



DEPARTMENT OF REHABILITATION
AND CORRECTION

SUBJECT: APA Use of Force	PAGE <u> 1 </u> OF <u> 9 </u> NUMBER: 104-TAW-02
RULE/CODE REFERENCE: ORC 5149.05, AR 5120:1-1-39	SUPERSEDES: 104-TAW-02 dated 09/20/13
RELATED ACA STANDARDS: 4-APPFS-3A-2A; 3B-01; 3B-02; 3B-06; 3G-01; 3G-02	EFFECTIVE DATE: April 17, 2015
	APPROVED: 

I. AUTHORITY

This policy is issued in compliance with Ohio Revised Code §5120.01 which delegates to the Director of the Department of Rehabilitation and Correction the authority to manage and direct the total operations of the Department and to establish such rules and regulations as the Director prescribes.

II. PURPOSE

The purpose of this policy is to set forth conditions governing the use of force by employees of the Adult Parole Authority when engaged in the scope of their supervisory duties or responsibilities.

III. APPLICABILITY

This policy applies to all employees of the Adult Parole Authority when engaged in the scope of their supervisory duties or responsibilities.

IV. DEFINITIONS

Force - Any violence, compulsion, or constraints physically exerted by any means upon or against a person or thing.

Prone Restraint – All items or measures used to limit or control the movement or normal functioning of any portion, or all, of an individual’s body while the individual is in a face-down position for an extended period of time. Prone restraint includes physical or mechanical restraints. The use of prone restraint is prohibited.

Transitional Hold – A brief physical positioning of an individual face-down for the purpose of quickly and effectively gaining physical control of that individual in order to prevent harm to self and others, or prior to transport to enable the individual to be transported safely. Transitional hold may include the use of handcuffs or other restraints consistent with departmental policy.

Enterprise Information Management (EIM) - The site on the Department intranet commonly called the “dashboard,” that contains a variety of data collection and reporting tools for Department staff, including the special incident reporting application.

V. POLICY

It is the policy of the Ohio Department of Rehabilitation and Correction that physical force is used by employees of the Adult Parole Authority in instances of self-defense from physical harm; defense of third persons, e.g. other employees, offenders, or bystanders from physical harm; controlling or subduing an offender who refuses to obey a rule or regulation; effecting arrests; prevention of a crime; and/or prevention of an escape. Employees of the Adult Parole Authority are responsible for using only the amount of force reasonably necessary under the circumstances and shall be appropriately documented and reviewed.

VI. PROCEDURES

A. Justification for Use of Force

Justification for use of force shall be based upon the facts and information known to the employee at the time of the incident and whether, under the circumstances, the use and degree of force was reasonable. The four elements necessary to justify the use of force by APA personnel are as follows:

1. **Ability** - The aggressor's capability to do harm. It may be demonstrated by size, strength, physical skills, or weapons of any type. The greater the aggressor's ability, the greater the amount of force necessary to overcome the ability.
2. **Opportunity** - The distance between the aggressor and the defender. For opportunity to be present, the defender must be within the range of the aggressor, e.g. the range of a firearm, or the range of the aggressor to punch or kick.
3. **Jeopardy** - The perception by the defender of the aggressor's intent. When the defender reasonably believes that the aggressor by word or action has shown that he intends to use his ability, the defender is in jeopardy.
4. **Preclusion** - The elimination of other reasonable alternatives to the use of force available to the employee at the time of the incident.

B. Types of Force

Use of force must be logical and reasonably necessary under the circumstances; and the force must be reasonably necessary to eliminate the threat or prevent an injury. The use of prone restraint is prohibited, though transitional holds may be used as defined by this policy.

1. Acceptable Force:
 - a. Slight Force - Physical restraint of an individual in a manner which is unlikely to cause physical injury.

- b. Force Greater than Slight - Only that physical force which is reasonably necessary to contain or control a resistive individual.
 - c. Deadly Force - Any force which carries a substantial risk that it will proximately result in the death or serious physical harm of any person.
2. In the event of an escape of an offender under the supervision of the Adult Parole Authority during transport, the officer(s) shall make every attempt to apprehend the escapee and seek law enforcement assistance. Deadly force shall never be used on an offender under the supervision of the Adult Parole Authority except as provided in division (VI)(B)(3) below. If the offender takes an overt action that the officer reasonably believes could result in death or serious bodily harm to the officer(s) or others, then deadly force is permissible.
3. Deadly force may only be used in the following circumstances:
 - a. In self-defense from the threat of death or serious bodily harm.
 - b. In defense of others from the threat of death or serious bodily harm.
4. Unacceptable Force

Excessive Force - Any application of force which either by the extent or type of force employed exceeds that force which is reasonably necessary under the circumstances.
5. The use of transitional hold may be permitted only when necessary and only when all of the following conditions are met:
 - a. Transitional hold may be applied only by staff with current training on the safe use of this procedure, including how to recognize and respond to signs of distress in the individual;
 - b. Transitional hold may be applied only in a manner that does not compromise breathing, including the compromise that occurs with the use of: (1) pressure or weight bearing on the back; (2) soft devices such as pillows under an individual's face or upper body; or (3) the placing of an individual's or staff's arm under the individual's head, face or upper body;
 - c. Transitional hold may be applied only for the reasonable amount of time necessary to safely bring the person or situation under control and to ensure the safety of the individuals involved; and
 - d. Transitional hold may be applied only with consistent and frequent monitoring during and after the intervention (use of force) with every intent to assure that the person is safe and suffers no harm.

C. Continuum of Response and Use of Force

Officers shall be trained in a continuum of response regarding use of force in accordance with Appendix A.

D. Officer Demeanor

To minimize the need for use of force, an employee shall never verbally or physically provoke or abuse an individual.

E. Warning Commands

In a use of force situation the employee shall make every effort to identify him or herself and give a verbal warning (e.g. Stop!, Parole Authority, Drop Your Weapon!) to the subject, especially in deadly force situations. Employees shall never identify themselves as the police or police officers. The warning and the identification shall never interfere with the employee's safety. NEVER FIRE A WARNING SHOT, or use a firearm as a threat.

F. Notification

1. Submitting Reports - Whenever an employee is involved in any use of force greater than slight force, the following shall occur:
 - a. Verbal notification to the supervisor immediately.
 - b. Notification from the supervisor via email to the Regional Administrator before the end of the work day of any force over slight force and immediately via the most expeditious manner if deadly force.
 - c. Completion of a comprehensive Use of Force Incident Report (DRC1000) directed to the Regional Administrator or designee, Investigations Coordinator, Regional Director, and Managing Director of Operations or designee by the end of the work day pursuant to Department Policy 01-COM-08, Incident Reporting and Notification. This report shall be detailed and shall include the names of all persons involved in the incident, all activities surrounding the incident, names of any witnesses, the extent of injuries to staff or others, medical follow-up information pertaining to involved employees, offenders or other individuals, arrests, and any and all other information pertinent to the use of force. All employees, whether involved directly in the use of force or indirectly as witnesses, shall complete an Incident Report (DRC1000) and submit it to the immediate supervisor by the end of the work day pursuant to Department Policy 01-COM-08, Incident Reporting and Notification, who, if the circumstances dictate by the type or nature of the use of force and the guidelines in Department Policy 01-COM-08, Incident Reporting and Notification, shall complete a Special Incident Report in EIM indicating their participation and/or account of the circumstances and/or other information that may be beneficial.
 - d. The unit supervisor shall review all of the reports and prepare a separate Special Incident Report in EIM explaining the information shared during staffing if an arrest was planned, any discrepancies in the reports, an assessment of the employee's performance during the incident, remedial action either taken or recommended, assessment of damages or claimed damages, discussion with those who have been injured or claim injury, and recommendation for any further action. This Use of Force

Special Incident Report in EIM shall be completed pursuant to Department Policy 01-COM-08, Incident Reporting and Notification, and shall be sent to the Regional Administrator or designee, Investigations Coordinator, Regional Director, and the Managing Director of Operations or designee.

- e. If further information is recalled or becomes known, supplemental Incident Reports (DRC1001) must be completed pursuant to the requirements of Department Policy 01-COM-08, Incident Reporting and Notification, by the parties involved or witnessing the use of force or the unit supervisor. These shall also be sent to the Regional Administrator or designee, Investigations Coordinator, Regional Director and the Managing Director of Operations or designee.
2. Firearms Exhibited or Displayed - An Incident Report (DRC1000) shall be completed whenever an officer's firearm is pointed at a civilian or an offender.
 3. Force Used Against the Public - In addition to the aforementioned reporting procedures, any use of force beyond slight force against the public shall be immediately reported by the employee to the law enforcement agency having jurisdiction of that area.
 4. Force Requiring Medical Assistance
 - a. If medical assistance is required by any of the parties involved in a use of force incident, it is the responsibility of the employee, unless precluded by personal injury, to ensure that appropriate medical personnel are notified in order to provide assistance. In most counties and municipalities, emergency medical assistance may be requested by calling 911. A copy of any hospital report(s) shall be submitted with the corresponding incident report or with a supplemental report when it becomes available. This may require a signed Authorization for Release of Information from the offender or other parties. If signed authorizations are not provided by the offender or other parties, the employee shall document same in the field officer tablet (FOT) and in any incident reports completed pursuant to the requirements of Department Policy 01-COM-08, Incident Reporting and Notification. All employees injured must follow the employee accident reporting guidelines as outlined in Department Policy 10-SAF-15, Employee Accident Reporting and Analysis.
 - b. If an offender under arrest appears to have or complains of injury, the arresting officer shall notify jail personnel during booking and request a medical evaluation for the offender. All requests and subsequent action of the receiving facility's response shall be documented in the Incident Report (DRC1000). A copy of the medical report shall also be attached whenever possible.
 - c. If an offender has been sprayed with pepper spray, the offender shall be decontaminated in the appropriate manner. If the offender appears to be in need of medical assistance, such assistance shall be sought by the officer(s).
 - d. If a jail will not accept an offender because of medical reasons, the officer(s) shall transport the offender to the nearest hospital for evaluation and the necessary treatment. The officer(s) shall notify the appropriate unit supervisor as soon as possible after arrival at the hospital to inform the supervisor of the situation,

especially if the hospital refuses to treat the offender. After the offender has been evaluated and treated, or refused treatment, the offender shall be returned to the jail with any documentation of medical treatment provided by the hospital. This information shall also be included in the Incident Report (DRC1000).

5. Deadly Force - The following steps shall be taken by an employee when deadly force is used:
 - a. Secure scene in a safe manner including securing the offender(s) or assailants via restraints considering the offender(s) or assailants medical condition, if appropriate;
 - b. Call for medical assistance; to the extent the officer is able, render first aid to any person injured until medical personnel arrive on the scene;
 - c. Notify the appropriate law enforcement agency and remain at the scene until law enforcement respond, and cooperate in the ensuing investigation;
 - d. Surrender the firearm to the investigating law enforcement agency if requested; if the law enforcement agency does not request the firearm for purposes of their investigation, surrender the firearm to the Regional Administrator or designee; the firearm may be replaced by the Appointing Authority;
 - d. Notify the immediate supervisor who, in turn, shall notify the Regional Administrator or designee;
 - e. The Regional Administrator or designee or immediate supervisor shall notify the Investigations Coordinator, Regional Director and the Managing Director of Operations. The Managing Director of Operations shall, in turn, notify the DRC Director, Chief Inspector, Communications Chief, and other staff as applicable;
 - f. The Managing Director of Operations shall notify the appropriate Critical Incident Stress Management Team about the incident as soon as practical following the incident so that assistance can be provided to the employee.
 - g. The Appointing Authority shall determine whether relief from duty for the officer involved in the deadly use of force incident is appropriate.

G. Review of Use of Force Incident and Special Incident Reports

All Incident Reports (DRC1000) and Special Incident Reports in EIM that document APA use of force incidents shall be reviewed by the Regional Administrator or designee, Investigations Coordinator, Regional Director, and the Managing Director of Operations or designee within 14 calendar days of receipt.

H. Use of Force Investigator

The Regional Administrator shall appoint one exempt employee to serve as a Use of Force Investigator to review regional use of force incidents.

1. Any Use of Force Investigator must be proficient in their knowledge of this policy and Department Policy 01-COM-08, Incident Reporting and Notification.

No staff member involved in the use of force incident under review shall be assigned to serve as the Investigator of the Use of Force Incident.

2. A Use of Force Investigation shall be convened within 60 calendar days of the use of force incident. The Regional Administrator or designee shall obtain the approval of the Managing Director of Operations if the nature of the incident precludes convening a meeting within 60 calendar days.
3. A Use of Force Investigation shall be assigned when:
 - a. Deadly force is used;
 - b. Allegations of excessive force are brought forth;
 - c. Force greater than slight force is used against the public, which includes an employee pointing a firearm at a member of the public; or
 - d. There is injury to an offender, an employee, or a member of the public.
4. The Use of Force Investigator is responsible for:
 - a. Calling any employee to appear before the Use of Force Investigator to give statements, accounts, or information regarding the incident under review. All employees shall cooperate fully in any Use of Force Investigation as stipulated in the DRC Standards of Employee Conduct. Any employee called before the Use of Force Investigator shall be permitted to have a representative accompany him or her during the interview in accordance with the Collective Bargaining Agreements.
 - b. Impartially reviewing the use of force incident using all available reports, statements, photographs, etc. pertinent to the matter.
 - c. Determining if the force used by the employee was appropriate and justified and whether or not excessive force was applied under the circumstances using the Use of Force/Response to Resistance Continuum (see Appendix A) as a guide and the following factors:
 - i. The actual force applied, the formal techniques applied, if any, and the need for the application of force;
 - ii. The relationship between the amount of force used and the need for using force;
 - iii. The extent of inflicted injury;
 - iv. Whether the force used was applied in a good faith effort to maintain or restore control or maliciously applied for the very purpose of causing harm;
 - v. The behavior(s) and background of the subject against who force was used;
 - vi. The actions by third parties who were present;
 - vii. The physical odds against the employee(s);
 - viii. The feasibility or availability of alternative courses of action;
 - ix. The behavior of the employee during and immediately preceding the incident.
 - x. To establish if there was a violation of policy, procedure or work rules.
 - d. Determining if any other recommendations concerning the matter shall be included in the Investigator's final report.
 - e. Recording all interviews electronically or in writing.

- f. Completing a written report, using the recordings of the interviews and all other information compiled during the investigation, which shall be written by the Use of Force Investigator within two weeks completion of the investigation, and shall include:
 - i. The date and location of the meeting;
 - ii. The date and location of the use of force incident under review;
 - iii. A list of the Use of Force Investigator(s) assigned;
 - iv. A list of all employees appearing before the Use of Force Investigator(s);
 - v. A list of all documents, statements, photographs, etc. reviewed during the investigation;
 - vi. A list of the offenders involved in the incident;
 - vii. A list of the members of the public involved in the incident;
 - viii. A brief statement of the facts as found by the Use of Force Investigator;
 - ix. The Use of Force Investigator's specific findings and conclusion of the investigation as to the necessity for the use of force response and whether or not the force was appropriate and justified and the reasons supporting the conclusion;
 - x. The Use of Force Investigator's specific findings and conclusion of the investigation as to whether or not excessive force was used and the reasons supporting the conclusion;
 - xi. The Use of Force Investigator's specific findings and conclusion of the investigation regarding any allegation of abuse and the reasons supporting the conclusion;
 - xii. Any other recommendations formulated by the Use of Force Investigator;
 - xiii. The signature of the Use of Force Investigator.
5. The Use of Force investigation report shall be distributed to Managing Director of Operations and the Investigations Coordinator.
6. The Use of Force Investigator shall not inform the employee involved in the use of force incident of its findings and conclusions.

I. Further Investigation

The Managing Director of Operations/designee or Investigations Coordinator shall review the entire record within seven (7) calendar days of receipt from the Use of Force Investigator. The Managing Director of Operations/designee or Investigations Coordinator may accept the report or he/she may send it back to the Use of Force Investigator for additional investigation if necessary, or reassign the investigation to a new Investigator. Any additional interviews must be conducted in accordance with Section H of this policy.

J. Notification to Employee

The Regional Administrator or designee shall provide the employees involved in the use of force incident with a copy of the Use of Force Investigator's report when the Regional Administrator or designee receives notice that the use of force incident is no longer under investigation and the employee is not subject to disciplinary action.

Attachments:

Appendix A

Action-Response: Response To Resistance Continuum (Copyright 1991 Sam Faulkner)

Related Department Forms:

Incident Report

DRC1000

Incident Report Supplement

DRC1001

Administrative Investigation Report

DRC2641

Appendix A

ACTION – RESPONSE RESPONSE TO RESISTANCE CONTINUUM

IMPORTANT – The list of officer responses is not intended to be in any specific order, but reflects on the amount of resistance encountered. The staff member shall choose the necessary response to gain control of the situation based on departmental policy, their physical capabilities, perception, training and experience.

INMATE'S ACTIONS

STAFF MEMBER'S RESPONSES

Weapons Used Against Officer
Attempting to Disarm Officer
Life Threatening Weaponless Assaults

Deadly Force

Striking or Kicking Officer

Non-Traditional Impact Weapons
Less Lethal Munitions
Baton Strikes

Wrestling with Officer
Pushing Officer

Striking, Punching, Kicking
Baton Restraints

Pulling Away From Officer
Refusing to Move – Dead Weight

Balance Displacement
Stunning/Striking Muscle Groups
Aerosols/Chemicals or Electrical
Devices
Take Downs, Joint Manipulations
Or Pressure Points

Not Responding to Commands
Verbal or Physical Danger Cues

Escort Position
Assistance from Other Officers
Verbal or Physical Commands
Officer Presence

INMATE'S ACTIONS

STAFF MEMBER'S RESPONSES

- STAFF MEMBER/INMATE FACTORS -

-SPECIAL CIRCUMSTANCES-

1. Age
2. Sex
3. Size
4. Skill Level
5. Multiple Subjects/Officers
6. Relative Strength

1. Closeness of a Weapon
2. Injury or Exhaustion
3. Being on the Ground
4. Distance from the Subject
5. Special Knowledge
6. Availability of Other Options
7. Location