s) of force and its appropriateness.
- Forward all documents for review to the Superintendent.

*If a Supervisor is not on duty, the shift supervisor is responsible for all of the above except making an initial finding on the use of force and its appropriateness.

The or Superintendent must:

- Review all incidents for compliance with policy and procedure.
- Consider the youth(s) account of the incident.
- Assess the appropriateness of the use of force and the quality and thoroughness of documentation.
- Consider and follow up on any pending issues or injuries.
- Initiate an internal or criminal investigation when necessary.

DEBRIEF

A Supervisor will debrief use of force incidents with all staff and/or youth involved for the purposes of training as well as mitigating the effects of trauma that may have been experienced by staff and/or the youth involved. The Supervisor will review any available video footage of an incident with involved officers. Further, the Supervisor may discuss staff responses as they relate to JDF procedures, provide any constructive feedback, suggest alternatives to improve staff

response to future incidents, address aggravating factors leading up to a force incident, and allow officers the opportunity to ask questions regarding the incident.

ADMINISTRATIVE REVIEW

All events involving a use(s) of force will be reviewed monthly by a Use of Force Review Committee consisting of a facility Superintendent and Defensive Tactics/Weaponless Defense Coordinator(s). The monthly administrative review will consist of a review of the submitted report(s) and available video footage. At the conclusion of the review of each event of force used a finding will be made of reasonable or unreasonable. Any use of force deemed to be unreasonable will be investigated and may include interviewing the youth and staff involved, review of reports detailing the use of force incident, and review of any available video footage.

USE OF FORCE FOR DNA COLLECTION

Force will not be used to collect a DNA sample. If a youth refuses to voluntarily give a DNA sample, the collecting officer will explain to the youth they are required by law to cooperate and allow the sample to be taken. If the youth continues to refuse, the officer shall notify the shift supervisor. The shift supervisor may attempt to get a voluntary sample. If all attempts to collect a DNA sample fail, the initial officer shall document the youth's refusal in a Special Incident Report and on the 298.1 PC Admonishment (form #50 M), pursuant to Probation Officer Procedure G11, DNA Testing.

GRIEVANCE BY YOUTH

Any youth who believes that force or a restraint was utilized in violation of this procedure may seek resolution through the grievance process as defined in JDF Procedure G5, Grievances.