

**SAN BERNARDINO COUNTY
PROBATION DEPARTMENT PROCEDURE**

USE OF FORCE AND REPORTING REQUIREMENTS FOR JUVENILE DETENTION AND ASSESSMENT CENTERS (JDACs) AND TREATMENT FACILITIES (TFs)

Title 15, 1357

Purpose:

This Procedure establishes the criteria and standards for reporting and documenting Use of Force (UOF) incidents.

Officers should attempt to perform enforcement actions in a manner that minimizes the need for force and maximizes voluntary compliance. However, in certain situations, it may be necessary for an Officer to apply a method of force that is objectively reasonable to gain compliance for the protection of the youth, other youth in the facility, and staff.

Definitions:

Active Resistance: The physical means willfully used to resist an Officer.

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

Force Options: It is expected that employees attempt to operate the Department's functions with minimal reliance on the use of force. However, when it is reasonably necessary under the circumstances in order to gain control of a youth for the safety and security of all youth, staff and the facility, the following use of force options are approved for use in the JDACs and TFs:

- A. Non-Deadly Force (Low):
 - 1. Officer Presence
 - 2. Dialogue/Counseling
 - 3. Verbal Commands
 - 4. Control Techniques
- B. Non-Deadly Intermediate Force (Moderate):
 - 1. Strikes and Kicks
 - 2. Chemical weapon
- C. Deadly Force (High):
 - 1. Force with substantial risk of serious bodily injury/death.

Passive Resistance: Refusing to comply with an Officer while showing no physical indications of resistance.

Reportable Use of Force: The following force options require the completion of an Incident Report (IR):

- A. Control Techniques
- B. Strikes and Kicks
- C. Chemical Weapon
- D. Deadly Force

Use of Force (UOF): 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 are searched, escorted, handcuffed, or restrained without resistance.

Factors to Determine the Reasonableness of Force:

Prior to resorting to the use of force, staff should, when practicable, attempt verbal persuasion, or other tactics to avoid or mitigate the need for forceful action and only using that force which is necessary to ensure the safety of the youth and others. Staff may use force as reasonably necessary in the performance of their duties, but excessive force shall not be used. Staff 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.

When determining the need to apply force, the appropriate level of force and addressing the appropriate escalation of force, the following factors should include, but are not limited to:

- A. Immediacy and severity of the threat to a staff or others.
- B. The conduct of the individual being confronted, as reasonably perceived by the PCO at the time.
- C. PCO/youth factors (e.g., age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of PCOs available versus youth).
- D. The effects of drugs or alcohol on the youth.
- E. Youth's mental state or capacity.
- F. Proximity of weapons or dangerous improvised devices.
- G. The degree to which the youth has been effectively restrained and their ability to resist despite being restrained.
- H. The availability of other methods to resolve the situation without using force, including de-escalation.
- I. The seriousness of the suspected offense or reason for contact with the youth.
- J. Training and experience of the PCO.
- K. Potential for injury to a PCO, youths, and others.
- L. Whether the youth appears to be resisting or is attacking the PCO.
- M. The risk and reasonably foreseeable consequences of escape.
- N. The apparent need for immediate control of the youth or a prompt resolution of the situation to maintain or restore order.
- O. Whether the conduct of the youth being confronted no longer reasonably appears to pose an imminent threat to the PCO or others.
- P. Awareness of the youth's propensity for violence.
- Q. The feasibility of giving the youth a warning prior to using force.
- R. Any other exigent circumstances.

Responsibilities:

- I. Probation Correction Officer (PCO):
 - A. Advise Central Control that a UOF has occurred.
 - B. Make the scene safe.
 - C. Request medical aid in any incident where there is an injury, Oleoresin Capsicum (OC) spray was deployed or there is a request for medical aid.
 - D. Notify a Supervisor.
 - E. Preserve evidence in accordance with departmental procedures.
 - F. Video record/photo document the scene to include involved persons, whether injured or not, and damaged property.

- G. Complete an Incident Report (IR) prior to the end of shift to include a copy of the audio, video recording and any photo documentation, unless otherwise directed by a Supervisor or pursuant to the IR procedure.
 - H. Document the circumstances leading up to the incident to include, but not limited to:
 - 1. Threat perceived.
 - 2. Why force appeared to be necessary.
 - 3. Verbal warnings, interventions, techniques, tactics used or were attempted prior to and during the use of force.
 - 4. Articulate why other force options were either not successful or not practical under the circumstances.
 - I. Participate in a debriefing as directed by a Supervisor.
 - J. Adhere to the responsibilities found in the Code Red Procedure.
 - K. Deadly force shall be reported to a supervisor immediately.
- II. Probation Correction Supervisors I/II (PCS I/II):
- A. Respond to the incident and provide direction, support and assistance.
 - B. Determine if there are a sufficient number of Officers on scene; delegate duties and dismiss Officers as needed.
 - C. Ensure that any youth 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.
 - D. Once the initial medical assessment or first aid has been completed, ensure that photographs have been taken of any areas involving visible injury or complaint of pain as well as overall photographs of uninjured areas. These photographs should be retained until all potential civil litigation has expired.
 - E. Ensure that the appropriate investigative authority is notified, if needed.
 - F. Ensure video/photo documentation of the scene to include involved persons, whether injured or not, and damaged property. The recording of the interview and photo documentation should be distinctly marked for retention until all potential for civil litigation has expired.
 - G. Identify any witnesses not already included in related reports.
 - H. Review and approve all related reports. If the supervisor determines that any application of force was not within policy, they should detail those findings in a separate report. If there is an injury or complaint of an injury, the supervisor shall also submit all reports to the Watch Commander (WC). Ensure adherence to the responsibilities found in the Code Red Procedure.
 - I. Supervisors responding to, or reviewing, a reported use of force should provide the involved youth a grievance form and explain the process as needed. Grievances alleging excessive force should be referred to the DDI/II, as appropriate.
 - J. In cases involving the use of deadly force refer to the "Death of a Minor" procedure.
 - K. In cases when serious injury has occurred, 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.
 - L. Prior to interviewing a youth regarding a use of force incident who is under the age of 16, subsequent to a new law violation, the youth shall be allowed to consult with legal counsel in person, by telephone, or by video conference prior to a custodial interrogation and before waiving any of their rights.
 - 1. The consultation cannot be waived, even if the youth is advised of their Miranda Rights and agrees to answer questions regarding the new offense.
 - 2. Document efforts to contact legal counsel in Caseload Explorer (CE).

III. Watch Commander (WC):

- A. Determine if local law enforcement is needed.
- B. Conduct a debriefing with involved staff.
- C. Identify any training issues that may arise and ensure training is scheduled via authorization through the chain of command.
- D. Review all IRs, audio, video recordings and photo documentation by the end of shift, unless otherwise directed, and submit them to the Division Director (DD) within twenty-four (24) hours.
- E. Any injury or medical condition of staff or youth requiring medical assistance that can only be addressed at a hospital shall be immediately reported directly to the DD I/II and the Chief Probation Officer (CPO).
- F. PCSII or designee shall notify a youth's parent/legal guardian via telephone in the event a youth is involved in any use of force incident, including OC spray. If the youth sustained an injury and is transported to the hospital, parent notification is necessary upon return to the JDAC.
- G. Document parent/legal guardian notification in CE under Supervision-Family Contact.
- H. The WC shall review all related reports of use of force incidents occurring on their 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 WC should also ensure that a review packet containing a copy of all pertinent reports and materials are prepared and forwarded to the DDI/II.
- I. Ensure the DD I/II, Deputy Chief Probation Officer (DCPO), Assistant Chief Probation Officer (ACPO) and Chief Probation Officer (CPO) is immediately notified of a deadly force incident.
- J. Prior to interviewing a youth regarding a use of force incident who is under the age of 16, subsequent to a new law violation, the youth shall be allowed to consult with legal counsel in person, by telephone, or by video conference prior to a custodial interrogation and before waiving any of their rights.
 1. The consultation cannot be waived, even if the youth is advised of their Miranda Rights and agrees to answer questions regarding the new offense.
 2. Document efforts to contact legal counsel in CE.
 3. Refer to the Juvenile Interrogation process.

IV. Medical Services:

- A. Adhere to the responsibilities found in the Code Red Procedure.
 1. Respond to all use of force codes.
 2. Conduct an examination of the youth when safe to do so.
- B. Notify Supervising Nurse upon identification of a use of force injury.
- C. Supervising Correctional Nurse:
 1. Notify Health Service Manager and Deputy Chief of use of force injuries.

V. Forensic Adolescent Services Team (FAST):

- A. Respond to the incident when notified by staff and provide follow up services as deemed necessary.
- B. If FAST responds to an incident they shall remain at a safe distance until the scene is safe as determined by the Incident Commander (IC).
- C. FAST will be available for youth to mitigate the effects of trauma that may have been experienced during a use of force.

VI. Division Director (DDI/II):

- A. Review all reports, audio/video recordings and photo documentation.

B. Submit reports to the DCPO within seventy-two (72) hours.

Guidelines:

- A. 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 and in all cases report the use promptly to a supervisor.
 - 1. An Officer who fails to intercede could be disciplined up to and including the same manner as the officer who used excessive force.
 - 2. It is prohibited to retaliate against officers that report suspected violations of law or regulation of another officer to a supervisor or other person with authority to investigate the violation.
- B. In any incident involving use of force, every attempt shall be made to preserve the integrity, respect, and dignity of all individuals involved.
- C. Force shall not be used as a means of punishment, discipline, retaliation, treatment nor shall it be used in a wanton, malicious or sadistic manner.
- D. Non-compliance does not constitute active resistance.
- E. All Officers are to complete all required Force Options training. Such training shall include, but not limited to:
 - 1. Chemical agents and decontamination
 - 2. Self-defense
 - 3. Confrontation avoidance procedures:
 - a. Communication techniques
 - b. De-escalation techniques
 - c. Communicating and interacting with the mentally ill
 - d. Communicating and interacting with juveniles
 - e. Application of restraints
 - 4. Forced room extraction techniques
 - 5. Use of force team techniques
 - 6. General restraint training (soft and hard restraints)
 - 7. Reporting procedures
 - 8. Medical conditions that would affect the application of force
 - 9. Approved chemical agents, their application, and decontamination procedures
 - 10. Signs or symptoms that should result in immediate referral to medical or mental health staff
 - 11. Options when a particular use of force is ineffective
 - 12. Specific use of force options that may or may not be used in the facility
- G. If safe and practical, Officers should make reasonable efforts to identify any known medical conditions that would contraindicate the level of force used and be alert to any signs or symptoms that suggest mental illness or disorders.
- H. In some circumstances, when dealing with an emotionally disturbed or mentally ill individual, the use of force may exacerbate the situation. Where feasible, Officer presence along with dialogue and counseling techniques may provide a viable means to ending the crisis.
- I. Pregnant or youth in recovery after delivery (PC 6030(f) and W&I 222):
 - 1. Shall not be restrained by the use of leg irons, waist chains or handcuffs behind the body.
 - 2. Shall not be restrained by the wrists, ankles, or both unless deemed necessary for the safety and security of the youth and staff.
 - 3. Restraints shall be removed when a professional who is currently responsible for the medical care of a pregnant youth during a medical emergency, labor, delivery, or recovery after delivery determines that the removal of restraints is medically necessary.
- J. To mitigate the effects of trauma, services from Peer Support Team and/or the Employee Support Services should be offered to staff involved in an incident.

- K. Barring exigent circumstances, tasers, batons, and firearms shall not be utilized in a Juvenile Detention and Assessment Center or Treatment Facility.
- L. Debrief incidents with staff and youth for the purpose of training as well as mitigating the effects of trauma that may have been experienced by staff or youth involved.

Inspections:

Refer to the Policy and Procedure Inspection Matrix.

Foundation:

PC 835a
Graham v. Connor
Hudson v. McMillan
Whitley v. Albers
Title 15, Section 1357

References:

Policy:

Employee Responsibility
Safety
Training
Use of Force Guidelines

Procedure:

Incident Reports
Arming
Use of Force Administrative Review
OC Spray- Oleoresin Capsicum [Title 15, 1357]
External Affairs
Critical Incident Notification
Occupational Injuries [Title 15, 1328]
Code Red [Title 15, Section 1324]
Electronic Recordings
Grievances and Appeals [Title 15, 1361]
Required Notifications of a Detained Youths Emergency Transportation and Hospital Psychiatric Facility Admittance [Title 15, Section 1341; NCCHC]
Physical Restraint and Other Restraint Devices in JDACs and TFs [Title 15, Sections 1358, 1358.5]

Issued by:



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