

## USE OF FORCE IN A CORRECTIONS SETTING

### (Critical Policy)

#### POLICY.

Corrections deputies will only use the approved defensive tactics, tools and levels of force authorized by Sheriff's Office policies and procedures, the corrections commander, Oregon Revised Statutes (ORS), Oregon Constitution and the United States Federal Constitution for uses of force and humane treatment for inmates. Any use of force by a Deschutes County Adult Jail (DCAJ) staff member (sworn and non-sworn) must comply with the guidelines and procedures set by the mentioned laws and constitutional standards. For specific citations and definitions see cited references below. ***This is a critical policy because physical injury or death can occur when force is used. There is also a high civil liability risk with any use-of-force action.***

#### PURPOSE.

To provide policies and procedures that govern the use of force, establish the criteria for use of force justification, set use of force limits, define responsibilities for staff involved in uses of force, respect the sanctity of life and establish the legal requirements for various levels of force.

#### OREGON JAIL STANDARDS:

- E-501 Use of Force
- E-502 Use of Deadly Force
- E-503 Prohibited Use of Force
- E-510 Medical Examination and Treatment
- E-511 Documentation Requirements

#### REFERENCES:

- United States Constitution, Amendment 8 (Cruel and unusual punishment)
- Oregon Constitution, Section 13 (Treatment of arrested or confined person)
- Oregon Constitution, Section 16 (Cruel and unusual punishment)
- ORS 161.205, Use of Physical Force Generally
- ORS 161.209, Use of Physical Force in Defense of a Person
- ORS 161.215, Limitations on use of Physical Force in Defense of a Person

- ORS 161.219, Limitations on Use of Deadly Physical Force in Defense of Person
- ORS 161.235, Use of Physical Force in Making an Arrest or in Preventing an Escape
- ORS 161.239, Use of Deadly Physical Force in Making an Arrest or in Preventing an Escape
- ORS 161.265, Use of Physical Force to Prevent an Escape (from a correctional facility)
- ORS 169.076, Standards for Local Correctional Facilities

## DEFINITIONS.

**Deadly Force.** Any physical force that under the circumstances in which it is used is readily capable of causing death or serious physical injury. (ORS 161.015 definitions)

**Dangerous Weapon.** Any weapon, device, instrument, material or substance which under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing death or serious physical injury.

**Deadly Weapon.** Any instrument, article or substance specifically designed for and presently capable of causing death or serious physical injury.

**Defensive Tools.** Sheriff's Office approved material and equipment for use in applying approved use-of-force tactics. This includes restraints, restraint devices, batons, body armor, defensive shields, chemical agents, less lethal impact munitions, taser, electronic stun belt, and firearm. Refer to DCAJ [Policy CD-8-9 Defensive Tool Control](#) for defensive tool definitions and DCAJ [Policy CD 8-5 Use of Restraints](#), for restraints.

**Evidence.** Any article, item, or statement which can be presented in court for the purpose of proving or disproving a question under legal inquiry. This can include, but is not limited to testimony, documents, photographs, maps and digital video.

**Force Options.** Justifiable levels of force providing tactical methods in response to varying levels of resistance and the immediate threat to self, a third party, or the safety and security of the corrections facility.

**High Risk Inmate.** Any inmate identified as a risk for escape or a danger to staff or others by present threat or previously demonstrated threat; assaultive behavior.

**Physical Force.** Physical force upon another person(s) to gain control or in protection of self, third party, or to maintain order can include, but is not limited to, the use of defensive tools; Taser, chemical agents, striking implement (baton), restraints, restraint devices, less lethal impact munitions or firearm.

**Physical Injury.** Impairment of physical condition or substantial pain.

**Serious Physical Injury.** Any physical injury which creates a substantial risk of death or which causes serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.

**Use of Force Justification.** The justifiable use of physical force required or authorized by law or by a judicial decree to be performed by a public servant in the reasonable exercise of official powers, duties or functions.

## **PROCEDURES.**

### ***SECTION A: USE OF FORCE***

**A-1. Corrections Setting Factors.** Correction deputies must consider the factors listed below, before using force in a corrections setting:

- a. The current classification level of an inmate, the present safety and security risk for escape or assaultive behavior towards staff or others.
- b. The use of digital surveillance equipment for monitoring daily activities in the facility and providing an ability to identify safety and security incidents beginning or in progress.
- c. Facility design providing for the option of isolation of an event or a pre-determined course of tactics for problem inmates.
- d. Nature of the incident and if the level of violation merits the immediate use of force to gain control or maintain security.
- e. Supervisory notification to determine if any discretion, pre-planning or approval is necessary for the appropriate level of force and implementation of a defensive tool.
- f. Reasonable tactics and reasonable force for any situation; level of a threat, escalation of security or safety issues, and ability to justify the course of actions needed to resolve any critical or potentially critical incident.

**A-2. Justified Use of Force.** Corrections deputies may use force against another person only to the extent they reasonably believe such force is necessary. Reasonable force may be used:

- a. In self-defense.
- b. To protect a third person.
- c. To restore or maintain jail security, order, control, and discipline.
- d. To prevent the commission of a forcible felony.
- e. To protect property.
- f. To protect or rescue a hostage.
- g. To prevent an escape.
- h. To prevent self-inflicted injuries or suicides.

**A-3. Prohibited Use of Force.** Corrections deputies will not use any level of force against inmates as discipline, harassment, punishment or in a reckless or malicious manner.

**A-4. Use of Deadly Force.** Corrections deputies are only authorized to use deadly force when they reasonably believe there is an immediate threat of death or serious physical injury to them or a third person. This can include, but not limited to the following incidents:

- a. Preventing the escape of an inmate who is a known risk and without the use of deadly force to prevent their escape would place the community at risk of death or serious physical harm.
- b. To prevent death or serious bodily harm to staff or inmates during a riot, kidnapping, hostage situation, arson, or any incident where an inmate(s) have become armed with a dangerous or deadly weapon and demonstrate the imminent ability to use force capable of causing death or serious physical injuries to staff or others.
- c. The destruction of property that would place a person in imminent danger or serious injury or death.

**A-5. Pre-planned and Immediate Use of Force.** Corrections deputies must notify the shift supervisor when applicable before using force. This is always a best practice unless exigent circumstances exist requiring immediate action. Shift supervisors are responsible for:

- a. Approving the appropriate use and level of force, providing direction, and assistance with any pre-planned use of force.
- b. Authorizing the use of chemical agents, Taser, restraint devices, cell and area extraction tactics, and post incident decontamination if necessary. See [\*CD-8-5 Use of Restraints\*](#), [\*CD-8-9 Defensive Tool Control\*](#) and [\*CD-8-12 Cell and Area Extractions\*](#).
- c. Being present for any use of force unless timing or operational needs limit their ability to be present.
- d. Use a video camera for pre-planned use of force events. This will document the level of force used in the event.
- e. Review all use of force incidents and the actions taken to provide further direction.
- f. Request medical staff to be on standby if applicable and in all incidents request medical staff to evaluate staff and/or inmates who become injured.
- g. Act as the incident commander for any incident unless relieved by jail command.
- h. Process all use of force incidents and scenes accordingly for evidence. This includes, but not limited to the collection or securing of evidence, requesting photos or written documentation and the decision to request a criminal investigation for incidents criminal in nature. See DCAJ [\*Policy CD-8-17 Criminal Acts\*](#).
- i. Provide jail command timely notification of any criminal event or event requiring further follow up from jail command or other law enforcement agency.

**A-6. Medical Examination and Treatment.** Post incident and as soon as possible any staff member or inmate will be evaluated by on duty medical staff. Any inmate or staff with serious injuries will be transported to the nearest hospital immediately. All staff or inmates with injuries will be evaluated for:

- a. Obvious and undetected injuries needing treatment.
- b. To develop a treatment plan or to advise the need for further review; outside medical evaluation.

- c. To create a medical record and documentation for the absence of injuries and possibility of exaggerated claims by inmates against staff.
- d. During a use of force application, if the use of a baton or an extended range impact weapon (i.e. bean bag, pepper ball rounds) is deployed as a force option and the inmate sustains an injury that draws blood, the inmate will be transported to the hospital for evaluation and treatment. This Emergency Room evaluation will occur regardless of any evaluation or care from DCAJ medical staff or EMTs.

- A-7. Use of Force Report.** The *Corrections Use of Force Report Form No. 409*, 409 supplemental and any other appropriate documents must be completed and reviewed by a shift supervisor by the end of shift. Reports will remain in draft form until approved by the Corrections Commander.
- A-8. Criminal Charges.** If criminal charges are to be considered, the shift supervisor will determine whether to assign a jail investigator or notify a patrol supervisor to assign a patrol deputy to complete a criminal report. Refer to DCAJ [Policy CD-8-17, Criminal Acts](#).
- A-9. Report Content.** All corrections use of force reports will include relevant events and facts leading up to and during the use of force incident. This will include the actions by the inmate, deputy and decisions made by the shift supervisor. The report will be in chronological order, detailing all reasonable beliefs, decisions, and actions made at the time of the event. In addition all use of force reports will follow the guidelines set in DCSO [Policy 5.01 Use of Force](#) with regard to reporting special knowledge, influential factors, and previous knowledge, which may have influenced the decisions for those involved with a use of force incident. Additional factors to consider specific to corrections application for use of force are the following:
- a. Known factors:
    - 1) Inmate history and classification.
    - 2) Location of the event and current threat level presented to staff or other inmates.
    - 3) Number of inmates involved, hazards present and confinement.
    - 4) Reason for contact, efforts made to negotiate or the ability to control the incident.
    - 5) Justification for a pre-planned or exigent application of force.
    - 6) The ability to notify a shift sergeant.
  - b. Use of Force Application:
    - 1) Did the initial application gain compliance or allow for control.
    - 2) Response of the inmate(s) to reasonable commands and warnings, type of force being applied, and level of resistance by the inmate(s) who were not complying.
    - 3) Reasons for an increased application of force: level of resistance, multiple threats, injury, exhaustion, access to a weapon (dangerous/deadly), or other factors limiting staff to control the incident in a timely manner. A reasonable belief without an increased level of force; threatened or used the situation would escalate.
  - c. Post application:
    - 1) Subdue and control the inmate and take control of the scene.
    - 2) Determine the appropriate restraints to be used, a safe location to secure the inmate(s) involved and evaluate the need for immediate medical response.

- 3) Follow proper procedure for searching inmate(s) involved ([DCAJ Policy CD-8-7 Inmate Searches](#)), secure the area for an initial investigation or to determine if the act was criminal (DCAJ [Policy CD-8-17 Criminal Acts](#)) and determine who is responsible for the report and documentation needed for the incident.
- d. Deadly force applications will follow DCSO Policies [7.09 Deputy Involved Deadly Force Investigation](#) and require the immediate contact of jail command.
- e. Reporting and follow up:
  - 1) Determine who will complete use of force report(s), whether there is a disciplinary violation to document and/or if a criminal investigation is required ([CD-8-17](#)).
  - 2) Notify jail command for incidents requiring notification. Determine who will complete any criminal complaint(s), assist in the processing or securing evidence ([CD-8-17](#)) and complete any additional follow up for injuries to staff, inmates or change housing assignments for discipline ([DCAJ CD-6-6 Segregation Housing](#)).

**A-10. Report Review.** Supervisors will review all use of force reports for compliance with DCSO [Policy 5.01 Use of Force](#). All reports will be reviewed by the shift supervisor prior to the end of shift, unless a sergeant, lieutenant, corrections commander or their designee have allowed for additional time. After the initial review process, the following will be conducted:

- a. A corrections lieutenant will review all use of force reports and any other relevant information available. The lieutenant will make the initial determination whether the force was justified and if the incident was properly handled according to DCAJ and DCSO policy for use of force and use of force tool application.
- b. All use of force incidents will be further reviewed by the corrections commander. The corrections commander will determine whether further review is necessary. Any further review will follow the guidelines set by DCSO [Policy 3.01, Complaint Review](#).

**A-11. Restitution Sanctions.** If staff finds an inmate guilty of a jail rule violation that led to the need to use force, they may impose a restitution sanction to recover the cost of any Taser darts, OC spray canisters, other consumable defensive tools, and video used in the incident. The operations lieutenant should include these costs on the list of common items, which he maintains per DCAJ [Policy CD-6-3, Rules and Discipline](#).

## **SECTION B: DEFENSIVE TOOLS**

**B-1. Oleoresin Capsicum (OC) Spray.** Corrections deputies are allowed to carry and use an approved OC spray. Deputies may justify the use of OC spray for the following reasons, but are not limited to these reasons:

- a. In self-defense, defense of a third person or to break up multiple inmates involved in an altercation.
- b. In an effort to stop an inmate from self-infliction of bodily harm where lesser means have been exhausted or the use of lesser means would risk injury to the inmate or staff.
- c. In an effort to reduce the combative level or ability for an inmate being removed from a cell or housing area and placed in restraints or restraint device.

- d. Any incident where a deputy can justify using a chemical agent as a reasonable means for self-defense, protection of a third party, or an affirmative effort to maintain the safety and security of the facility.

**B-2. Oleoresin Capsicum (OC) Spray Use Guidelines.**

- a. Chemical agents will only be used by deputies who have completed an approved training program.
- b. Proper justification is required for use of a chemical agent.
- c. When a chemical agent is used, the area will be properly ventilated. This may include removing inmates from the immediate area. It is the responsibility of the shift supervisor to ensure the contaminated area is properly cleared.
- d. When a chemical agent is used on a person, cool clean water will be used to rinse the area contaminated by the irritant as soon as possible.
- e. When a chemical agent is used, the on-duty supervisor will notify medical staff for an evaluation. If they are not available and the inmate displays signs of trauma or serious distress an immediate medical evaluation will be arranged with the local Fire Medics. If there are no apparent problems and no medical staff is on-duty the supervisor will request a review by DCAJ medical staff when available.

**B-3. Taser.** The objectives of the Taser in a corrections setting are as follows:

- a. Prevention of violence and minimization of injury to staff, inmates and the public.
- b. Incapacitation and restraint of violent inmate(s) whose actions are posing an immediate threat of endangering life, property and the safety and security of the facility.
- c. Prevention of an escape from the corrections facility or during transport.
- d. To restore or maintain security, order and discipline in riotous situations.

**B-4. Taser Use Guidelines.**

- a. Tasers will only be deployed in a corrections setting by a certified Taser operator, and in accordance with DCAJ Policies [\*CD- 8-9 Defensive Tool Control\*](#), [\*CD-8-12 Cell and Area Extractions\*](#), [\*CD-10-13 Mental Health\*](#) and DCSO [\*Policy 5.02 Use of Force, Specific Instrumentality\*](#). The application of a Taser will be allowed by the assigned operator and based on their evaluation for the application.
- b. Any incident involving the use of a Taser will be documented on a DCAJ *Corrections Use of Force Report Form No. 409*, and *Incident Report* in the JMS specifying the date, time of use, inmate, and follow up procedures.
- c. The shift supervisor will request photographs be taken of the person Tased, documenting the location where the probe(s) impacted, any marks or injuries sustained from probes or a drive stun. The shift sergeant will request a medical evaluation on site or at a medical

facility depending on the area impacted, degree of injury and current condition of the inmate.

- d. If the shift supervisor determines the probes contacted a sensitive area or the inmate displays signs of distress the inmate will be taken to a medical facility immediately for proper removal of the probes or medical care. All procedures taken will be documented in written format and photographed as evidence. Additionally, the probes, wires and chads will be retained as evidence. The following DCAJ policies; [CD-10-16 Inmate Death, Injury & Illness](#) and [CD-8-17 Criminal Acts](#) will be followed.
- e. The use of a Taser is forbidden for inmates fully restrained in the Pro-Strait Safety Chair or Emergency Restraint Chair (ERC).
- f. Tasers will not be used on inmates who pose a risk of falling from elevated positions, where flammables may be present, or anytime the risk of substantial injury is likely once the inmate is Tased and the risk is known.
- g. Daily Taser inspections by corrections deputies will include:
  - 1) A spark check at the beginning of each shift to ensure the Taser will function properly.
  - 2) Inspection for damage, cleanliness, proper battery charge and the approved cartridges are in place.
  - 3) Only authorize personnel are armed with the Taser after approval for possible deployment.
- h. Pre-planned supervisor responsibilities:
  - 1) When practical, authorize deployment and be present during the use of force incident.
  - 2) Approve the deployment plan considering the following: Attempts for lesser use of force options have or will be exhausted to include display of the Taser infrared laser as a method for gaining compliance, the manner for deployment, evaluate the known risk factors for the inmate and location for use (flammables or use of flammable OC), assign a Taser operator, require commands and instructions be given to the inmate, establish a restraint procedure, and inmate removal.
- i. Post-incident supervisor responsibilities:
  - 1) If the probes are located in a non-sensitive area remove the probes if the sergeant determines this can be done safely without causing further injury to the inmate or staff.
  - 2) Determine level of medical evaluation required for the inmate.
  - 3) Maintain probes and chads as evidence DCAJ [Policy CD-8-17, Criminal Acts](#).
  - 4) Secure all documentation and materials for a lieutenant's review.
  - 5) Notify the corrections commander of the Taser use.
- j. Prohibited Taser use:
  - 1) Use a Taser in a reckless manner or to discipline, harass or punish an inmate.

- k. Corrections medical staff will:
- 1) Access the inmate as soon as possible for any injuries and basic medical condition.
  - 2) Render the appropriate first aid and establish a follow up plan if practical.
  - 3) Remove Taser probes from subjects when requested to do so or from sensitive areas inadvertently struck. These areas include sensitive tissue areas such as the head, face, neck, groin, or female breast area. Medical staff and the on-duty supervisor can request the inmate be transported to a medical facility for specialized treatment or further evaluation if the injury, area struck or inmate condition requires specialized treatment or evaluation.
- B-5. Batons.** Deputies will carry only Sheriff's Office approved impact weapons. Deputies are authorized to carry collapsible or side handle control batons if trained.
- B-6. Electrical Stun Devices.** Deputies will not use electrical stun devices, like Tasers and stun belts, on an inmate if they have sprayed the inmate with an OC spray containing alcohol or if the inmate has another flammable substance on his body.
- B-7. Extended Range Impact Weapons.** The only corrections deputies that may use extended range impact weapons are authorized trained deputies and with a corrections supervisor's approval. Deputies must use these tools according to procedure in DCAJ [Policies CD-8-12, Cell and Area Extractions](#), and [CD-8-9, Defensive Tool Control](#).
- B-8. Stun Belt.** A corrections supervisor may direct a trained and qualified deputy to have a high-risk inmate wear a stun belt while escorting the inmate to and from court. A corrections lieutenant or captain may approve the wear of the stun belt for other uses.
- B-9. Defensive Tool Training.** The corrections commander (or designee) must ensure corrections deputies receive training according to DCAJ Policy [CD-8-9, Defensive Tool Control](#), on the types of defensive tools they are authorized to use.
- B-10. Defensive Tool Control.** Procedures on defensive tool storage, issue, and handling are contained in DCAJ Policy [CD-8-9, Defensive Tool Control](#).

#### FORMS USED:

- Jail Incident Report Form (JMS)
- Jail Video Surveillance Request Form No. 141
- [Corrections Use of Force Report Form No. 409](#)
- [Inmate Notification Form No. 413](#)