

*State of North Carolina
Department of Correction
Division of Prisons*

Chapter: F
Section: .1500
Title: **Use of Force**
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POLICY & PROCEDURES

.1501 PURPOSE

The purpose of this policy is to provide Division of Prisons' personnel direction in the use of non-deadly and deadly force, documentation requirements, and reporting procedures for use of force incidents.

.1502 DEFINITIONS

- (a) Escpee -- any individual who leaves or is attempting to leave the custody of the Division of Prisons without prior authorization.
- (b) Deadly (lethal) force -- any use of force that would reasonably tend to result in death or serious bodily injury.
- (c) Non-Deadly (non- lethal) force -- any use of force that is not likely to result in death or serious bodily injury.
- (d) Hands on physical force -- any degree of physical force exerted by a staff member using bodily strength including approved unarmed self-defense techniques.
- (e) Pepper spray --aerosol spray based on the active natural ingredient oleoresin capsicum, a derivative of various species of cayenne pepper.
- (f) Chemical Mace -- aerosol spray based on the active chemical ingredient orthochlorobenzalmalonitrile commonly referred to as CS.
- (g) Individual control devices -- include the specific long baton and short baton as designated in the Standard Equipment list.
- (h) Mechanical restraints -- include handcuffs, waist chains, legcuffs, handcuff covers "black box", pad locks, and flexcuffs.
- (i) Tear gas refers to the formula orthochlorobenzalmalonitrile, commonly referred to as CS, contained in various dispersion instruments including grenades, projectile, pepper foggers, and canisters. Normally used to disperse multiple subjects or in crowd control applications.
- (j) Probable cause -- reasonable grounds to believe that an offense has been (or is being) committed and that a specific person committed it.
- (k) Breach of the peace -- a fight, disturbance, shouting match, riot or the like.

.1503 POLICY

The following general guidelines apply to the use of force in the Division of Prisons.

- (a) The use of force shall be permissible only to the extent reasonably necessary for a proper correctional objective. Excessive force is prohibited. This prohibition shall not be construed to mean that staff must suffer an assault upon their person before taking appropriate defensive action or that the use of force by another must be met with strictly equal force on the part of the staff.
- (b) An officer is authorized to use whatever degree of force that reasonably appears to be necessary to defend the officer or a third party from imminent assault. Reasonable force is authorized in order to prevent an escape or to ensure compliance with a lawful order or to protect property or to return an escapee to custody. When time and circumstances permit, a sergeant or supervisor of higher rank should be present to supervise anticipated use of force or situations likely to result in use of force. An officer should attempt non-forceful methods of inmate control, but only to the extent reasonably possible under the circumstances as they appear to that officer.
- (c) An officer may lawfully utilize deadly force to:
 - (1) prevent the escape of a convicted felon,
 - (2) prevent or stop a life threatening assault on themselves or another person, or
 - (3) prevent escape of a pre-trial detainee awaiting felony charges.
 - (4) Deadly force may not be used solely to protect property or ensure compliance with a lawful order that does not implicate personal safety.
- (d) An officer is prohibited from using force solely as a result of verbal provocation. An officer shall not strike or attempt to strike an inmate who has abandoned his resistance or who is effectively restrained. The use of force as punishment is strictly prohibited.
- (e) When employing any degree of force, the officer shall use reasonable care to ensure that uninvolved persons are not endangered by such use of force.
- (f) Each facility will designate the posts approved to be routinely issued batons.
- (g) The long and short batons are the only impact tools authorized for duty use by Division personnel.
- (h) Firearms will be limited to those approved by the Director of Prisons. Personal firearms are prohibited. All firearms must be the property of the Division of Prisons.

- (i) If an inmate complains of a use of force and the use of force was not reported, the Officer-In-Charge will investigate. The investigation should begin with a face to face medical examination as soon as possible. If the Officer-In-Charge determines that a use of force should have been reported and the standard Incident Report completed, the responsible officer will be subject to disciplinary action.
- (j) Escapes.
 - (1) Deadly force is not authorized against a misdemeanor escapee, a pretrial detainee awaiting misdemeanor charges or in the apprehension of these persons except where there is an imminent threat of death or serious bodily injury presented.
 - (2) Deadly force is authorized against a felon escapee or a pretrial detainee awaiting felony charges.

.1504 PROCEDURES

Procedures for the use of force dictate that staff use only the amount of force that is reasonably necessary. Efforts at control through communication should be attempted if feasible prior to any use of force. Pepper spray or other techniques that reduce the risk of injury to staff and inmates should be used as the first response to an aggressive inmate, if feasible under the circumstances.

- (a) Hands-on Physical Force, including approved unarmed self-defense techniques, may be used:
 - (1) To restrain or move a non-aggressive, non compliant inmate; or
 - (2) To subdue an aggressive inmate when pepper spray is not effective or is not feasible; or
 - (3) To prevent an escape, to protect property, to defend the officer or a third party from imminent assault, to ensure compliance with a lawful order or to return an escapee to custody.
- (b) Pepper Spray, if feasible, should be used as the first level of response:
 - (1) To control or deter violent, threatening or aggressive acting inmates; or
 - (2) To defend the officer or a third party from imminent assault.
 - (3) Pepper spray is to be sprayed directly in the eyes.
 - (4) An inmate subject to pepper spray will be given an immediate opportunity to flush his or her eyes with water once control has been restored. An inmate's refusal to flush his/her eyes shall be documented in the Incident Report.

- (c) Chemical Mace (to be used only by trained PERT or SORT staff)
- (1) Chemical mace may be used to the extent necessary to control or deter violent or aggressive acting inmates.
 - (2) An officer should attempt to avoid discharging mace into direct contact with an inmate's face.
 - (3) An inmate subjected to mace should be moved to a ventilated area and should be afforded an opportunity to shower and change clothes once control has been restored. An inmate's refusal of the opportunity to shower and change clothes shall be documented in the Incident Report.
- (d) Individual Control Devices (Long Baton, Short Baton)
- (1) Individual control devices may be used to control violent or aggressive inmates.
 - (2) Intentional powered overhead strikes with a baton to vital areas are prohibited unless reasonably necessary to defend oneself or others from imminent threat of death or serious bodily injury. Vital areas include the head, throat, neck, solar plexus, spine, kidneys, groin, or coccyx. However, in extreme circumstances, staff members are expected to use any means available to protect themselves from assault and injury.
- (e) Four Point Restraints for Behavioral Management
- (1) Four-point restraints may be used to control violent or unmanageable inmates who have demonstrated behavior that presents a significant risk of injury to self or others. Interim steps such as handcuffs, waist chains, and leg cuffs may be used to attempt to control the inmate before four point restraints are used. Four point restraints may be used only when the Facility Head or designee determines that other less restrictive methods have not been or would not be effective in obtaining and maintaining control of the inmate. Four-point restraints will not be used as punishment.
 - (2) Soft restraints must be used to restrain the inmate unless:
 - (A) Such restraints have proven ineffective with respect to that inmate, or
 - (B) Such restraints are proven ineffective during the initial application.
 - (3) When using the four- point restraint method, the inmate will be face up on the bed. Hands should be secured by the side, no higher than the person's sternum.

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- (4) Medical and mental health staff must be advised when an inmate is placed in four point restraints. A nurse or other qualified medical staff member must physically examine the inmate as soon as possible after restraints have been applied to check on the inmate's health condition. Medical staff must physically check on the inmate's health condition at least once every four (4) hours to ensure the well being of the inmate.
 - (5) Correctional staff will check the inmate at fifteen (15) minute intervals or more frequently as directed by a qualified health professional, both to ensure that the restraints are not hampering circulation and for the general welfare of the inmate.
 - (6) A review of the inmate's placement in four point restraints will be made by the OIC every two hours to determine if the restraints have had the calming effect and so that the inmate may be released from the restraints (completely or lesser restraints) as soon as possible. The OIC must visually observe the inmate to make this decision. The inmate will be released at the earliest possible time that the inmate, in the opinion of the OIC, no longer exhibits behavior that necessitates restraint. While the Facility Head or designee must approve placement of an inmate in four point restraints, the OIC has the authority to remove the restraints.
 - (7) At every two hour review, the inmate will be afforded the opportunity to use the toilet and to exercise his extremities, unless the inmate is continuing to actively resist or becomes violent while released from the restraints for this purpose. Partial or complete release from restraints at mealtime is also required unless the inmate is continuing to actively resist or becomes violent when released from restraints for this purpose.
 - (8) The Region Director or designee and the Division Duty Officer are notified if an inmate is maintained in four point restraints for more than eight (8) hours.
 - (9) Only facilities with 24 hour medical staffing and single-cells may place an inmate in four point restraints. Restraint beyond 48 hours requires the approval of the Region Director or designee. Inmates continued in four point restraints beyond 48 hours will be transferred to Central Prison or NCCIW for housing and continuation of the procedure.
 - (10) The use of therapeutic restraints as part of mental health treatment is outlined in the Health Care Procedures Manual.
 - (11) This incident will be documented on the standard OPUS Incident Report. All custody checks on the inmate will be documented on the DC-141. Checks by medical staff will be documented in the inmate's medical records.
- (f) Tear Gas (to be used only by trained PERT or SORT staff)

- (1) Tear gas canisters and other tear gas weapons designed for crowd control will be used only if an exit is available to a ventilated area or can be made available to a ventilated area for the inmates following the return of control.
- (2) Affected inmates will be given the opportunity to shower and receive clean clothes once control has been established.
- (3) Only the Officer-In-Charge of the correctional facility may authorize the use of tear gas.

(g) Firearms

The use of firearms is authorized in the deadly force situations described in this section.

- (1) A felon inmate who attempts to go over, under or through the interior perimeter fence or other perimeter barrier is subject to being fired upon to prevent escape.
- (2) In all situations involving the use of firearms, an officer's decision to fire is guided by consideration of physical characteristics and structures near the line of fire and safety concerns for the public, staff or other inmates who may be in the line of fire, taking into consideration the type of weapon used, the surrounding population and similar matters.
- (3) In an emergency the Emergency Response Commander may authorize the use of firearms to assure compliance with a lawful order when failure to comply jeopardizes the safety of the public, staff, or other inmates to the extent that serious injury or death is likely to occur. No firearms of any description shall be allowed at any time in a correctional facility except as directed by the Emergency Response Commander.
- (4) No firearm is to be left unattended or unsecured at any time or in any place accessible to the public or inmates, either directly or indirectly.
- (5) An officer should avoid firing warning shots but when good judgement dictates their use, care shall be taken to not injure other persons or property.
- (6) An officer should not cock revolvers; the firing of revolvers should be double action at all times.

(h) Authority to Detain

- (1) Division of Prisons staff may detain another person when the staff member has probable cause to believe that the individual to be detained has committed in his or her presence any of the following:
 - (A) A felony

- (B) A breach of the peace
 - (C) A crime involving physical injury to another person
 - (D) A crime involving theft or destruction of property
- (2) The detention must be in a reasonable manner considering the offense involved and the circumstances of the detention.
 - (3) The individual may not be detained any longer, than required to accomplish the earliest of the following:
 - (A) The determination that neither of the events described in section .1504(h) above has occurred.
 - (B) Surrender of the individual being detained to a law enforcement officer.
 - (4) A staff member who detains another person must immediately notify a law enforcement officer and must, unless the staff member releases the person pursuant to section .1504 (h)(3)(A) above, surrender the person to the law enforcement officer.
 - (5) This section does not pertain to situations in which contraband is found on the person or in the personal effects of a visitor. Any such contraband should be confiscated and local law enforcement should be notified as appropriate. Reasonable efforts short of the use of force should be utilized to encourage the visitor to remain until local law enforcement authorities arrive. If the visitor refuses to remain, as much descriptive and informative data as can be accumulated by correctional staff regarding the identify of the visitor and direction of departure and method of departure, should be communicated to the local law enforcement officers.

.1505 MEDICAL RESPONSE

- (a) As soon as possible after the cessation of a use of force incident the Officer-In-Charge will screen each inmate involved in the use of force incident. The Officer-In-Charge will determine whether or not imminent immediate medical attention is required. Application of one or more of the following circumstances will require immediate medical treatment:
 - (1) The inmate complains of injury;
 - (2) Staff observe any injury;
 - (3) Staff employed a firearm, pepper spray, chemical mace, a baton or any other device likely to cause injury; or

- (4) The amount of force used has rendered the inmate immobile, unconscious or unable to communicate.
- (b) If no trained medical staff is available at the facility and the Officer-In-Charge determines the inmate requires immediate medical attention, the inmate will be transported to an appropriate medical facility. The triage nurse shall be informed of the transport to the emergency room but will not provide a medical assessment.
- (c) If no trained medical staff is available at the facility and the Officer-In-Charge determines immediate medical attention is not required, the inmate will be evaluated and provided treatment as necessary as soon as trained medical staff return to duty.
- (d) An inmate's refusal of treatment shall be documented on both the Incident Report and the DC-442 Refusal of Treatment form with a copy of the DC-442 retained on file.
- (e) Any injury to staff will be evaluated, documented and treatment provided in accordance with Division of Prisons Health Care Procedures Sections 602 and 713.

.1506 REPORTING PROCEDURES

- (a) Each correctional staff member involved in an incident requiring the use of force will immediately make a comprehensive report to the Officer-In-Charge of the facility. The report will include all relevant facts including the time and place of the incident, the names of all staff and inmate participants and witnesses, specific nature, description, and duration of the use of force, and an explanation of the circumstances that made use of force necessary.
- (b) The Officer-In-Charge will report through the chain of command, or the Division Duty officer structure, any use of force incident involving firearms or any use of force resulting in serious injury to inmates or staff (See DOP Security Manual Section .1200, Reporting Procedures).
- (c) The Officer-In-Charge or designee will then investigate to determine whether the reports of the involved staff are accurate and complete and will order additional reports and information as necessary.
- (d) As part of the investigation, the Officer-In-Charge or designee shall:
 - (1) Obtain a statement from the involved inmate to allow an explanation of the inmate's version of the incident;
 - (2) Obtain statements from staff and inmate witnesses;
 - (3) Obtain a statement from the facility health authority or other medical personnel who examined or treated the inmate and/or staff; and

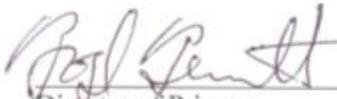
- (4) Make a determination as to whether the force used was in accordance with this policy.
- (e) The Officer-In-Charge or designee will report the results of the investigation on the standard OPUS Incident Report, and submit the report through the chain of command to the Region Director. Written statements of all witnesses should be attached.
- (f) Incident Reports should be completed within five (5) working days. Extensions may be granted by the Facility Head.

.1507 VIDEO RECORDING OF USE OF FORCE INCIDENTS

- (a) Facilities designated by the Director will use video cameras to record anticipated use of force incidents.
- (b) The Superintendent/Warden shall issue Standard Operating Procedures governing the operation, viewing and maintenance of videotape records.
- (c) During an emergency response operation, the Emergency Response Commander may deviate from the requirements of this policy.
- (d) Facility procedures will be approved by the appropriate Region Director and will include the following requirements:
 - (1) A video recording shall be made of all incidents where correctional staff anticipate the use of physical force.
 - (2) A sufficient number of staff shall be trained in the use of video equipment to ensure 24-hour availability.
 - (3) A sufficient number of supervisors shall be designated as Incident Supervisors to direct the recording of anticipated use of force incidents.
 - (4) Prior to taking corrective action against the inmate, each recording will begin with an on-camera briefing of the staff by the Incident Supervisor regarding what is to take place.
- (e) Video Tape Records Maintenance and Use:
 - (1) All videotape recordings will be documented by the Incident Supervisor on form DC-422A.
 - (2) All video tape recordings of use of force incidents will be transcribed to a master video, documented on a master tape ledger, and maintained for five (5) years. No

master tape will be disposed of without consultation with the Attorney General's Office to determine if the tape should be preserved for litigation purposes.

- (3) Viewing of videotapes will be for the purposes of investigation and other official Departmental uses.
- (4) The superintendent/warden shall approve any viewing or use of video recordings by departmental personnel.
- (5) The Director of Prisons or designee shall approve the viewing or use of video recordings by persons outside the Department of Correction.

 9-1-06
Director of Prisons Date

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