

CENTRAL JUVENILE DETENTION & ASSESSMENT CENTER

CHEMICAL WEAPON FORCE OPTIONS MONTHLY REPORT

JAN 1, 2015 - DEC 31, 2015

FORCE OPTION	NUMBER OF INCIDENTS																																Y-T-D TOTALS																			
	JAN				FEB				MAR				APR				MAY				JUN				JUL				AUG								SEP				OCT				NOV				DEC			
	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T												
CHEMICAL WEAPONS	5		6	11	1		12	13		6	6		1	3	4		2	14	16			4	4		8	8	1	1	4	6			9	9			9	9			14	14	1	2	9	12	8	6	98	112		
MONTHLY TOTALS	5	0	6	11	1	0	12	13	0	0	6	6	0	1	3	4	0	2	14	16	0	0	4	4	0	0	8	8	1	1	4	6	0	0	9	9	0	0	9	9	0	0	14	14	1	2	9	12	8	6	98	112

KEY

B : BEHAVIOR
A : ASSAULTIVE BEHAVIOR
F : FIGHT
T : TOTAL
Y-T-D : YEAR TO DATE

CENTRAL JUVENILE DETENTION & ASSESSMENT CENTER

CHEICAL WEAPONS FORCE OPTIONS MONTHLY REPORT

JAN 1, 2016 - DEC 31, 2016

FORCE OPTIONS	NUMBER OF INCIDENTS																																Y-T-D TOTALS																			
	JAN				FEB				MAR				APR				MAY				JUN				JUL				AUG								SEP				OCT				NOV				DEC			
	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T												
CHEMICAL WEAPONS		2	15	17	1	15		16	3		14	17	4	3	9	16	3	3	16	22	2	4	15	21	1	13	14	28		3	8	11		2	6	8		3	6	9		1	6	7		2	7	9	14	51	116	181
MONTHLY TOTALS	0	2	15	17	1	15	0	16	3	0	14	17	4	3	9	16	3	3	16	22	2	4	15	21	1	13	14	28	0	3	8	11	0	2	6	8	0	3	6	9	0	1	6	7	0	2	7	9	14	51	116	181

DATA IS BASED ON INCIDENT REPORTS RECEIVED

KEY

B : BEHAVIOR
A : ASSAULTIVE / THREATENING
 BEHAVIOR
F : FIGHT
T : TOTAL
Y-T-D : YEAR TO DATE

CENTRAL JUVENILE DETENTION & ASSESSMENT CENTER

CHEMICAL WEAPONS FORCE OPTIONS MONTHLY REPORT

JAN 1, 2017 - DEC 31, 2017

FORCE OPTIONS		NUMBER OF INCIDENTS																																																						Y-T-D TOTALS					
		JAN				FEB				MAR				APR				MAY				JUN				JUL				AUG				SEP				OCT					NOV					DEC													
		B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	TH	SH	T	B	A	F	TH	SH	T	B	A	F	TH	SH	T										
CHEMICAL WEAPONS	0	2	3	5			3	3	0	3	2	5		3	4	7	2	3	5		4	4	8		6	6	12		1	2	3		3	2	5		6	3			9		4	3	1		8		2	2			4	0	36	37	1	0	74		
MONTHLY TOTALS	0	2	3	5	0	0	3	3	0	3	2	5	0	3	4	7	0	2	3	5	0	4	4	8	0	6	6	12	0	1	2	3	0	3	2	5	0	6	3	0	0	9	0	4	3	1	0	8	0	2	2	0	0	4	0	36	37	1	0	74	

DATA IS BASED ON INCIDENT REPORTS RECEIVED

KEY	
B :	BEHAVIOR
A :	ASSAULT
F :	FIGHT
TH :	THREATENING
SH :	SELF-HARM
T :	TOTAL
Y-T-D :	YEAR TO DATE

CENTRAL JUVENILE DETENTION & ASSESSMENT CENTER

CHEMICAL WEAPONS FORCE OPTIONS MONTHLY REPORT

JAN 1, 2018 - MAR 31, 2018

FORCE OPTIONS	NUMBER OF INCIDENTS																																																Y-T-D TOTALS											
	JAN					FEB					MAR					APR					MAY					JUN					JUL					AUG					SEP					OCT										NOV				
	B	A	F	TH	SH	T	B	A	F	TH	SH	T	B	A	F	TH	SH	T	B	A	F	TH	SH	T	B	A	F	TH	SH	T	B	A	F	TH	SH	T	B	A	F	TH	SH	T	B	A	F	TH	SH	T												
CHEMICAL WEAPONS		9	4	1		14		6	1	1		8		8	2			10				0				0				0					0					0					0		23	7	0	0	32									
MONTHLY TOTALS	0	9	4	1	0	14	0	6	1	1	0	8	0	8	2	0	0	10	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	23	7	0	0	32									

DATA IS BASED ON INCIDENT REPORTS RECEIVED

KEY	
B :	BEHAVIOR
A :	ASSAULT
F :	FIGHT
TH :	THREATENING
SH :	SELF-HARM
T :	TOTAL
Y-T-D :	YEAR TO DATE

HIGH DESERT JUVENILE DETENTION & ASSESSMENT CENTER

CHEMICAL WEAPONS FORCE OPTIONS MONTHLY REPORT

JAN 1, 2015 - DEC 31, 2015

NUMBER OF INCIDENTS																																			Y-T-D TOTALS																	
FORCE OPTIONS	JAN				FEB				MAR				APR				MAY				JUN				JUL				AUG				SEP						OCT				NOV				DEC					
	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T												
CHEMICAL WEAPONS	3		6	9	3		6	9		1	7	8	1	3	4	8		2	3	5		2	7	9			6	6	1		5	6			2	2	3	2	6	11	6	2	5	13		1	4	5	17	13	61	91
MONTHLY TOTALS	3	0	6	9	3	0	6	9	0	1	7	8	1	3	4	8	0	2	3	5	0	2	7	9	0	0	6	6	1	0	5	6	0	0	2	2	3	2	6	11	6	2	5	13	0	1	4	5	17	13	61	91

DATA IS BASED ON INCIDENT REPORTS RECEIVED

KEY	
B :	BEHAVIOR
A :	ASSAULTIVE BEHAVIOR
F :	FIGHT
T :	TOTAL
Y-T-D :	YEAR TO DATE

HIGH DESERT JUVENILE DETENTION & ASSESSMENT CENTER

CHEMICAL WEAPONS FORCE OPTIONS MONTHLY REPORT

JAN 1, 2016 - DEC 31, 2016

NUMBER OF INCIDENTS																																Y-T-D TOTALS																	
FORCE OPTIONS	JAN				FEB				MAR				APR				MAY				JUN				JUL				AUG							SEP				OCT				NOV				DEC	
	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T									
CHEMICAL WEAPONS		5	3	8			2	2	1		1			0			0				0				0			3	3	1	2	5	8		2	7	9		1	3	4		5	2	7	2	15	25	42
MONTHLY TOTALS	0	5	3	8	0	0	2	2	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3	3	1	2	5	8	0	2	7	9	0	1	3	4	0	5	2	7	2	15	25	42

DATA IS BASED ON INCIDENT REPORTS RECEIVED

KEY	
B :	BEHAVIOR
A :	ASSAULTIVE / THREATENING BEHAVIOR
F :	FIGHT
T :	TOTAL
Y-T-D :	YEAR TO DATE

HIGH DESERT JUVENILE DETENTION & ASSESSMENT CENTER

CHEMICAL WEAPONS FORCE OPTIONS MONTHLY REPORT

JAN 1, 2017 - DEC 31, 2017

FORCE OPTIONS	NUMBER OF INCIDENTS																																				Y-T-D TOTALS																							
	JAN				FEB				MAR				APR				MAY				JUN				JUL				AUG				SEP										OCT					NOV					DEC							
	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	TH	SH	T	B	A	F	TH	SH	T	B	A	F	TH	SH	T	B	A	F	TH	SH	T								
CHEMICAL WEAPONS		1	2	3	0	1	6	7	2	3	5		2	3	5		1		1		3	1	4		3	2	5	1	2	3	6		3	3	6	2	4				6		5	2	2		9	1	6	5	3		15	4	33	30	5	0	72	
MONTHLY TOTALS	0	1	2	3	0	1	6	7	0	2	3	5	0	2	3	5	0	1	0	1	0	3	1	4	0	3	2	5	1	2	3	6	0	3	3	6	2	4	0	0	0	6	0	5	2	2	0	9	1	6	5	3	0	15	4	33	30	5	0	72

DATA IS BASED ON INCIDENT REPORTS RECEIVED

KEY

B : BEHAVIOR
A : ASSAULTIVE / THREATENING BEHAVIOR
F : FIGHT
T : TOTAL
Y-T-D : YEAR TO DATE

HIGH DESERT JUVENILE DETENTION & ASSESSMENT CENTER

CHEMICAL WEAPONS FORCE OPTIONS MONTHLY REPORT

JAN 1, 2018 - MAR 31, 2018[illegible]

DATA IS BASED ON INCIDENT REPORTS RECEIVED

KEY	
B :	BEHAVIOR
A :	ASSAULT
F :	FIGHT
TH :	THREATENING
SH :	SELF-HARM
T :	TOTAL
Y-T-D :	YEAR TO DATE

GATEWAY-RYEF & GATEWAY-CENTRAL

CHEMICAL WEAPONS FORCE OPTIONS MONTHLY REPORT

JAN 1, 2015 - DEC 31, 2015

NUMBER OF INCIDENTS																																	Y-T-D TOTALS															
FORCE OPTIONS	JAN				FEB				MAR				APR				MAY				JUN				JUL				AUG								SEP				OCT				NOV			
	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T								
CHEMICAL WEAPONS			1	1			0			0			0			0			1	1			0			0			0			1	1	1			1			1	1	1	0	4	5			
MONTHLY TOTALS	0	0	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	0	0	0	0	0	0	0	0	0	0	0	0	1	1	1	0	0	1	0	0	1	1	1	0	4	5	

DATA IS BASED ON INCIDENT REPORTS RECEIVED

KEY

B : BEHAVIOR

A : ASSAULTIVE BEHAVIOR

F : FIGHT

T : TOTAL

Y-T-D : YEAR TO DATE

GATEWAY-RYEF & GATEWAY-CENTRAL

CHEMICAL WEAPONS FORCE OPTIONS MONTHLY REPORT

JAN 1, 2016 - DEC 31, 2016

				NUMBER OF INCIDENTS																																Y-T-D TOTALS												
FORCE OPTIONS	JAN				FEB				MAR				APR				MAY				JUN				JUL				AUG				SEP							OCT				NOV				DEC
	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T								
CHEMICAL WEAPONS				0			1	1				0				0	1			1				0			0			0			0			0			0			0	1	0	1	2		
MONTHLY TOTALS	0	0	0	0	0	0	1	1	0	0	0	0	0	0	0	0	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	1	2

DATA IS BASED ON INCIDENT REPORTS RECEIVED

KEY

**B : BEHAVIOR
ASSAULTIVE /
A : THREATENING
BEHAVIOR
F : FIGHT
T : TOTAL
Y-T-D : YEAR TO DATE**

GATEWAY-RYEF & GATEWAY-CENTRAL

CHEMICAL WEAPONS FORCE OPTIONS MONTHLY REPORT

JAN 1, 2017 - DEC 31, 2017

FORCE OPTIONS		NUMBER OF INCIDENTS																																																Y-T-D TOTALS							
		JAN				FEB				MAR				APR				MAY				JUN				JUL				AUG				SEP				OCT				NOV				DEC											
		B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	TH	SH	F	T	B	A	F	TH	SH	T	B	A	F	TH	SH	T										
CHEMICAL WEAPONS				0		1		1			1	1				0		1		1			1	1			1	1						0		1				1			1		1	0	3	4			8						
MONTHLY TOTALS	0	0	0	0	0	1	0	1	0	0	1	1	0	0	1	1	0	0	0	0	0	1	0	1	0	0	1	1	0	0	1	1	0	0	0	0	0	0	0	0	1	0	0	0	1	0	0	0	1	0	1	0	3	4			8

KEY

B : BEHAVIOR

A : ASSAULT

F : FIGHT

TH : THREATENING

SH : SELF-HARM

T : TOTAL

Y-T-D : YEAR TO DATE

GATEWAY-RYEF & GATEWAY-CENTRAL

CHEMICAL OPTIONS FORCE OPTIONS MONTHLY REPORT

JAN 1, 2018 - MAR 31, 2018

	NUMBER OF INCIDENTS																																																Y-T-D TOTALS									
FORCE OPTIONS	JAN				FEB				MAR				APR				MAY				JUN				JUL				AUG				SEP				OCT					NOV					DEC											
	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	F	T	B	A	TH	SH	F	T	B	A	F	TH	SH	T	B	A	F	TH	SH	T												
CHEMICAL WEAPONS			1	1			1	1	1		1				0				0				0				0						0					0					0				0	1	0	2			3					
MONTHLY TOTALS	0	0	1	1	0	0	1	1	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	2			3				

KEY

B : BEHAVIOR

A : ASSAULT

F : FIGHT

TH : THREATENING

SH : SELF-HARM

T : TOTAL

Y-T-D : YEAR TO DATE



MICHELLE SCRAY BROWN
Chief Probation Officer

TRACY REECE
Assistant Chief Probation Officer

Youth Injury Resulting From Incidents that Involved OC Spray*

Institution	2015											
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
CVJDAC	-	-	-	-	-	-	-	-	1	-	-	-
HDJDAC	1	-	1	3	1	-	-	-	-	3	-	-
GATEWAY	-	-	-	-	-	-	-	-	-	-	-	-

Institution	2016											
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
CVJDAC	-	-	2	-	-	-	1	-	-	-	-	1
HDJDAC	-	-	-	-	-	-	-	3	1	-	-	-
GATEWAY	-	-	-	-	-	-	-	-	-	-	-	-

Institution	2017											
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
CVJDAC	-	1	-	-	-	-	-	-	-	-	1	-
HDJDAC	-	2	-	-	-	-	-	-	-	-	1	1
GATEWAY	-	-	-	-	-	-	-	-	-	-	-	-

Institution	2018		
	Jan	Feb	Mar
CVJDAC	-	-	-
HDJDAC	-	-	-
GATEWAY	-	-	-

*Injuries are often received as a result of the incident that triggers the use of OC spray, such as a fight between juveniles.

**SAN BERNARDINO COUNTY
PROBATION DEPARTMENT PROCEDURE**

FORCE OPTIONS: USE OF FORCE AND REPORTING REQUIREMENTS

Title 15, 1357

Authority:

Michelle Scray Brown, Chief Probation Officer

Michael Neeki DO, Chief Medical Officer

Purpose:

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

The use of force by peace officers requires constant evaluation and often involves complex and dynamic circumstances. Officers should attempt to make all arrests and perform other 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 that method of force that is objectively reasonable to affect an arrest, prevent escape, overcome resistance, or to protect the safety of the officer or public. Officers are expected to evaluate both potential and actual uses of force against several factors, which include, but are not limited to:

- A. Whether there is an immediate threat to the safety of officers or to others.
- B. Seriousness of the offense or other circumstances.
- C. Proximity to potential weapons.
- D. Number of officers compared to the number of subjects.
- E. Prior knowledge.
- F. Age, size, relative strength.
- G. Special knowledge or skills.
- H. Officer exhaustion or injury.
- I. Mental illness or disorders.
- J. Drug use.
- K. Environmental conditions.
- L. Whether the person is actively resisting arrest or attempting to evade arrest by flight.
- M. The amount of time and any changing circumstances during which the officer has to determine the type and amount of force that appears to be necessary.
- N. The type and amount of force used.
- O. Available force options.

Definitions:

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

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

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

- A. Control Techniques (CCB and DCB)
- B. Impact Weapon (CCB only)
- C. Strikes and Kicks (CCB and DCB)
- D. Chemical Weapon (CCB and DCB)
- E. Taser/CEW (CCB Only)

- F. Firearm – Follow the Officer Involved Shooting & Discharge of Firearm (OIS) Procedure (CCB only)

Responsibilities:

I. Sworn Staff (PCO, POI/II/III, Supervisors):

- A. Advise Dispatch/Central Control that a UOF has occurred.
- B. Make the scene safe.
- C. Request medical aid in any incident where there is an injury, medical condition or 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.
 1. CCB officers that used and/or witnessed the UOF will complete an IR. Officers on scene, but not directly involved will complete an IR as directed by a Supervisor.
- 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. DCB will also adhere to the responsibilities found in the Code Red Procedure.

II. Supervisors (PCS/II/SPO):

- 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 medical aid is summoned when necessary or as required by other procedures.
- D. Ensure video/photo documentation of the scene to include involved persons, whether injured or not, and damaged property.
- E. Determine if local law enforcement is needed.
- F. Conduct a debriefing with involved staff.
- G. 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 24 hours.
- H. CCB officers that used and/or witnessed the UOF will complete an IR. Officers on scene, but not directly involved, will complete an IR as directed by a Supervisor.
- I. DCB will also adhere to the responsibilities found in the Code Red Procedure

III. Medical Personnel (DCB Only):

- 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 do to so.
- B. Correctional Nurse:
 1. 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.

D. Health Service Manager:

1. Provide a use of force injury report to the Deputy Chief annually.

IV. FAST (DCB Only):

- 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).

V. Division Director (DDI/II):

- A. Review all reports, audio/video recordings and photo documentation.
- B. Submit reports to the DCPO within 72 hours.

Guidelines:

- A. If the UOF incident involves an officer involved shooting (OIS) which results in the injury or death of a person, the officer(s) involved should not write an IR. In this instance, the Homicide Unit of the San Bernardino County Sheriff's Department should submit a written report.
- B. Officers are expected to demonstrate the highest standards of ethics and conduct consistent with the requirements of the law and of their positions.
- C. In any incident involving use of force, every attempt will be made to preserve the integrity, respect, and dignity of all individuals involved in or near the incident.
- D. Force will not be used as a means of punishment, discipline, treatment nor will it be used in a wanton, malicious or sadistic manner.
- E. Non-compliance does not constitute active resistance.
- F. When safe and reasonable, officers will take affirmative action to stop any inappropriate use of force.
- G. Identify any training issues that may arise and ensure training is scheduled via authorization through the chain of command.
- H. All officers are to complete all required Force Options training as detailed in the Training Unit's *Required Training Plan*. Such training will include, but not limited to:
 1. Known medical and or mental health conditions that would contraindicate certain types of force.
 2. Acceptable chemical agents.
 3. Methods of application.
 4. Signs or symptoms that should result in immediate referral to medical or mental health staff.
 5. Requirements of the decontamination of chemical agents.
- I. Any injury or medical condition of staff or subject(s) requiring medical assistance that can only be addressed at a hospital shall be reported directly to the Chief by the Supervisor or their Designee and subsequently reported to the chain of command via telephone.
- J. 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.
- K. 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.
- L. Pregnant or youth in recovery after delivery:
 1. Will not be restrained by the use of leg irons, waist chains or handcuffs behind the body.
 2. Will not be restrained by the wrists, ankles, or both unless deemed necessary for the safety and security of the youth, staff or the public.

3. Restraints will be removed when a professional who is currently responsible for the medical care of a pregnant inmate during a medical emergency, labor, delivery, or recovery after delivery determines that the removal of restraints is medically necessary.
- M. All field contacts shall be recorded.
- N. Officers will have access to the recordings when required to complete an IR.
- O. Notify the Communications Director in the External Affairs Division when there is a possibility of media interest or inquiry.
- P. Generally, the services of the Peer Support Team and/or the Employee Support Services should be offered to staff involved in an incident.
- Q. Use of force by officers must be based on what the officer knew at the time the force was used.

Inspections:

Refer to the Policy and Procedure Inspection Matrix.

Foundation:

PC 835a
Graham v. Connor
Hudson v. McMillan
Whitley v. Albers
Deorle v. Rutherford, 272 F.3d 1272

References:

Policy:
Employee Responsibility
Safety
Training
Use of Force Guidelines

Procedure:

Incident Reports
Arming
Officer Involved Shooting & Discharge of a Firearm
Expandable Baton
Taser/Conducted Electrical Weapon (CEW)
Use of Force Administrative Review
OC Spray- Oleoresin Capsicum [Title 15, 1357]
External Affairs
Critical Incident Notification
Internal Investigations Critical Incidents Reviews
Occupational Injuries [Title 15, 1328]
Code Red [Title 15, Section 1324]
Home Calls and Searches in the Field
Use of Physical Restraints in JDACs and Treatment Facilities [Title 15 1358]
Electronic Recordings

FORCE OPTIONS: USE OF FORCE AND REPORTING REQUIREMENTS

Issued by:


Michelle Scray Brown, Chief Probation Officer

3-13-18
Date

Original Issue Date: November 5, 2015

Revised: April 25, 2016
Revised: June 2, 2017
Revised: January 18, 2018
Revised: March 13, 2018

Attachments:

Attachment A – Force Options



SAN BERNARDINO COUNTY PROBATION DEPARTMENT

TO PROTECT THE COMMUNITY...



MICHELLE SCRAY BROWN
Chief Probation Officer

FORCE OPTIONS

NON-DEADLY FORCE (Low)

Objectively Reasonable; Effect Arrest, Overcome Resistance, Prevent Escape (PC835a)

- Officer Presence
- Dialogue/Counseling
- Verbal Commands
- Control Techniques

NON-DEADLY INTERMEDIATE FORCE (Moderate)

Objectively Reasonable; PC835a + Active Resistance + Threat of Harm

- Impact Weapon
- Strikes and Kicks
- Chemical Weapon
- Taser/CEW

DEADLY FORCE (High)

Objectively reasonable; Prevent SBI/Death (PC to believe violent felon/imminent threat)

- Force with Substantial Risk of SBI/Death

KH/March 2018

SAN BERNARDINO000643

**SAN BERNARDINO COUNTY
PROBATION DEPARTMENT PROCEDURE**

FORCE OPTIONS: USE OF FORCE AND REPORTING REQUIREMENTS

Title 15, 1357

Authority:

Michelle Scray Brown, Chief Probation Officer

Michael Neeki DO, Chief Medical Officer

Purpose:

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

The use of force by peace officers requires constant evaluation and often involves complex and dynamic circumstances. Officers should attempt to make all arrests and perform other 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 that method of force that is objectively reasonable to affect an arrest, prevent escape, overcome resistance, or to protect the safety of the officer or public. Officers are expected to evaluate both potential and actual uses of force against several factors, which include, but are not limited to:

- A. Whether there is an immediate threat to the safety of officers or to others
- B. Seriousness of the offense or other circumstances
- C. Proximity to potential weapons
- D. Number of officers compared to the number of subjects
- E. Prior knowledge
- F. Age, size, relative strength
- G. Special knowledge or skills
- H. Officer exhaustion or injury
- I. Mental illness or disorders
- J. Drug use
- K. Environmental conditions
- L. Whether the person is actively resisting arrest or attempting to evade arrest by flight
- M. The amount of time and any changing circumstances during which the officer has to determine the type and amount of force that appears to be necessary
- N. The type and amount of force used
- O. Available force options

Definitions:

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

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

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

- A. Control Techniques
- B. Impact Weapon (CCB only)
- C. Strikes and Kicks
- D. Chemical Weapon

- E. Taser/CEW (CCB Only)
- F. Firearm – Follow the Officer Involved Shooting & Discharge of Firearm (OIS) Procedure (CCB only)

Responsibilities:

I. Sworn Staff (PCO, POI/II/III, Supervisors):

- A. Advise Dispatch/Central Control that a UOF has occurred.
- B. Make the scene safe.
- C. Request medical aid in any incident where there is an injury, medical condition or 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.
 - 1) CCB officers that used and/or witnessed the UOF will complete an IR. Officers on scene, but not directly involved will complete an IR as directed by a Supervisor.
- 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. DCB will also adhere to the responsibilities found in the Code Red Procedure.

II. Supervisors (PCSI/II/SPO):

- 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 medical aid is summoned when necessary or as required by other procedures.
- D. Ensure video/photo documentation of the scene to include involved persons, whether injured or not, and damaged property.
- E. Determine if local law enforcement is needed.
- F. Conduct a debriefing with involved staff.
- G. 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 24 hours.
- H. CCB officers that used and/or witnessed the UOF will complete an IR. Officers on scene, but not directly involved, will complete an IR as directed by a Supervisor.
- I. DCB will also adhere to the responsibilities found in the Code Red Procedure

III. Medical Personnel (DCB Only):

- 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 do to so.
- B. Correctional Nurse
 - 1. 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.
- D. Health Service Manager
 - 1. Provide a use of force injury report to the Deputy Chief annually.

IV. FAST (DCB Only):

- 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).

V. Division Director (DDI/II):

- A. Review all reports, audio/video recordings and photo documentation.
- B. Submit reports to the DCPO within 72 hours.

Guidelines:

- A. If the UOF incident involves an officer involved shooting (OIS) which results in the injury or death of a person, the officer(s) involved should not write an IR. In this instance, the Homicide Unit of the San Bernardino County Sheriff's Department should submit a written report.
- B. Officers are expected to demonstrate the highest standards of ethics and conduct consistent with the requirements of the law and of their positions.
- C. In any incident involving use of force, every attempt will be made to preserve the integrity, respect, and dignity of all individuals involved in or near the incident.
- D. Force will not be used as a means of punishment, discipline, treatment nor will it be used in a wanton, malicious or sadistic manner.
- E. Non-compliance does not constitute active resistance.
- F. When safe and reasonable, officers will take affirmative action to stop any inappropriate use of force.
- G. Identify any training issues that may arise and ensure training is scheduled via authorization through the chain of command.
- H. All officers are to complete all required Force Options training as detailed in the Training Unit's *Required Training Plan*.
- I. Any injury or medical condition of staff or subject(s) requiring medical assistance that can only be addressed at a hospital shall be reported directly to the Chief by the Supervisor or their Designee and subsequently reported to the chain of command via telephone.
- J. 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.
- K. 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.
- L. Pregnant or youth in recovery after delivery:
 - 1. Will not be restrained by the use of leg irons, waist chains or handcuffs behind the body.
 - 2. Will not be restrained by the wrists, ankles, or both unless deemed necessary for the safety and security of the youth, staff or the public.
 - 3. Restraints will be removed when a professional who is currently responsible for the medical care of a pregnant inmate during a medical emergency, labor, delivery, or recovery after delivery determines that the removal of restraints is medically necessary.
- M. All field contacts shall be recorded.

- N. Officers will have access to the recordings when required to complete an IR.
- O. Notify the Communications Director in the External Affairs Division when there is a possibility of media interest or inquiry.
- P. Generally, the services of the Peer Support Team and/or the Employee Support Services should be offered to staff involved in an incident.
- Q. Use of force by officers must be based on what the officer knew at the time the force was used.

Inspections:

Refer to the Policy and Procedure Inspection Matrix.

Foundation:

PC 835a

Graham v. Connor

Hudson v. McMillan

Whitley v. Albers

Deorle v. Rutherford, 272 F.3d 1272

References:

Policy:

Employee Responsibility

Safety

Training

Use of Force Guidelines

Procedure:

Incident Reports

Arming

Officer Involved Shooting & Discharge of a Firearm

Expandable Baton

Taser/Conducted Electrical Weapon (CEW)

Use of Force Administrative Review

OC Spray (Oleoresin Capsicum)

External Affairs

Critical Incident Notification

Internal Investigations Critical Incidents Reviews

Occupational Injuries


Code Red

Home Calls

Use of Physical Restraints in JDACs and Treatment Facilities

Electronic Recordings

Issued by:


Michelle Scray Brown, Chief Probation Officer

Date

1-18-18

Original Issue Date: November 5, 2015

Revised: April 25, 2016

Revised: June 2, 2017

Revised: January 18, 2018

Attachments:

Attachment A – Force Options

**SAN BERNARDINO COUNTY
PROBATION DEPARTMENT PROCEDURE**

FORCE OPTIONS: USE OF FORCE AND REPORTING REQUIREMENTS

Title 15, 1357

Authority:

Michelle Scray Brown, Chief Probation Officer

Purpose:

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

The use of force by peace officers requires constant evaluation and often involves complex and dynamic circumstances. Officers should attempt to make all arrests and perform other 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 that method of force that is objectively reasonable to affect an arrest, prevent escape, overcome resistance, or to protect the safety of the officer or public. Officers are expected to evaluate both potential and actual uses of force against several factors, which include, but are not limited to:

- A. Whether there is an immediate threat to the safety of officers or to others
- B. Seriousness of the offense or other circumstances
- C. Proximity to potential weapons
- D. Number of officers compared to the number of subjects
- E. Prior knowledge
- F. Age, size, relative strength
- G. Special knowledge or skills
- H. Officer exhaustion or injury
- I. Mental illness or disorders
- J. Drug use
- K. Environmental conditions
- L. Whether the person is actively resisting arrest or attempting to evade arrest by flight
- M. The amount of time and any changing circumstances during which the officer has to determine the type and amount of force that appears to be necessary
- N. The type and amount of force used
- O. Available force options

Definitions:

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

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

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

- A. Control Techniques
- B. Impact Weapon
- C. Strikes and Kicks
- D. Chemical Weapon
- E. Taser/CEW

F. Firearm – Follow the Officer Involved Shooting & Discharge of Firearm (OIS) procedure

Responsibilities:

I. Sworn Staff (PCO, POI/II/III, Supervisors)

- A. Advise dispatch/Central Control that a UOF has occurred.
- B. Make the scene safe.
- C. Request medical aid in any incident where there is an injury, medical condition or 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.
 - 1) CCB officers that used and/or witnessed the UOF will complete an IR. Officers on scene, but not directly involved will complete an IR as directed by a supervisor.
- 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. DCB will also adhere to the responsibilities found in the Code Red procedure

II. Supervisors (PCSI/II/SPO):

- 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 medical aid is summoned when necessary or as required by other procedures.
- D. Ensure video/photo documentation of the scene to include involved persons, whether injured or not, and damaged property.
- E. Determine if local law enforcement is needed.
- F. Conduct a debriefing with involved staff.
- G. Review all IRs, audio, video recordings and photo documentation by the end of shift, unless otherwise directed, and submit them to the Division Director within 24 hours.
- H. CCB officers that used and/or witnessed the UOF will complete an IR. Officers on scene, but not directly involved, will complete an IR as directed by a supervisor.
- I. DCB will also adhere to the responsibilities found in the Code Red procedure.

III. Division Director (DDI/II):

- A. Review all reports, audio/video recordings and photo documentation.
- B. Submit reports to the DCPO within 72 hours.

Guidelines:

- A. If the UOF incident involves an officer involved shooting (OIS) which results in the injury or death of a person, the officer(s) involved should not write an IR. In this instance, the Homicide Unit of the San Bernardino County Sheriff's Department should submit a written report.

- B. Officers are expected to demonstrate the highest standards of ethics and conduct consistent with the requirements of the law and of their positions.
- C. In any incident involving use of force, every attempt will be made to preserve the integrity, respect, and dignity of all individuals involved in or near the incident.
- D. Force will not be used as a means of punishment nor will it be used in a wanton, malicious or sadistic manner.
- E. Non-compliance does not constitute active resistance.
- F. When safe and reasonable, officers will take affirmative action to stop any inappropriate use of force.
- G. Identify any training issues that may arise and ensure training is scheduled via authorization through the chain of command.
- H. Any injury or medical condition of staff or subject(s) requiring medical assistance, that can only be addressed at a hospital, shall be reported directly to the Chief by the supervisor or their designee and subsequently reported to the chain of command via telephone.
- I. 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.
- J. 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.
- K. All field contacts should be recorded.
- L. Officers will have access to the recordings when required to complete an iR.
- M. Notify the Communications Director in the External Affairs Division when there is a possibility of media interest or inquiry.
- N. Generally, the services of the Peer Support Team and/or the Employee Support Services should be offered to staff involved in an incident.
- O. The use of force by officers must be based on what the officer knew at the time the force was used.

Inspections:

Refer to the Policy and Procedure Inspection Matrix.

Foundation:

PC 835a

Graham v. Connor

Hudson v. McMillan

Whitley v. Albers

Deorle v. Rutherford, 272 F.3d 1272

Replaces:

Force Options: Reporting Requirements and Training Guidelines
Handling Aggressive and Hostile Behavior

References:

Policy:

Employee Responsibility

Safety

Training

Use of Force Guidelines

Use of Force Guidelines

Procedure:

Incident Reports

Arming

Officer Involved Shooting & Discharge of a Firearm

Expandable Baton

Taser/Conducted Electrical Weapon (CEW)

Use of Force Administrative Review

OC Spray (Oleoresin Capsicum)

External Affairs

Critical Incident Notification

Internal Investigations Critical Incidents Reviews

Occupational Injuries

Code Red

Home Calls

TDO#46 – Community Corrections Bureau-Recordings

Issued by:


Michelle Scray Brown, Chief Probation Officer

11.5.15
Date

Original Issue Date: November 5, 2015

Attachments:

Attachment A – Force Options



SAN BERNARDINO COUNTY PROBATION DEPARTMENT

TO PROTECT THE COMMUNITY...



MICHELLE SCRAY BROWN
Chief Probation Officer

FORCE OPTIONS

NON-DEADLY FORCE (Low)

Objectively Reasonable; Effect Arrest, Overcome Resistance, Prevent Escape (PC835a)

- Officer Presence
- Dialogue/Counseling
- Verbal Commands
- Control Techniques

NON-DEADLY INTERMEDIATE FORCE (Moderate)

Objectively Reasonable; PC835a + Active Resistance + Threat of Harm

- Impact Weapon
- Strikes and Kicks
- Chemical Weapon
- CEW/Probe Deployment

DEADLY FORCE (High)

Objectively reasonable; Prevent SBI/Death (PC to believe violent felon/imminent threat)

- Force with Substantial Risk of SBI/Death

**SAN BERNARDINO COUNTY
PROBATION DEPARTMENT PROCEDURE**

FORCE OPTIONS: USE OF FORCE AND REPORTING REQUIREMENTS

Title 15, 1357

Authority:

Michelle Scray Brown, Chief Probation Officer

Michael Neeki DO, Chief Medical Officer

Purpose:

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

The use of force by peace officers requires constant evaluation and often involves complex and dynamic circumstances. Officers should attempt to make all arrests and perform other 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 that method of force that is objectively reasonable to affect an arrest, prevent escape, overcome resistance, or to protect the safety of the officer or public. Officers are expected to evaluate both potential and actual uses of force against several factors, which include, but are not limited to:

- A. Whether there is an immediate threat to the safety of officers or to others
- B. Seriousness of the offense or other circumstances
- C. Proximity to potential weapons
- D. Number of officers compared to the number of subjects
- E. Prior knowledge
- F. Age, size, relative strength
- G. Special knowledge or skills
- H. Officer exhaustion or injury
- I. Mental illness or disorders
- J. Drug use
- K. Environmental conditions
- L. Whether the person is actively resisting arrest or attempting to evade arrest by flight
- M. The amount of time and any changing circumstances during which the officer has to determine the type and amount of force that appears to be necessary
- N. The type and amount of force used
- O. Available force options

Definitions:

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

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

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

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

- E. Taser/CEW
- F. Firearm – Follow the Officer Involved Shooting & Discharge of Firearm (OIS) procedure

Responsibilities:

I. Sworn Staff (PCO, POI/II/III, Supervisors)

- A. Advise dispatch/Central Control that a UOF has occurred.
- B. Make the scene safe.
- C. Request medical aid in any incident where there is an injury, medical condition or 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.
 - 1) CCB officers that used and/or witnessed the UOF will complete an IR. Officers on scene, but not directly involved will complete an IR as directed by a supervisor.
- 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. DCB will also adhere to the responsibilities found in the Code Red procedure.

II. Supervisors (PCSI/II/SPO):

- 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 medical aid is summoned when necessary or as required by other procedures.
- D. Ensure video/photo documentation of the scene to include involved persons, whether injured or not, and damaged property.
- E. Determine if local law enforcement is needed.
- F. Conduct a debriefing with involved staff.
- G. Review all IRs, audio, video recordings and photo documentation by the end of shift, unless otherwise directed, and submit them to the Division Director within 24 hours.
- H. CCB officers that used and/or witnessed the UOF will complete an IR. Officers on scene, but not directly involved, will complete an IR as directed by a supervisor.
- I. DCB will also adhere to the responsibilities found in the Code Red procedure:

III. Medical Personnel (DCB Only):

- 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 do to so.
- B. Correctional Nurse
 - 1. 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.

D. Health Service Manager

1. Provide a use of force injury report to the Deputy Chief annually.

IV. FAST (DCB Only):

- 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.

V. Division Director (DD/II):

- A. Review all reports, audio/video recordings and photo documentation.
- B. Submit reports to the DCPO within 72 hours.

Guidelines:

- A. If the UOF incident involves an officer involved shooting (OIS) which results in the injury or death of a person, the officer(s) involved should not write an IR. In this instance, the Homicide Unit of the San Bernardino County Sheriff's Department should submit a written report.
- B. Officers are expected to demonstrate the highest standards of ethics and conduct consistent with the requirements of the law and of their positions.
- C. In any incident involving use of force, every attempt will be made to preserve the integrity, respect, and dignity of all individuals involved in or near the incident.
- D. Force will not be used as a means of punishment, discipline, treatment nor will it be used in a wanton, malicious or sadistic manner.
- E. Non-compliance does not constitute active resistance.
- F. When safe and reasonable, officers will take affirmative action to stop any inappropriate use of force.
- G. Identify any training issues that may arise and ensure training is scheduled via authorization through the chain of command.
- H. All officers are to complete all required Force Options training as detailed in the Training Unit's *Required Training Plan*.
 - I. Any injury or medical condition of staff or subject(s) requiring medical assistance, that can only be addressed at a hospital, shall be reported directly to the Chief by the supervisor or their designee and subsequently reported to the chain of command via telephone.
 - J. 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.
 - K. 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.
 - L. Pregnant or youth in recovery after delivery:
 1. Will not be restrained by the use of leg irons, waist chains or handcuffs behind the body.
 2. Will not be restrained by the wrists, ankles, or both unless deemed necessary for the safety and security of the youth, staff or the public.
 3. Restraints will be removed when a professional who is currently responsible for the medical care of a pregnant inmate during a medical emergency, labor, delivery, or recovery after delivery determines that the removal of restraints is medically necessary.
 - M. All field contacts shall be recorded.

- N. Officers will have access to the recordings when required to complete an IR.
- O. Notify the Communications Director in the External Affairs Division when there is a possibility of media interest or inquiry.
- P. Generally, the services of the Peer Support Team and/or the Employee Support Services should be offered to staff involved in an incident.
- Q. The use of force by officers must be based on what the officer knew at the time the force was used.

Inspections:

Refer to the Policy and Procedure Inspection Matrix.

Foundation:

PC 835a

Graham v. Connor

Hudson v. McMillan

Whitley v. Albers

Deorle v. Rutherford, 272 F.3d 1272

Replaces:

Force Options: Reporting Requirements and Training Guidelines

Handling Aggressive and Hostile Behavior

References:

Policy:

Employee Responsibility

Safety

Training

Use of Force Guidelines

Procedure:

Incident Reports

Arming

Officer Involved Shooting & Discharge of a Firearm

Expandable Baton

Taser/Conducted Electrical Weapon (CEW)

Use of Force Administrative Review

OC Spray (Oleoresin Capsicum)

External Affairs

Critical Incident Notification

Internal Investigations Critical Incidents Reviews

Occupational Injuries

Code Red

Home Calls

Use of Physical Restraints in JDACs and Treatment Facilities

Electronic Recordings

Issued by:


Michelle Scray Brown, Chief Probation Officer

Date

June 12, 2017

Original Issue Date: November 5, 2015

Revised: April 25, 2016
June 2, 2017

Attachments:

Attachment A – Force Options



SAN BERNARDINO COUNTY PROBATION DEPARTMENT

TO PROTECT THE COMMUNITY...



MICHELLE SCRAY BROWN
Chief Probation Officer

FORCE OPTIONS

NON-DEADLY FORCE (Low)

Objectively Reasonable; Effect Arrest, Overcome Resistance, Prevent Escape (PC835a)

- Officer Presence
- Dialogue/Counseling
- Verbal Commands
- Control Techniques

NON-DEADLY INTERMEDIATE FORCE (Moderate)

Objectively Reasonable; PC835a + Active Resistance + Threat of Harm

- Impact Weapon
- Strikes and Kicks
- Chemical Weapon
- CEW/Probe Deployment

DEADLY FORCE (High)

Objectively reasonable; Prevent SBI/Death (PC to believe violent felon/imminent threat)

- Force with Substantial Risk of SBI/Death

**SAN BERNARDINO COUNTY
PROBATION DEPARTMENT PROCEDURE**

O.C. Spray (Oleoresin Capsicum)

Inter-Bureau Procedure #06-11-134

Detention Corrections Bureau Procedure #1357

Authority:

Michelle Scray, Chief Probation Officer

Purpose:

This procedure establishes guidelines for the use of Oleoresin Capsicum (O.C.) Spray by officers of the Probation Department. Officers should attempt to make all arrests, control detained minors and perform other enforcement actions in a manner that minimizes the need for O.C. Spray use and maximizes voluntary compliance. While officers shall attempt to de-escalate any situation verbally, it is also recognized that some situations occur rapidly and may not permit sufficient time to attempt de-escalation. O.C. Spray shall be used to stop action that may result in injury to the officer, subject, or other persons present. O.C. Spray may be used to stop assaultive conduct between detained youth. It is recognized that, frequently, such use is better than allowing the assault to continue, or having a more serious injury inflicted on an officer or detained youth through an attempt at physical intervention.

Definitions:

The pepper spray referenced in this procedure is issued to officers in the following canister types:

- a. Phase-4: This Four (4) oz. canister is issued to officers working in our Juvenile Detention and Assessment Centers or Placements. It discharges in a conical pattern. (Due to Phase-conical pattern OC Spray being discontinued officers may be issued SABRE Red conical pattern OC Spray.)
- b. SABRE Red: This four (4.4) oz canister is issued to officers in our Juvenile Detention and Assessment Centers or placement at discharges in a conical pattern.
- c. MK-6: This is a .68-oz. canister issued to field officers in addition to the MK-4. It discharges in a stream like the MK-4, but it is much smaller and it is designed to clip on to a dress belt when officers are not going out in full duty gear.
- d. MK-4: This three (3) oz. canister is issued to officers working in the field. It discharges in a narrow stream.
- e. MK-9 Magnum: The "Fogger" is a 12 oz. canister located in the detention facilities and used for riot control.

Responsibilities:

- I. PCO'S/Officers Working in a Juvenile Detention and Assessment Center or Treatment Facility
 - A. O.C. spray shall be considered a moderate level application of force, for use when a minor fails to follow verbal commands to desist during a fight, takes over threatening action physically toward staff, or any other immediate and exigent circumstances that threaten the safety of staff, the minor, or others.
 - B. When O.C. spray is applied to a minor within the facility, a code red shall be called and the minor shall be handcuffed and moved to a safe area for decontamination. When the scene of the incident is secure, an officer on scene shall notify the nurse immediately, and begin the decontamination process as soon as possible. Once the minor is decontaminated they shall be secured in a room he/she shall be placed on a one-on-one constant watch until a

O.C. Spray (Oleoresin Capsicum)

Inter-Bureau Procedure #06-11-134

Detention Corrections Bureau Procedure #1357

medical evaluation is completed by the facility nurse, and thereafter shall remain on 5-minute room checks for one hour.

- C. When O.C. spray is applied to a minor in the facility and there is no medical staff member available, the officer shall place the minor's name on the nurse's list and notify the area supervisor. Upon completion of the decontamination process, the minor shall be placed on a one-on-one constant watch for a period of one hour. As soon as possible, FAST staff shall be notified to evaluate the mental health needs of the minor. If no FAST staff member is available, the officer shall submit a completed Mental Health Referral form. (Attachment A)
 - D. The use of pepper spray shall be reported in writing on an Incident Report Form. The report shall contain a description of the circumstances surrounding the use of pepper spray, including what steps were taken to de-escalate the situation, avoid the application of O.C. spray, what other force options were considered and why they were determined to be unsuitable or ineffective. The incident report shall also have a complete description of the minor's decontamination and any medical treatment or referral.
 - E. Pepper spray may be used for riotous conditions within the detention or treatment facilities.
 - F. PCOs working in a Juvenile Detention and Assessment Center or Treatment Facility are not authorized to carry their department issued pepper spray on their person while off duty. PCOs working at multiple institutions or facilities may transport their Department issued OC spray secured in their vehicle in a safe manner between work locations.
 - G. All O.C. incidents shall be videotaped pursuant to TDO #05-05-05, or any future procedure on videotaping in detention facilities, where the circumstances of the incident would allow preparation and operation of the video camera. Many O.C. incidents may unfold rapidly, where time does not permit a video camera to be deployed. However in incidents where time permits or there is any anticipation that officers may have to resort to O.C. use or any other force options, a video camera should be deployed.
 - H. Staff shall be aware of any known medical conditions that would contraindicate the level of force used and be alert to any signs or symptoms that should result in immediate referral to medical or mental health staff.
- II. PCSI/PCSII working in a Juvenile Detention and Assessment Center or Treatment Facility
- A. It is the responsibility of the area supervisor to issue and account for the MK-9 Magnum Pepper Spray canister.
- III. Probation Officers Working in CCB Assignments
- A. When a probation officer applies O.C. spray to a subject during the course of CCB related work, the subject shall be immediately placed in handcuffs. Immediately following the arrest and handcuffing, dispatch shall be notified that pepper spray was used, the officer's status shall be relayed to the dispatcher and medical aid shall be summoned if necessary. If the officer is not logged on with dispatch, he/she shall call for immediate medical aid if necessary.
 - B. Officers should attempt decontamination of the subject/subjects as outlined in the guidelines section of this procedure.
 - C. All officers present during a use of force incident involving the use of pepper spray by a Probation Officer shall complete an incident report by the end of their shift, or as otherwise directed by their supervisor. The report shall contain a description of the circumstances surrounding the use of pepper spray. The incident report shall also have a complete description of the subject's decontamination and any medical treatment provided (including the time and location at which it was provided).

O.C. Spray (Oleoresin Capsicum)

Inter-Bureau Procedure #06-11-134

Detention Corrections Bureau Procedure #1357

- D. Officers working in field assignments are not authorized to carry their department issued pepper spray while off duty, except when traveling to and from work, and/or to dispose of the spray in the manner indicated in this procedure.

IV. Disposal of Used/Expired Pepper Spray

- A. Staff may exchange a partially depleted canister if they believe there is not enough pepper spray remaining in the canister for it to be used effectively. O.C. pepper spray and O.C. pepper spray canisters are categorized as food-based products and containers, and may be disposed of in the garbage; however, all O.C. spray shall be depleted from the canister prior to disposal.
- B. Probation Corrections Officers shall dispose of used or partially depleted O.C. Canisters by taking them to the Facility Safety Officer. The Facility Safety Officer shall dispose of any remaining pepper spray by discharging the canister in a safe isolated, outdoor, windless location where cross-contamination is not a possibility, and placing it in a trash receptacle outside of the facility. The Facility Safety Officer is responsible for issuing replacement O.C. Canisters to facility staff.
- C. Probation Officers shall dispose of used O.C. Canisters by discharging them in a safe isolated, outdoor, windless location where cross-contamination is not a possibility, and taking them to the Department Safety Officer. The Department Safety Officer or their designee shall dispose of all used canisters in a trash receptacle, and shall be responsible for re-issuing new O.C. Canisters to CCB staff.

Guidelines:

- A. Officers issued pepper spray shall comply with the department's use of force policy/procedure. Following any applications of O.C. spray, officers shall comply with the requirements of department procedures on Force Options Reporting Requirements, IBP #06-06-126.
- B. Pepper Spray shall not be used for punishment, retaliation or disciplinary purposes, or when a subject is not posing a threat to officers, himself/herself, or others.
- C. Each officer shall complete the Probation Department approved chemical agent training and Verbal Alternative to Confrontation training prior to issuance of pepper spray.
- D. Officers of the San Bernardino County Probation Department are authorized to carry on duty only the pepper spray products approved and issued by the department.
- E. Notwithstanding the requirements of Section III (C) of this procedure, completion of an incident report may not be required when Probation Officers are present and O.C. spray is applied by an officer/deputy of another agency. Probation Officer's shall complete an incident report when the O.C. application by another agency results in any injury beyond the usual effects of pepper spray; or when such O.C. application is made in concert with the applications of other force options.
- F. Officers may use pepper spray for self-defense to control violent behavior, or stop hostile or aggressive conduct.
- G. Before pepper spray is deployed in a JDAC or treatment facility, a reasonable effort should be made to verbally persuade voluntary compliance, and to give a warning that pepper spray will be used, when time permits such verbal persuasion. An O.C. use warning should be given and can be given in most situations, even if it is given just prior to an O.C. application in a rapidly unfolding situation.
- H. Pepper spray may be used in a JDAC or treatment facility without warning during circumstances where momentary delay may result in further injury to a person.
- I. Pepper spray may be used by Probation Officers conducting CCB work without a verbal

O.C. Spray (Oleoresin Capsicum)

Inter-Bureau Procedure #06-11-134

Detention Corrections Bureau Procedure #1357

- warning; however, a warning should be given when it is tactically viable.
- J. Pepper spray may be used as a deterrent to an attacking or aggressive animal. If used against an animal, the animal's owner should be notified if possible, and advised that the effects of pepper spray are not permanent and can be diminished by flushing with water. A Force Options Incident Report is not required when O.C. spray is used to repel an animal. However, if it appears the animal's owner may contact the department or file a citizens complaint a Supervising Probation Officer shall be advised of the incident by the end of the shift. The SPO may direct an incident report be completed.
 - K. Pepper spray generally should not be dispensed within a moving vehicle.
 - L. If pepper spray is deployed in an office setting, Probation Officers shall attempt to ventilate and decontaminate the area as soon as it is safe to do so.
 - M. As noted in Section III (A) of this procedure, Probation Officers shall handcuff and arrest subjects immediately after O.C. spray has been applied. An exception to this requirement shall be incidents in which the officer had to tactically withdraw from the scene for officer safety, where the subject may have fled the scene without apprehension, or where a physical deformity exists or the subject has an injury or disability that may be aggravated by application of handcuffs. In these incidents the officer may elect to not handcuff the subject. In any instance where the subject is not handcuffed, arrested or decontaminated the officer shall note the reasons why in the incident report. Officer's may also elect to not handcuff any individual who is inadvertently exposed to O.C. spray or becomes cross-contaminated with spray during the application of O.C. to another individual. Probation Corrections Officers shall handcuff all minors involved in an incident where O.C. spray is used, irrespective of their level of involvement. Handcuffs shall be removed as soon as safety and security of the minor and others permits.
 - N. When pepper spray is used in a JDAC or treatment facility, officers shall adhere to the following decontamination guidelines:
 - 1. Officers should check the subject for breathing or signs of any other injury. Medical aid should be summoned if necessary, for any injuries beyond the effects of O.C. Spray, or difficulty breathing that appears more severe than what would be expected following inhalation of O.C. Spray.
 - 2. Place the subject in front of an operating fan if possible. If a fan is not available, the minor shall be decontaminated in a fresh air environment.
 - 3. Mist cool water into the subject's face.
 - 4. Continue misting until the subject reports that the irritation has decreased.
 - 5. Cool water from a hose may be used if needed.
 - 6. Using a clean towel, blot the subject's face dry (do not rub).
 - 7. All clothing and linen shall be exchanged if needed.
 - O. When pepper spray is used during the course of probation fieldwork, decontamination shall begin as soon as it can be carried out without compromising officer safety. If it is safe to decontaminate the subject at his/her residence, officers may use any cool and clean water source available.
 - P. All Staff issued O.C. Pepper Spray shall be responsible for checking the expiration date of their O.C. Canister. Staff shall inspect the condition of the canister and shake the canister periodically.

O.C. Spray (Oleoresin Capsicum)
Inter-Bureau Procedure #06-11-134
Detention Corrections Bureau Procedure #1357

Inspections:

Internal

A Supervising Probation Officer or Corrections Supervisor shall review each use of force pursuant to IBP#06-06-126, Force Options Reporting Guidelines. The supervisor will review each O.C. use to assure circumstances of the use adhere to this procedure.

External

The Professional Standards Unit, or designated representative, shall facilitate an inspection of this procedure no less than one time per year. A written report documenting compliance and/or recommending modifications to the procedure shall be forwarded to the Office of the Chief Probation Officer and kept on file in the Professional Standards Unit.

Foundation:

California Penal Code Section 12403
Title 15, Article 05;section1357

References:

San Bernardino County Probation Department Policy

#3 Employee Responsibility

#9 Safety

#13 Training

#20 Use of Force Limitations

Inter-Bureau Procedure

#06-06-126 Force Options: Reporting Requirements and Training Guidelines

Community Corrections Bureau Procedure

#97-05-210C Use of Force Incidents

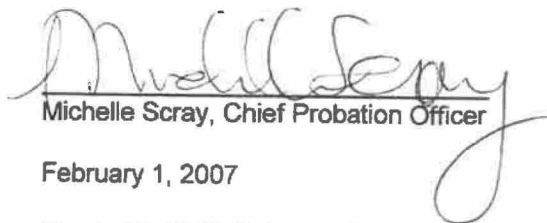
Detention Corrections Bureau Procedure

#1357 Use of Force Up To and Including O.C. Spray

#1357.1 Handling Aggressive and Hostile Behavior

#1362 Incident Reports

Issued by:



Michelle Scray, Chief Probation Officer

Date: February 1, 2007

Revised: March 15, 2010; February 24, 2011

Effective Date: March 11, 2011

This Procedure replaces IBP #97-05-207-C Oleoresin Capsicum

SAN BERNARDINO COUNTY PROBATION DEPARTMENT

POLICY MANUAL

Each policy establishes the overall operational rules and regulations that govern the Department. They state the precepts which management considers important for formal documentation. The Chief Probation Officer will exercise approval authority for policies.

Each bureau has established and published procedures under separate individual *Procedure Manuals*. The procedures establish the methods for implementing policies. The Chief Probation Officer will exercise approval authority for procedures.

Each Department employee—full time, part-time, contract, Associate Probation Officer and volunteer—is responsible for reading and understanding each policy and their bureau's procedures. They shall perform their duties and tasks in compliance with these policies and procedures and shall be subject to discipline for violation of policies and/or procedures.

20. Use of Force Guidelines

Purpose:

The purpose of this policy is to provide members of this Department with general guidelines with respect to the reasonable use of force.

Scope:

This policy recognizes that the use of force by law enforcement officers requires constant evaluation. Even at its lowest level, the use of force is a serious responsibility. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, each officer is expected to use these guidelines to make such decisions in a professional, impartial and safe manner.

Foundation:

PENAL CODE § 835a

"Any peace officer that has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to affect the arrest, to prevent escape, or to overcome resistance. A peace officer who makes or attempts to make an arrest need not retreat or desist from his efforts by reason of the resistance or threatened resistance of the person being arrested; nor shall such officer be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance."

USE OF FORCE GUIDELINES

San Bernardino County Probation Department Policy #20

Philosophy:

This department recognizes and respects the value of all human life and dignity without prejudice to anyone. It is also understood that vesting officers with the authority to use reasonable force and protect the public welfare requires a careful balancing of all human interests.

The "Use of Force" by peace officers is based on the determination of reasonableness in the particular circumstance. "Reasonableness" of the force used must be judged from the perspective of a reasonable officer on the scene at the time of the incident. The interpretation of reasonableness must allow for the fact that peace officers are often forced to make split-second judgments in circumstances that are tense, uncertain and rapidly evolving, about the amount of force that is necessary in a particular situation. As a result, it is recognized that officers' decisions may be impacted by the time available to evaluate and respond to changing circumstances. The amount or degree of force appropriate in any given situation cannot be defined to satisfy every possible situation that an officer may encounter.

Factors Used to Determine the Reasonableness of Force:

When determining whether or not to apply any level of force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration.

These factors include, but are not limited to:

- (a) The conduct of the individual being confronted (as reasonably perceived by the officer at the time).
- (b) Officer/subject factors (age, size, relative strength, skill level, injury/exhaustion and number of officers vs. subjects).
- (c) Influence of drugs/alcohol (mental capacity).
- (d) Proximity of weapons.
- (e) Time and circumstances permitting, the availability of other options (What resources are reasonably available to the officer under the circumstances);
- (f) Seriousness of the suspected offense or reason for contact with the individual.
- (g) Training and experience of the officer.
- (h) Potential for injury to citizens, officers and suspects.
- (i) Risk of escape.

USE OF FORCE GUIDELINES

San Bernardino County Probation Department Policy #20

(j) Other exigent circumstance.

It is recognized that officers are expected to make split-second decisions and that the amount of an officer's time available to evaluate and respond to changing circumstances may impact his/her decision.

While various degrees of force exist, each officer is expected to use only that degree of force reasonable under the circumstances to successfully accomplish the legitimate law enforcement purpose in accordance with this policy.

Force shall never be used as a discipline, punishment or treatment.

Level of Force:

The level of force selected is always based on what is objectively reasonable and appropriate to the officer given the subject (client/person) and the situation/circumstances faced by an officer. The appropriate level of force used by an officer may escalate or deescalate on the continuum of force as the officer counters changing circumstances and/or changes in behavior of the subject(s) (client(s)/person(s)). Thus, the process is fluid, requiring officers to constantly evaluate, react and counter the behavior and changes in behavior of the subject(s) in a professional manner.

Force Applications:

Officers should attempt to make all arrests and perform other enforcement actions in a manner that minimizes the need for force and maximizes voluntary compliance.

In certain situations, due to the immediacy with which an officer must apply force, together with the absence of time and/or physical ability of the officer to select alternative methods, it may be necessary for the officer to apply that method of force most readily available that will effect the desired results.

Non-Deadly Force Applications:

Any application of force that is not reasonably anticipated to result in death shall be considered non-deadly force. Each officer is provided with equipment, training and skills to assist in the apprehension and control of subjects as well as protection of officers and the public. Given that no

USE OF FORCE GUIDELINES

San Bernardino County Probation Department Policy #20

policy can realistically predict every possible situation an officer might encounter in the field, it is recognized that each officer must be entrusted with well-reasoned discretion in determining the appropriate use of force in each incident. While it is the ultimate objective of every law enforcement encounter to minimize injury to everyone involved, nothing in this policy requires an officer to actually sustain physical injury before applying reasonable force.

Passive Resistance in a Custodial Situation:

Overcoming resistance may include maintaining safety and security in an institutional or treatment setting. Appropriate force is authorized in such situations wherein a passively resisting subject's behavior interferes with the safe operation of the facility and the safety of the staff and/or other detainees of said facility. The force applied should be in a good faith effort to maintain or restore safety. Video documentation is appropriate of such an application of force when practical and as required by established procedure.

Deadly Force Applications:

Lethal force is that force which may cause grave bodily harm or death.

An officer may use deadly force to protect him or herself or others from what they reasonably believe would be an immediate threat of death or serious bodily injury. This may include using lethal force to prevent the escape of a fleeing felon whose escape presents a substantial risk of death or serious bodily injury to others.

Lethal force shall never be used only to protect property.

Justification:

The decision to use force must be made based solely on the facts known to the officer at the time force is used. Justification for the use of force shall be based on the situation as it reasonably appeared to the officer(s) directly involved in its application.

Medical Attention For Injuries Sustained Using Force:

Medical assistance shall be obtained for any person who has sustained visible injury, expressed a complaint of pain or who has been rendered unconscious as a result of a use of force.

USE OF FORCE GUIDELINES

San Bernardino County Probation Department Policy #20

Reporting the Use of Force:

Specific uses of force, as defined in established Departmental Procedures, shall be documented in accordance with these Procedures. All other uses of force, not specifically addressed by departmental procedure, that result in injury or complaint of pain shall be documented by the involved officer and said documentation shall be submitted to a supervisor by the end of shift, or as directed by the supervisor, for review.

Jerry L. Harper
Chief Probation Officer

Revised: July 14, 2005

MICHELLE D. BLAKEMORE
County Counsel

PENNY ALEXANDER-KELLEY
Chief Assistant County Counsel



CAROL A. GREENE
Supervising Deputy County Counsel

COUNTY COUNSEL
385 NORTH ARROWHEAD AVENUE, 4th FLOOR
SAN BERNARDINO, CA 92415-0140

(909) 387-5455 Fax (909) 387-5462

May 18, 2018

Ian Kysel, Staff Attorney
American Civil Liberties Union Foundation
1851 E. First Street, Suite 450
Santa Ana, California 92705

RE: Public Records Act Request – Chemical Agents

Dear Mr. Kysel:

This letter is in response to your public records act request dated May 9, 2018, addressed to Michelle Scray Brown, Chief Probation Officer for the San Bernardino County Probation Department.

At this time, we are asserting the following exemptions and objections to the request that you submitted.

The request as a whole is overly burdensome to the Probation Department. In addition, the request asks for the creation of records, which is not required under the California Public Records Act. Further, the definitions that you provide in your letter do not match definitions used by San Bernardino County Probation Department and as such, the majority of the requests cannot be answered as we do not track information with the same definitions as you have outlined in your letter. Without waiving these objections, we are providing documents that are not privileged and are responsive to your requests.

1. Policies and Procedures. With regard to your first request regarding policies and procedures, we will comply with the request and provide copies of the policies and procedures used at the juvenile detention centers from January 1, 2015 through March 31, 2018. The procedures that are responsive to your request are contained on the enclosed flash drive and include all versions of the respective policies from 2015 through the present.

2. Training materials. Many of the training materials that the San Bernardino County Probation Department has used from January 1, 2015 through March 31, 2018 are copyrighted materials and we cannot provide copies of such materials. We will provide copies of non-copyrighted materials responsive to your request for training materials contained in your request number two. The Training materials are contained on the enclosed flash drive. Those items that only have the cover page are copyrighted materials that we are prohibited from providing.

3. Data. You have requested a large amount of data relating to the use of chemical agents between January 1, 2015 and March 31, 2018. You assert on the last page of your letter that this request is not asking for any juvenile court case file information. However, this is not correct, and the information you are requesting is specifically exempt under Welfare and Institutions Code section 827. As was determined in the case of *Wescott v. Yuba County* (1980) 104 Cal.App.3d 103, 106, the Court specifically found that section 827 of the Welfare and Institutions Code is controlling over the public records act to the extent of any conflict. As such, records contained in the juvenile probation files are not subject to the public records act. Further, the Court also cited to the case of *T.N.G. v. Superior Court* (1971) 4 Cal.3d 767 regarding the scope of section 827's confidentiality requirement which determined it also included police reports pertaining to minors who were not involved in juvenile court proceedings but had never been temporarily detained. The court went on to find a very broad definition of those records covered by 827 and found that 827 was written very broadly to include probation records. In fact, Welfare and Institutions Code section 827 (e) provides for "[f]or purposes of this section a 'juvenile case file' means a petition filed in any juvenile court proceeding, reports of the probation officer, and all other documents filed in that case or made available to the probation officer in making his or her report, or to the judge, referee, or other hearing officer, and thereafter retained by the probation officer, judge, referee, or other hearing officer." As such, despite your definition that the request does not fall within the juvenile case file, the request for data clearly does fall within juvenile case files information and is only available through a request directly to the court.

San Bernardino County Probation Department does track some information in aggregate form which does not identify any of the juveniles or specific circumstances. Any information contained in the data base that is retrievable without separate programming will be provided to you for aggregate data. If further programming is necessary in order to retrieve aggregate data responsive to your request, we will notify you of the potential cost before going forward with any such program.

In addition, we believe the data requested in your third request may also be covered by Government Code section 6254(a)(f)(k)(p) and Government Code section 6255.

The data that we are providing on the enclosed flash drive includes the aggregate information with regard to the use of chemical agents in the San Bernardino juvenile detention facilities. I am including the information from 2015 through March of 2018. The information is listed separately for the two detention facilities and the Gateway Program. I believe the spreadsheets are self-explanatory, but if you require further explanation of the data, please contact the undersigned.

You have requested information regarding internal revenues, discipline of staff and incident information. We have provided the policy regarding internal review of all use of force. We will not be providing the remainder of the information as it is protected by employee privacy as set forth in the California Constitution and acknowledged in Government Code section 6254(c), Government Code section 6255 and Welfare & Institutions Code section 827. Further, Probation employees are peace officers and their personal information is only available pursuant to a court order. Government Code section 6254(c)(f)(k) and Penal Code section 832.7.

Ian Kysel, Staff Attorney

May 18, 2018

Page 3

In response to 3 (x), all Probation staff assigned to the detention facilities are issued O.C. spray. Each detention facility keeps an additional ten units of O.C. spray for replacements. Per training, Probation staff tests their assigned O.C. spray to ensure it is functioning properly.

We are providing the information that we have agreed to produce and since we are providing the information on a flash drive, we will not charge you for this production. We have completed our review of the documents and do not intend to produce any further documents in response to your request..

If you would like to discuss this matter, please feel free to contact the undersigned at (909) 387-4178 or cgreene@cc.sbcounty.gov.

Very Truly Yours,

MICHELLE D. BLAKEMORE

County Counsel



CAROL A. GREENE

Supervising Deputy County Counsel

CAG:jgs
#2HM2701

Enclosure

cc: Michelle Scray Brown, Chief Probation Officer

OC Certification

San Bernardino County Probation

- Practice with inert spray
- Students receive a direct spray to the face
- After being sprayed students must complete palm strikes and knees strikes
- Students are then decontaminated

Certification

- Students will know how OC effects them
- Can you fight through?
- Can you do your job?

Certification Continued

- Blurred or no vision
- Breathing difficulties
- Skin irritation

Effects of OC

- OC - Color coded orange
- Inflammatory agent
- Closing of eyes, inflammation
- Disorientation, panic, fear
- Primary target – Eyes
- Secondary target - nose, mouth

Oleoresin Capsicum

- 1.45% pure and natural capsaicinoids derived from chili peppers
- Water
- Cosmetic-grade esters and glycerol used in cosmetics and food industries
- Beverage grade carbon dioxide used as propellant



Defense Tech Formula

- O.C.= Oleoresin Capsicum
- Vexor MK = Capsaicinoid concentration of 1.45%
- Vexor MK= A high performance 15 Million SHU
- Vexor MK= Non-hazardous and environmentally safe
- Vexor MK= Non-flammable agent

O.C.

- Cone is best used within the range of four to eight feet
- Flip top = 25 Burst per unit
- Vexor's Cone is developed for both indoor and outdoor usage
- Vexor's Cone pattern= Accurately launches a expanding cone pattern

CONE

Before pepper spray is deployed in a JDAC or treatment facility, a reasonable effort should be made to verbally persuade voluntary compliance, and to give a warning that pepper spray will be used, when time permits such verbal persuasion. An O.C. use warning should be given in most situations, even if it is given just prior to an O.C. application in a rapidly unfolding situation.

Example of Directives:

“O.C.- get down”

“This is your O.C. warning”

(Continue with commands once the youth has been sprayed.)

Procedure #06-11-134 O.C.

- Hold the canister as if you are making a fist around it
- Place your thumb on top of the safety until ready to deploy
- Do not use your index finger in place of your thumb

Holding an OC Canister

- OC is applied by using a short bursts
- The water and CO₂ which carries the pepper solution must be able to evaporate quickly for OC to be effective

Applying OC

- Stream is best used within the range of eight to twelve feet
- Cone is best used within the range of four to eight feet

Effective Range

- O.C. spray shall be considered a moderate level application of force, for use when a minor
- fails to follow verbal commands to desist during a fight, takes over threatening action
- physically toward staff, or any other immediate and exigent circumstances that threaten the
- safety of staff, the minor, or others.

Responsibilities:

- SPRAY-the subject - *determine that the subject is contaminated or that the OC is ineffective and other measures are necessary.*
- COMMAND- them to get on the ground - *end command with “Do it now”.*
- EVALUATE- their response - *repeat steps 1-3 if required, escalate, or de-escalate.*
- CONTROL- use handcuffing and approved control techniques.
- MEDICALLY- check subject - *start decontamination.*

Application Considerations

Officers should attempt to make all arrests, control detained youth and perform other enforcement actions in a manner that minimizes the need for O.C. Spray use and maximizes voluntary compliance. While officers shall attempt to de-escalate any situation verbally, it is also recognized that some situations occur rapidly and may not permit sufficient time to attempt de-escalation.

Procedure # 06-11-134 Oleoresin Capsicum

O.C. Spray shall be used to stop action that may result in injury to the officer, subject, or other persons present. O.C. Spray may be used to stop assaultive conduct between detained youth is to be used in a defensive manner; where the safety of the officer, the subject, or other individual is jeopardized, or as a control technique when the subject cannot be safely controlled in any other manner available to the officer

Procedure # 06-11-134
Oleoresin Capsicum

O.C. spray shall be considered a moderate level application of force, for use when a youth fails to follow verbal commands to desist during a fight, takes over threatening action physically toward staff, or any other immediate and exigent circumstances that threaten the safety of staff, the youth, or others.

Procedure # 06-11-134 Oleoresin Capsicum Cont'd

- A Code Red shall be called
- Youth shall be handcuffed and moved to a safe area for decontamination
- When the scene of the incident is secure, an officer on scene shall notify the nurse immediately
- Begin the decontamination process as soon as possible.
- Once the youth is decontaminated placed on a one-on-one constant watch
- Remain on 5- minute room checks for one hour
- As soon as possible, FAST. Staff shall be notified

When O.C. spray is applied

Decontamination guidelines:

check the subject for breathing or signs of any other injury

Place youth in front of operating fan or fresh air

Mist water into face with spray bottle and blot dry

Continue until youth reports less irritation

One hour of constant supervision is required if no medical staff is available or as instructed by a supervisor

Staff will complete 5 minute room check for one hour

Exchange all clothing and linen

Before issuance of OC employees must complete:

- Tactical Communications
- Chemical agent with OC training
- PC 832

**Procedure # 06-11-134 Oleoresin
Capsicum Cont'd**

Peace Officers may carry and use on duty only the OC products approved and issued by the Department. Peace Officers are not authorized to use OC issued by the Department off duty. Authorization to possess and use OC on duty may be withdrawn at the discretion of the Chief Probation Officer or Deputy Chief Probation Officer at any time

**Procedure # 06-11-134 Oleoresin
Capsicum Cont'd**

PCOs working in a Juvenile Detention and Assessment Center or Treatment Facility are not authorized to carry their department issued pepper spray on their person while off duty. PCO's working at multiple institutions or facilities may transport their Department issued OC spray secured in their vehicle in a safe manner between work locations.

**Procedure # 06-11-134 Oleoresin
Capsicum Cont'd**

- Field Officers will follow institutional protocol with respect to possession of OC within institutions
- OC will be issued by the Safety Officer or an authorized departmental representative to any Peace Officer who has completed the required training. Each Peace Officer must sign for his/her own OC canister
- When the canister is empty or ready for disposal, it will be returned to the Safety Officer for proper disposal

Procedure # 06-11-134 Oleoresin Capsicum Cont'd

OC Guidelines

- A reasonable effort must be made to verbally gain voluntary compliance
- A warning of OC must be issued if voluntary compliance is not obtained
- Exception:
 - OC may be deployed without warning when the safety and security of staff, youth and the institution are threatened
 - Momentary delay will result in further injury to a person

Continued

- Generally should not be dispensed in a moving vehicle
- Used when empty hands restraint is inappropriate/unavailable in gaining control of physically aggressive youth
- Shall not be used for punishment, retaliation or discipline
- For control without physical aggression toward others requires supervisors presence and approval

- Deployment is followed by handcuffing youth and moving youth to safe area for decontamination
- All Staff issued O.C. Pepper Spray shall be responsible for checking the expiration date of their O.C. Canister. Staff shall inspect the condition of the canister and shake the canister periodically

Levels of defensive force

- Present danger of injury
- Gravity of the situation
- Destruction of property
- Consequence if behavior does not cease

- When available, have subject flush eyes with copious amounts of cool water.
- Encourage subject to force open their eyes in order to flush out the OC particulates.
- Non-oil-based soap, shampoo or detergent can be used to help remove resin from the skin.
- DO NOT use any creams, salves, or oils.

- Usually an individual will recover within one hour, but vast improvements should be noted within 20-30 minutes.
- Anyone not exhibiting significant improvement after one hour should be closely monitored to ensure continued recovery.

Time/ PowerPoint Slide Trainer(s)
Note/ Method

Trainer(s) Script/Activity/ Topic

USED IN 2015
JCO-CORE

Course Title:

Module 8.9: ROOM EXTRACTIONS

Trainer(s):

Jaime Alarcon

Micky Fierros

Fred Elliott

Chris Paredes

Trainer Qualification:

See Bio's

Date Prepared:

11/3/14

Prepared By:

Jaime Alarcon

Length of Training:

4 hours

Recommended Maximum

Number of Trainee:

25

Classroom Set-up:

Power point , discussion

Trainer Materials:

Testing:

JKT 2 items

Performance Objectives:

Describe the circumstances when room extraction is necessary

Discuss roles and responsibilities of each team member

At the Conclusion of training trainee will be able to:

- Identify potential hazards, e.g., blood borne pathogens, chemical agents, heat exhaustion, excrement, and injuries.
- List key considerations that must be addressed in planning room extractions.
- Explain key elements needed to be covered in debrief and documentation.

Time/ PowerPoint Slide Trainer(s)
Note/ Method

Trainer(s) Script/Activity/ Topic

Time/ PowerPoint Slide/ Trainer(s) Note/Method	Trainer(s) Script/ Activity/ Topic
Introduction	
Slide 1	Removing a Non-Compliant Youth from a Room
Slide2	<ul style="list-style-type: none"> ■ Youth that fails or refuses to comply with staff's directives or structure, and displays a disobedience to authority that jeopardizes the safe secure operations of a unit or the facility. Often this involves the youth failure to follow directives to move to a different location within the unit/facility. This applies to active and passive non-compliant youth ④ 10-88 (presence, communication and commands)
Slide 3	Roles and Responsibilities of a Team
Slide 4	<ul style="list-style-type: none"> ④ blood borne pathogens ④ chemical agents ④ heat exhaustion ④ Excrement ④ injuries <p>scenario</p> <p>Minor floods his room with toilet water and refuses to comply with your directives to come out of the room, which of the following are potential hazards to consider while gaining minor's compliance?</p> <p><i>Excrement and injuries*****</i></p> <p>Mental health issues</p> <p>Acceptable restraint devices</p> <p>None of the above</p> <p>. A minor cuts his wrists with a shank he made while in his room. What health hazards should you protect yourself from?</p> <p>Heat exhaustion</p> <p>Hepatitis</p> <p><i>Blood borne pathogens*****</i></p> <p>None of the above</p>
Slide 5	Planning removal from Room <ul style="list-style-type: none"> ④ Considerations ④ Contact and Cover

Time/ PowerPoint Slide Trainer(s)
Note/ Method

Trainer(s) Script/Activity/ Topic

	<ul style="list-style-type: none"> ■ Understand the goal ■ Stay in your lane/know responsibility of peers ■ Use tactical communication techniques ■ Check your ego ■ Follow 10-88 procedure ■ Assess threat to safety of youth, staff, or others
Slide 6	<p>Responsibilities of a PCO</p> <ul style="list-style-type: none"> ⦿ Communicate with youth ⦿ Begin videotaping <u>when safe</u> ⦿ Call 10-88, "Call It" ⦿ Secure all youth ⦿ Responding staff secure remaining youth ⦿ Evaluate youth action and use force necessary to move youth to determined area (<i>Articulate what you felt / why you felt it, what you did / why you did it</i>)
Slide 7	<ul style="list-style-type: none"> ⦿ Handcuff prior to movement ⦿ O.C. may be utilized pursuant to IBP #06-11-134. If youth actions <u>present a threat</u> to the safety of staff, youth, or others ⦿ Complete IR prior to shift ending
Slide 8	<ul style="list-style-type: none"> ⦿ Supervisor(s) ensure video tapping has begun when safe to do so ⦿ Assess the situation and inform Watch ⦿ Position staff tactically and ensure productive dialogue ⦿ When Incident is over and safe, counsel youth (<i>why youth got into incident</i>) ⦿ Ensure incident reports are completed
Slide 9	<p>Key elements covered in a debrief and documentation.</p> <ul style="list-style-type: none"> ⦿ Summary- include circumstances leading up to incident ⦿ Questions- was there time to make a plan ⦿ Comments- Force matrix followed ⦿ Recommendations- Positive feedback, areas of concerns and action plan.
Slide 10	<p>Given a scenario, demonstrate room extraction (simulation exercise).</p>



SAN BERNARDINO COUNTY PROBATION DEPARTMENT

TO PROTECT THE COMMUNITY...



MICHELLE SCRAY BROWN
Chief Probation Officer

FORCE OPTIONS

NON-DEADLY FORCE (Low)

Objectively Reasonable; Effect Arrest, Overcome Resistance, Prevent Escape (PC835a)

- Officer Presence
- Dialogue/Counseling
- Verbal Commands
- Control Techniques

NON-DEADLY INTERMEDIATE FORCE (Moderate)

Objectively Reasonable; PC835a + Active Resistance + Threat of Harm

- Impact Weapon
- Strikes and Kicks
- Chemical Weapon
- Taser/CEW

DEADLY FORCE (High)

Objectively reasonable; Prevent SBI/Death (PC to believe violent felon/imminent threat)

- Force with Substantial Risk of SBI/Death

Removing a Non-Compliant Youth from a Room

When is removing a non-compliant Youth from a room necessary?

- Youth that fails or refuses to comply with staff's directives or structure, and displays a disobedience to authority that Jeopardizes the safe secure operations of a unit or the facility. Often this involves the youth failure to follow directives to move to a different location within the unit/facility. This applies to active and passive non-compliant youth
- 10-88 (presence, communication and commands)

Identify potential hazards

- blood borne pathogens
- chemical agents
- heat exhaustion
- Excrement
- injuries

Planning removal from Room

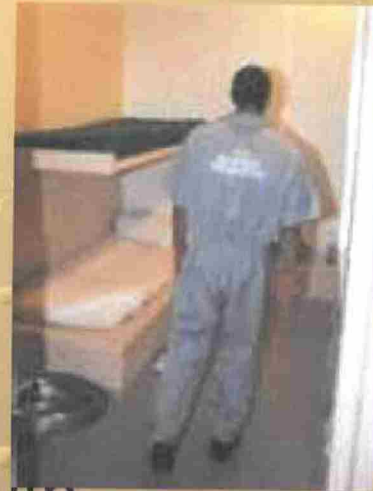
- Considerations

- Contact and Cover

- Understand the goal
- Stay in your lane/know responsibility of peers
- Use tactical communication techniques
- Check your ego
- Follow 10-88 procedure
- Assess threat to safety of youth, staff, or others

Responsibilities of a PCO

- Communicate with youth
- Begin videotaping when safe
- Call 10-88, "Call It"
- Secure all youth
- Responding staff secure remaining youth
- Evaluate youth action and use force necessary to move youth to determined area (*Articulate what you felt / why you felt it, what you did / why you did it*)



PCO (con't)

- Handcuff prior to movement
- O.C. may be utilized pursuant to IBP #06-11-134. If youth actions present a threat to the safety of staff, youth, or others
- Complete IR prior to shift ending

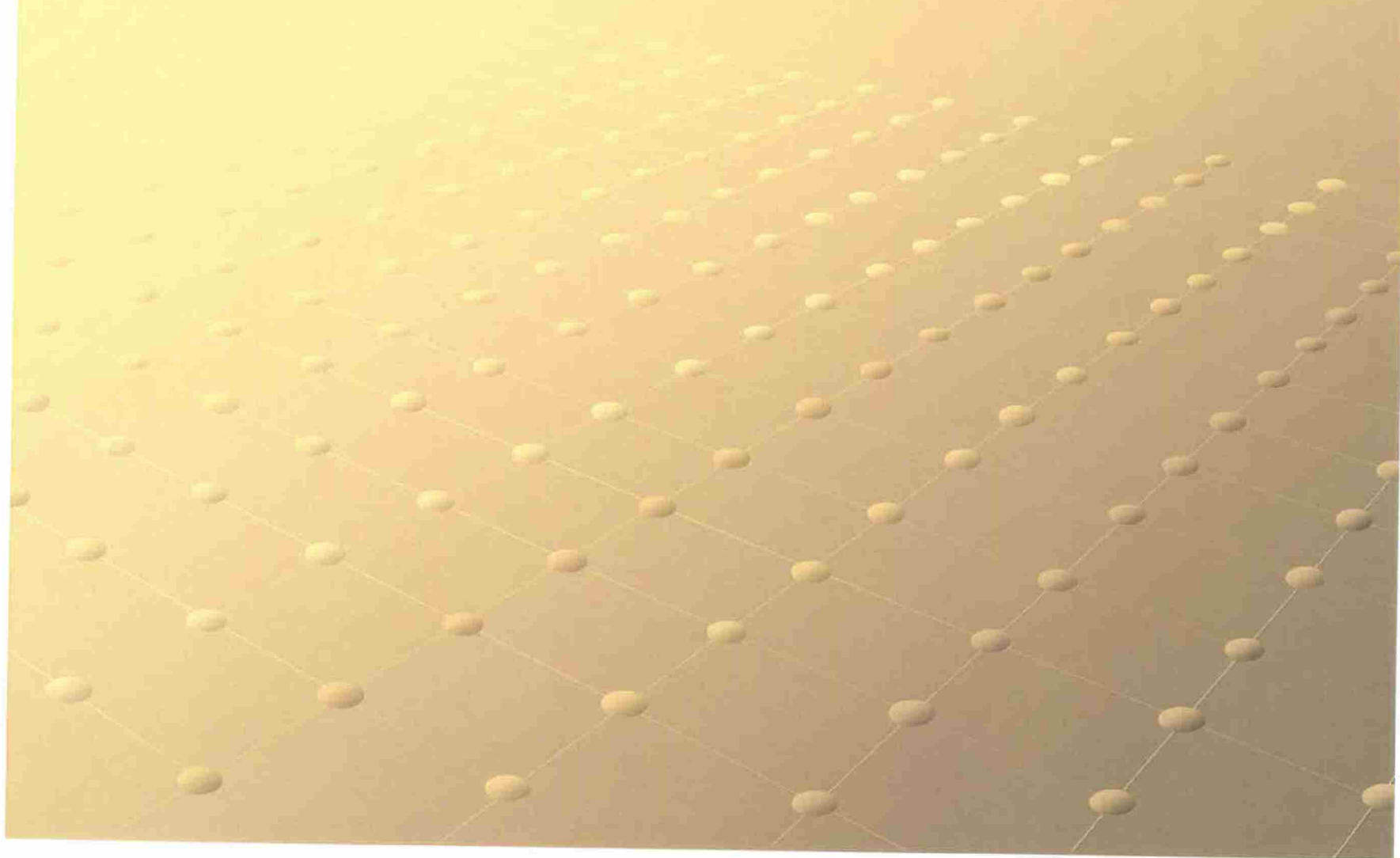
Responsibilities of a PCSI

- Supervisor(s) ensure video tapping has begun when safe to do so
- Assess the situation and inform Watch
- Position staff tactically and ensure productive dialogue
- When Incident is over and safe, counsel youth (*why youth got into incident*)
- Ensure incident reports are completed

Key elements covered in a debrief and documentation.

- Summary- include circumstances leading up to incident
- Questions- was there time to make a plan
- Comments- Force matrix followed
- Recommendations- Positive feed back, areas of concerns and action plan.

Given a scenario, demonstrate room extraction
(simulation exercise).



Removing a Non-Compliant Youth from a Room 8.9

When is removing a non-compliant Youth from a room necessary?

Youth that fails or refuses to comply with staff's directives

- Danger to self or roommate
- Disrupts safe secure operations of a unit or the facility. Often this involves the youth failure to follow directives to move to a different location within the unit/facility. This applies to active and passive non-compliant youth
- 10-88 (presence, communication and commands)

Identify potential hazards

- blood borne pathogens
- chemical agents
- heat exhaustion
- excrement
- injuries
- Messy room:
 - Trash
 - Food
 - Water/ soap
- Assaultive Behavior
 - Weapons
 - History

Planning removal from room

- Considerations

- Contact and Cover

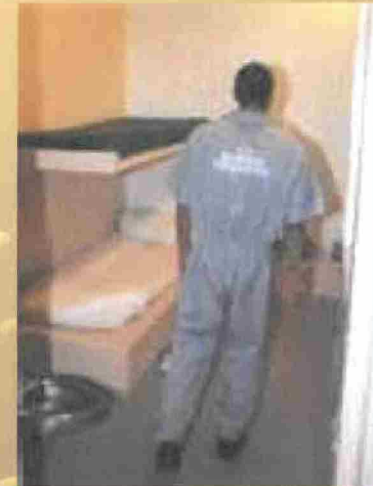
- Understand the goal
- Stay in your lane/know responsibilities of peers
- Use tactical communication techniques
- Check your ego
- Follow 10-88 procedure
- Assess threat to safety of youth, staff, or others

Safety Pad

- Practical application, class demonstration

Responsibilities of a PCO

- Communicate with youth
- Begin videotaping when safe
- Call 10-88, “Call It”
- Secure all youth
- Responding staff can secure remaining youth
- Evaluate youths actions and use force necessary to move youth to determined area
(*Articulate what you felt / why you felt it, what you did / why you did it*)



PCO (con't)

- Handcuff prior to movement
- O.C. may be utilized pursuant to IBP #06-11-134/ DCB #1357. If youths actions present a threat to the safety of staff, youth, or others
- Complete IR prior to shift ending

Responsibilities of a PCSI

- Supervisor(s) ensure video tapping has begun when safe to do so
- Assess the situation and inform Watch
- Position staff tactically and ensure productive dialogue
- When Incident is over and safe, counsel youth (*why youth got into incident*)
- Ensure incident reports are completed

Key elements covered in a debrief and documentation.

- Summary- include circumstances leading up to incident
- Questions- injuries/ gassing, peer support, was there time to make a plan
- Comments- Force Options
- Recommendations- Positive feed back, areas of concerns and action plan.

The background of the slide is a gradient of yellow and orange, with a grid of small, glowing spheres. The spheres are arranged in a perspective grid, receding into the distance. The text is centered in the middle of the slide.

**Given a scenario, demonstrate room extraction
(simulation exercise).**

2015-2017
JCO-CORE

Module 8.1: PRINCIPLES OF USE OF FORCE

Instructional Time: 2 hours

INSTRUCTIONAL OBJECTIVES:

Note: Use of force shall conform to the policies and procedures of each individual agency.

8.1.1 Define the term "use of force" according to Title 15.

JKT 1 item

8.1.2 Identify the legal framework for a juvenile corrections officer's use of force.

- ☐ harm to self
- ☐ harm to others

JKT 2 items

8.1.3 Given examples of situations requiring the use of physical force, identify actions that would be considered excessive force.

JKT 1 item

8.1.4 Identify the following guidelines that a juvenile corrections officer should consider prior to employing use of force, including the following:

- ☐ force as last resort
- ☐ use of all available methods of intervention before use of force
- ☐ force must be no more than is necessary to control the situation, effect an arrest or prevent an escape
- ☐ force is to be viewed primarily as a defensive measure
- ☐ all uses of force should be thoroughly documented

JKT 1 item

8.1.5 Describe juvenile's actions that may lead to assaultive behavior.

JKT 1 item

8.1.6 Examine situations and discuss options where a juvenile may want to be placed under control and acts in order to get external control.

Juvenile Corrections Officer Core Course 37

Discussion

8.1.7 In a simulated exercise, demonstrate behaviors or verbal interventions that a juvenile corrections officer can use to de-escalate problems, such as those communication skills outlined in Communications Skills module 12.1, instructional objective 12.1.9.

BST #1

8.1.8 Discuss the psychological and physiological factors that may affect a juvenile corrections officer who is threatened with danger including the following:

- ☐ confidence in one's abilities
- ☐ development of instinctive reaction
- ☐ adrenaline rush
- ☐ mental alertness and concentration
- ☐ self-control over emotions and body
- ☐ perceptual changes (time slows, inability to hear)

Discussion

8.1.9 Discuss the psychological and physiological factors that may affect a juvenile corrections officer after a physical altercation with a juvenile.

- ☐ withdrawal from adrenaline rush
- ☐ jumpy
- ☐ altered perception of level of danger
- ☐ thin-skinned
- ☐ flashbacks to previous trauma

Discussion

8.1.10 Identify similar psychological and physiological factors that may affect a juvenile after a physical altercation with a juvenile corrections officer or other juvenile.

Discussion

Principles of Use of Force

Module 8.1

Question to you:

What is the **purpose** of any use of force



To defend oneself or to control a hostile, aggressive or violent subject(s) with objectively reasonable force

Title 15 defines (defined 8.1.1)

- **Use of Force**, as force used by an objective, trained and competent Correctional Peace Officer, faced with similar facts and circumstance, to subdue an attacker, overcome resistance, effect custody or gain compliance with lawful order
- **Reasonable force**, the amount of force that an objective, trained and competent Correctional Peace Officer, faced with similar facts and circumstances, would consider *necessary and reasonable* to subdue an attacker, overcome resistance, effect custody or gain compliance with a lawful order

Title 15 defines
(defined 8.1.1)

Unnecessary force, the use of force that an objective, trained and competent Correctional Peace Officer, faced with similar facts and circumstance, would consider unnecessary to subdue an attacker, overcome resistance, effect custody, or gain compliance with a lawful order

Excessive force, the use of more force that an objective, trained and competent Correctional Peace Officer, faced with similar facts and circumstance, would consider unnecessary to subdue an attacker, overcome resistance, effect custody, or gain compliance with a lawful order

SB Probation Dept defines UoF

Probation Policy # 20
Use of Force Guidelines

- See handout
- The "Use of Force" by peace officers is based on the determination of reasonableness in the particular circumstance.

Procedure 06-06-126
Force Options Reporting
& Training

- See handout
- Force Options Matrix



Foundation 8.1.2:
PENAL CODE § 835a

"Any peace officer that has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to affect the arrest, to prevent escape, or to overcome resistance.

A peace officer who makes or attempts to make an arrest need not retreat or desist from his efforts by reason of the resistance or threatened resistance of the person being arrested; nor shall such officer be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance."

To prevent youth from harming themselves

§ 1.3 – Minor Jones is angry that she has not come out for her free time. Minor is yelling profanity and knocking relentlessly on the door to get your attention. When you open the door she starts to punch herself in the face. Your options are:

- a) Utilize a takedown, handcuff the youth and restrain her until she calms down
- b) Pin the youth against the wall then slam her down on the bed and scream to her to calm down
- c) OC spray the youth to prevent her from harming herself
- d) Stand in front of the youth and counsel her until she stops punching herself

Legal Framework for PCO to Use Force

To prevent youth from harming others

During inside free time youth James & youth Hook abruptly stand up and get in a shoving match over a card game. Your options are:

- a) OC spray the youth for disrupting free time
- b) Give a directive for them to stop and order the other youth to get down on the ground
- c) Place the youth closest to you in a control hold, secure him in handcuffs and escort him to his room
- d) Shove the youth closest to you down on the bench and direct them both to sit down so they can talk it out

Liability Issues

Officers are typically confused about their department's use of force policy/procedures

Injuries can occur when they use too little force against greater force during incidents

Or when met with unexpected resistance, they use excessive force and find themselves on the losing end of a costly civil suit

John Doe 2 case

File suit against CSA & San Diego Co for OC use



Reasonable Force

Definition: is a legal term for how much and what kind of control a peace officer may use in a given circumstance.

Officer's rights: use reasonable force to overcome resistance, stand their ground against any aggressor; they need not retreat or desist, use reasonable force for self defense.

The option to disengage shall be considered as a use of force option

Reasonableness of a particular use of force must be:

Judged from the perspective of reasonable officer

Based on facts known to the officer at the time the force is used

Based on the knowledge/training the officer acted properly under current policy/law at the time

Without regard to the officer underlying intent or motivation, actions speak louder than words

Other considerations that influence "Reasonableness"?

The severity of the incident

The nature and extent of the threat posed by the youth

The degree to which the youth resists arrest or control

Any attempt by the youth to evade restraint by flight

Need for split-second decision making

Graham v Connor

490 U.S. 386 (1989)

- This case is the foundation as to why law enforcement are able to employ force without being charged as if a citizen would
- The language in this case has influence laws, and our own department policies & procedures

Keys to identifying when force needs to be applied

Use all methods of intervention Exhaust your lower options of force	Use force as a last resort	Force must be no more than is necessary to control the situation
Force is to be viewed primarily as a defensive measure	Once resistance stops, your deescalate your application of force	All uses of force should be thoroughly documented

Remember that the failure to act when force is necessary is viewed the same as excessive force:
M.A.C. Move Act Communicate

Things to consider before employing force

Things to consider before employing force

Force must be no more than is necessary to control the situation, effect an arrest or prevent and escape

scenarios

- CVJDAC
- Code Green Southfield
- HDJDAC
- Code Green during transport

Things to consider before employing force

Force is to be viewed primarily as a defensive measure

Who are you defending?

OC Spray defends a youth from him/herself or two/multiple youth from hurting each other

Physical force as last resort

Used to effect necessary control

Fights, restraining cell



Examining situations that may lead to assaultive behavior What are your options to gain control 8.1.5

Each group will list as many situations while in custody that may lead to assaultive behavior.

10 minute discussion

3 minute presentation

Do youth act out on purpose?

8.1.6

- Most have not been taught to control themselves
- Impulsivity is high on multiple levels
- They may use you to help them gain physical control of themselves

Psychological/Physiological Factors
that may Affect a PCO

8.1.8

Affecting Psycho/Physiological Factors when PCO
is threatened with danger

Confidence in one's abilities

- New vs. seasoned
- Familiar with similar situations
- Physical stature
- Loss of words
- Endurance
- Physical strength

Development of instinctive
reaction

- Freeze**
 - Due to shock
 - (i.e. to hear a big BOOM!!)
- Flight**
 - Natural reaction to get away from the threat
 - (i.e. to see a large wave at the beach)
- Fight**
 - Defend self from the threat
 - (i.e. to swipe at bees flying around you)

Affecting Psycho/Physiological Factors when PCO is threatened with danger

Adrenaline rush

- Can cause an overreaction
- Make you act faster
- Make you stronger
- Heighten abilities
- Sustain energy

Mental alertness & concentration

- You are able to react faster (physically and verbally)
- You are aware of your surroundings (obstacles, exits, options)

Affecting Psycho/Physiological Factors when PCO is threatened with danger

Self control over emotions and body

- You may hear something that ordinarily shocking but you control your emotions
- During a fight if cut/injured you may have ability to continue fighting

Perceptual Changes

- Time slows down
- Inability to hear because you're so focused
- Tunnel vision and loss of some hearing

Affecting Psycho/Physiological Factors when PCO is threatened with danger

Withdrawal from adrenaline rush

- Energy is gone
- May feel weak

Jumpy

- Everything makes you
- Altered level of danger

Thin-skinned

- Highly emotional
- Flashbacks to previous trauma
- PTSD



Psycho/Physiological Factors that affect a **MINOR**
after physical altercation

Adrenaline rush

- Still willing/wanting to fight

Cannot hear directives

Tunnel vision

No reasoning/
Irrational

Heavy

breathing/panting

Extreme remorse

Bragging/boasting

Principles for using handcuffs on youth

For temporary restraint to prevent
an attack, escape, concealment or destruction
of evidence/contraband/property



Principles for using handcuffs on youth

To prevent self-inflicted injury
on the part of the juvenile

Limitations for use of handcuffs

May not use as impact weapon	May not use as punitive measure	May not use to secure youth to a permanent object	May not use to handcuff females & males together
May not use to handcuff adults & juveniles together	May not be used to "hog tie"	May not be used in a way to compromise breathing	Mentally ill youth should be cuffed alone

FORCE MATRIX - LOW LEVEL

OFFICER PRESENCE

used to generate voluntary compliance

- Advantages of solo intervention
 - Based on the rapport you've built
 - Keeps you moving around the unit/recreation area/patio
 - Sometimes a look is all it takes
- Advantages of Team Intervention
 - Professionalism
 - Liability
 - Safety in numbers
 - 10-88 Procedure 05-07-113

FORCE MATRIX - LOW LEVEL

OFFICER PRESENCE

used to generate voluntary compliance

- Subject Activity ~
 - Passive or active non-compliance
 - Psychological or verbal intimidation
- Parameters ~
 - Officer presence is the psychological effect of staff's professionalism, pride and reputation for fairness to counter a subject's behavior.
 - Rapport, cooperation and respect are also necessary ingredients and must be constantly maintained
- Purpose ~
 - To gain compliance

FORC MATRIX - LOW LEVEL

COMMUNICATIVE INTERVENTION

used to generate voluntary compliance

Listen:

- Sometimes they just want to be heard
- Don't personalize, check your ego
- Provide opportunities for person to make choices

Dialogue:

- Answer questions if you can
- Don't get caught up in it
- Find out the real problem

Para Verbal Communication:

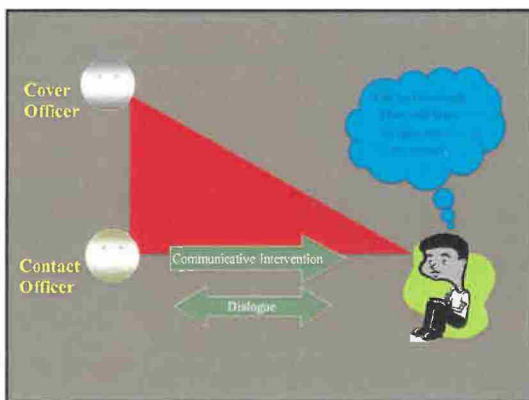
- Tone
- Volume
- Cadence

FORC MATRIX - LOW LEVEL

COMMUNICATIVE INTERVENTION

used to generate voluntary compliance

- Subject Activity ~**
 - Passive or active non-compliance
 - Psychological or verbal intimidation
- Parameters ~**
 - De-escalation or control of a situation through use of tactical negotiations
- Purpose ~**
 - To gain compliance



**FORCE MATRIX - LOW LEVEL
VERBAL COMMANDS**
used to generate voluntary compliance

Set limits: reasonable & enforceable

- Clear
- Concise
- Simple & short

Physical changes in staff:

<u>Positive</u>	<u>Negative</u>
• Adrenaline	1. FREEZE
• Heightened senses	2. OVER - REACTION
• Reaction time decreases	3. Inappropriate reaction

Know yourself & your limits:

- Protect yourself -- use a partner
- Know your buttons

**FORCE MATRIX - LOW LEVEL
VERBAL COMMANDS**
used to generate voluntary compliance

Subject Activity ~

- Passive or active non-compliance
- Psychological or verbal intimidation

Parameters ~

- Clear distinct orders to subject(s) while employing "command presence"

Purpose ~

- To gain control

**FORCE MATRIX - LOW LEVEL
FIRM GRIP**
used to generate compliance

Subject Activity ~

- Passive or active non-compliance
- Psychological or verbal intimidation
- Low to moderate physical resistance

Parameters ~

- Department authorized empty-hand technique to gain control over resistive subject(s) with simple firm grasp techniques assisting officers in redirecting a subject's resistance and gaining compliance

Purpose ~

- To gain control

FORCE MATRIX - MODERATE LEVEL
CONTROL HOLDS
used to gain compliance and control

First rule of evasive self-defense:
 Avoid any physical contact if possible
 Procedure #1357.1 (Handling aggressive and hostile behavior):
Use reasonable force
Select appropriate amount of force
All allegations of excessive force shall be investigated
 Holds should not injure the youth, in any incident, every attempt shall be made to preserve the integrity, respect, dignity and safety of all individuals involved in or near the incident

FORCE MATRIX - MODERATE LEVEL
CONTROL HOLDS
used to gain compliance and control

Subject Activity ~
 non-compliant
 Low to moderate physical resistance
 Parameters ~
 Department authorized and established empty-hand control/pain compliance technique(s) to be used in situation when staff utilize good judgment; not placing themselves in danger of physical injury by employing injury by employing said techniques
 Purpose
 To gain control

FORCE MATRIX - MODERATE LEVEL
CHEMICAL WEAPON

Contact and cover
 Create distance
 Target area
 Use short burst to facial area
 Handcuff sprayed minor(s) behind their back
 Decontamination- have nurse evaluate
 Read policy - sign attachment



**FORCE MATRIX – MODERATE LEVEL
CHEMICAL WEAPON**

Subject Activity ~

- Non-compliant
- Low to moderate physical resistance

Parameters ~

- To control, restrain, or subdue imminent or actual violent behavior officers may deploy Department issued Oleoresin Capsicum (OC)
- Accordingly, OC may be deployed when such behavior presents a clear danger to the officer, other or to the subject

Purpose

- To gain control

**FORCE MATRIX – MODERATE LEVEL
STRIKES & KICKS
used for defense only**

Against a sudden attack

- Never use against a moderate or passive resistance

Hard strike techniques:

- Heel palm strike
- Kicks (front and round house)
- Knee strikes
- Bottom fist
- Elbow strikes

Used on violent assailant

Highest level of force you are authorized to use

**FORCE MATRIX – MODERATE LEVEL
STRIKES & KICKS
used for defense only**

Subject Activity ~

- Non-compliant
- Moderate to high physical resistance or assaults

Parameters ~

- Department authorized strikes and kicks are force options used to subdue and control offenders exhibiting moderate to high level of resistance

Purpose

- Control

The 3 Truths :

Always expect the unexpected.

It can happen to you.

**Better to have mastered a skill that isn't
needed than to need a skill that isn't
mastered**

Module 6.1 Supplemental

Common Types of Documentation & Inclusive Information

Use of Force?

▣ NO?

▪ 10-88 UOF - Averted

- Document 1088 in a CE>Events>Code Log, include the:
 - Youth's behavior
 - Youth complied (Due to officer presence, With my verbal commands, When I counseled him...)
 - Start and end time

▣ YES? If designated to write IR, document the following as per IR procedure. To include, but not limited to:

- Justification:
 - Youth actions, staff response (UOF force used), to stop what threat?
- Time? For code, cuffs, decontamination, nurse assessment, and other notifications, et cetera.
- Pictures (Ensure youth's face)

OC?

- ▣ NO?
- ▣ YES? Document as per OC procedure. Should include, but is not limited to:
 - Justification
 - "Youth John Doe 1 and John Doe 2 refused to stop fighting, I gave them an OC warning, but they continued to fight. I sprayed each of them in the facial area to stop them from continuing to fight and potentially causing injury to one another. I did not use a lower level of force because of not having additional back up staff to assist with supervising/securing the other youth who were on the floor waiting for further directives."
 - By whom?
 - Full name and title
 - Seen by which Nurse? Time?
 - Full name
 - Decontaminated?
 - ▣ By whom? Full name and title
 - ▣ Where? Specific Location (i.e., On Court 2 by the exterior wall of Unit 2D)
 - ▣ How Long? – Start and end time
 - ▣ Used a clean towel, spray water bottle, and fan.
 - Clean Clothes and Linens when applicable
 - Five-minute Room Check Form for one hour
 - Pictures (Document if a youth refuses)
 - Passive and Hand-Held Video (PCSI will provide info)

Module 6.1 Supplemental PPT 2

Why is HOW we write important?



Incident Report Review Checklist

Juvenile Detention & Assignment
Center

INCIDENT REPORT REVIEW CHECKLIST

STAFF

- ☐ Identify what type of Code called (Red, Blue, Green, 10-66 etc).
- ☐ Codes: Code called by whom and at what time, also Code called over/off at what time and by whom.
- ☐ O.C. warning: Time called on and off by whom.
- ☐ No blanket O.C. warnings. Minors should receive an O.C. warning when the behavior rises to the level of Active Resistance and/or Imminent Threat to the minor, other minors, or staff.
- ☐ Video Recording: Note video # and whether passive/handheld recording was completed. If not completed explain why the video recording was not done or why either P/H was not recorded.
- ☐ Recording Times: Start/Stop: What the footage captured at the start and end of the incident.

"I was able to capture..." or "I filmed..."

- ☐ Describe the type of behavior displayed by the minor that is "resisting" and be specific (pulling away, spitting).
- ☐ Identify what level of force applied. (eg. L-4, 3, etc)
- ☐ Identify why you used the level of force applied.
- ☐ What efforts were made to address or stop the minor's behavior before the use of force? (Counseling efforts, removing items from the room, calling a 10-66, developing a plan, removing the minor from the unit to holding)
- ☐ Describe the details of the plan created as part of the 10-66 and/or code (if there was time for a plan). All officers (Veteran and new) have been trained to develop the plan and let the Incident Commander (I.C.) know what that plan is. The I.C. only interjects if there is a concern; officers are not heading in the appropriate direction, or a critical matter etc.

The plan should not just be to O.C.

- ☐ When a situation goes to a UOF, always articulate the threat. Why the minor was considered a threat?
 - Describe the minor's specific behavior
 - Based upon the minor's behavior I thought he/she might _____
 - To prevent this I dispersed O.C. spray to stop the _____
 - Based upon my observation of the minor's behavior, which was _____ we developed a plan to stop the behavior by _____
- ☐ For O.C. warnings to minors inside their room, articulate circumstances.
"This is your O.C. warning. We are going to open your door. If you do anything hostile you will be sprayed. Get back, away from the door." Upon entering the room another O.C. Warning shall be given in the event the minor displays an imminent threat and immediately before dispersing O.C.
- ☐ Was the incident gang/racially motivated?
- ☐ Complete the Restraint Documentation Form/Log

SUPERVISORS

- ☐ All staff involved must be documented and listed in the Debrief MRR, and Primary IR
- ☐ All video footage, handheld and passive, shall be reviewed as part of the debrief PRIOR to staff completing their incident report
- ☐ The Incident Commander shall note in the Debrief that the video footage was reviewed with staff involved in the incident. Also note if the UOF was captured on video.
- ☐ Ensure that all IR's are received complete and signed from each staff by the staff submitting the IR.
- ☐ Complete and submit the IR packet within 24 hours.
- ☐ Make sure that the minor(s) involved are interviewed after the incident to find out why the incident took place
- ☐ The Incident Commander shall document if the Use of Force was captured on video.
- ☐ Make sure that the video(s) are uploaded to the JDAC Video Tracking Log
- ☐ Ensure that the level of force used is identified in the Primary IR for each staff involved and on the MRR
- ☐ Make sure that the entry for the B.S.C.C. log in CE is completed
- ☐ Did the incident rise to the level of a new crime? If yes, was the matter referred to Intake or an outside law enforcement agency

Incident Report Guide

INCIDENT REPORT GUIDE

The Supreme Court, in their decision in *Graham v Connor*, stated: "The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments in circumstances that are tense, uncertain, and rapidly evolving | - about the amount of force that is necessary in a particular situation."

Graham v Connor provides the general framework for assessing whether a particular use of force is legal under the Fourth Amendment. This, like most general standards found in Fourth Amendment precedent, operates through a balancing test.

Courts applying this test must pay "careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight." This judgment is made "from the perspective of the reasonable officer on the scene rather than with the 20/20 vision of hindsight."

NARRATIVE DETAILS: Section explains who, what, when, where, how and should be in chronological order.

Reminder: The purpose is to clearly state what the writer observed, said and/or did to resolve the incident including all observed activity of staff/minors and described any injuries witnessed. If physical restraint(s) were used, the writer clearly communicates all actions(s) taken prior (to deescalate situation) and specific restraint(s) used.

- ☐ Times & dates are clearly written.
- ☐ Report is thorough and can be considered the basis for investigation or fact finding.
- ☐ Report is grammatically/mechanically sound.
- ☐ All data is checked for accuracy.
- ☐ Report has no misspelled words (especially words used often).
- ☐ All quoted material is cited accurately and punctuated correctly.
- ☐ Acronyms used only when initially spelled out (HIT and job titles acceptable).
- ☐ Word choices/language use are clear and objective; use of job-related jargon and slang acceptable if in quotation marks; psychiatric, medical, and technical terms acceptable when supported by fact(s) or a professional initiates use.

CHRONOLOGY OF EVENTS-

- **FIRST SENTENCE(S)** - Indicate(s) date and time and describes full names of staff and minor(s), and their position(s), location(s) and activity at time the incident begins. "THE SETUP"
 - **SECOND SENTENCE(S)** of section (and all subsequent sentences) detail the events, including quoted material, which may have been stated to deescalate the incident. Writer has not skipped around or added afterthoughts.
- ☐ Chronological sentences are in past tense and first person.
 - ☐ Sentences are factual and clear and, if possible, shortened to make them easier to read.
 - ☐ Writer successfully avoids conclusions and/or analysis.
 - ☐ All parties are initially identified by full name (example: minor John Doe, PCO John Jones). Afterwards they can be referred to by title and last name if the narrative is not confusing without the use of their first name.
 - ☐ All sentences including quoted material are correctly punctuated and the speaker(s) are correctly identified.



12-10-2009

P&P Referencing Force Reporting:

- Use of Force Guidelines Policy (San Bernardino County Probation Dept. Policy # 20)
- Force Options: Reporting Requirements and Training Guidelines (Title 15, Section 1357)
- Incident Reports (Title 15, Section 1356)
- OC Spray

P&P Referencing Force Reporting:

Force Options: Reporting Requirements and Training Guidelines Key Point:

- Officers should attempt to make all arrests and perform other enforcement or detention activities 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 that method of force that is reasonable and will achieve the desired result of stopping a subject's aggressive contact.
- These situations include effecting an arrest, applying a restraint, or protecting the safety or life of the officer or bystanders.

Legal Standards Governing Force

- Factors used to assist in determining “reasonableness of force,” but are not limited to:
 - Immediate threat to the officer or youths
 - Active resistance
 - Officer/youth factors (age, size, strength, skill level, injury/exhaustion and numbers of staff vs. youths)
 - Training and experience of the officer
 - Severity of the situation
- “It is recognized that officers are expected to make split-second decisions and that the amount of an officer’s time available to evaluate and respond to changing circumstances may impact his/her decision.” (Policy# 20)

Legal Standards Governing Force

- PC 835a: "Any peace officer that has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to affect the arrest, to prevent escape, or to overcome resistance. (To stop, prevent, or control) A peace officer who makes or attempts to make an arrest need not retreat or desist from his efforts by reason of the resistance or threatened resistance of the person being arrested; nor shall such officer be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance."

Legal Standards Governing Force

Hudson v. McMillian

- Key Factors in determining whether excessive force (Malicious and sadistic) was used.
 - The threat perceived by a reasonable officer
 - Need for force
 - Amount of force used in relation to the need for force
 - The effort made to temper forceful response
 - Extent of the injury
 - Exigent circumstances: one factor used to determine whether the use of force was wanton and unnecessary

Legal Standards Governing Force

Graham v. Connor, 490 U.S. 386 (1989)

- All excessive force analysis, deadly or not, in the course of an arrest, investigatory stop or other “seizure” of a free citizen are governed by the 4th amendments “**objective reasonableness**” standard.
- Ask whether the officers actions are objectively reasonable in light of the totality of the circumstances, from the perspective of a reasonable officer, on the scene, at the moment force was used, without 20/20 hindsight and with consideration for the pace of the events (circumstances that are often tense, uncertain and rapidly evolving).

Legal Standards Governing Force

Bryan v McPherson 608 F .3d 614, 9th Circuit 2010 –
reprioritized Graham factors

- Additional factors to be considered per Bryan Case:
 - Failure to Warn (Deorle v Rutherford)
 - Officers required to consider what other tactics if any were available to effect the arrest – (Less Intrusive Measures – Headwaters v Humbolt; Chew v Gates)
 - Non-compliance does not constitute active resistance
 - Dealing with the mentally ill versus a criminal (Deorle v Rutherford)

So What Does all this Have to Do with My Report?

- Understand that if your report fails to comprehensively and accurately provide the who, what, when, where, why and how then people are going to assume things are being hidden.
- IRs are legal documents of events and actions and most typically surround use of force incidents. They serve a lot of purposes – documentation of the event, identification of liability, risk, officer safety/training issues.
- If written correctly, they can help protect the officers and the department.
- From a liability perspective, cases can come back years later and when we do this all the time, we just won't remember.
- Keep in mind that IR reports and Use of Force review are legally required. Admin reviews to ensure compliance.

INCIDENT REPORT REVIEW CHECKLIST

STAFF

- ☐ Identify what type of Code called (Red, Blue, Green, 10-88 etc).
- ☐ Codes: Code called by whom and at what time, also Code called over/off at what time and by whom.
- ☐ O.C. warning: Time called on and off by whom.
- ☐ No blanket O.C. warnings. Minors should receive an O.C. warning when the behavior rises to the level of Active Resistance and/or Imminent Threat to the minor, other minors, or staff.
- ☐ Video Recording- Note video # and whether passive/handheld recording was completed. If not completed explain why the video recording was not done or why either P/H was not recorded.
- ☐ Recording Times: Start/Stop: What the footage captured at the start and end of the incident.
"I was able to capture...." or "I filmed...."
- ☐ Describe the type of behavior displayed by the minor that is "resisting" and be specific (pulling away, spitting).
- ☐ Identify what level of force applied. (ex. L-4, 5, etc)
- ☐ Identify why you used the level of force applied.
- ☐ What efforts were made to address or stop the minor's behavior before the use of force? (Counseling efforts, removing items from the room, calling a 10-88, developing a plan, removing the minor from the unit to holding)
- ☐ Describe the details of the plan created as part of the 10-88 and/or code (if there was time for a plan). All officers (Veteran and new) have been trained to develop the plan and let the Incident Commander (I.C.) know what that plan is. The I.C. only interjects if there is a concern; officers are not heading in the appropriate direction, or a critical matter etc.

The plan should not just be to O.C.

- ☐ When a situation goes to a UOF, always articulate the threat. Why the minor was considered a threat?
 - Describe the minor's specific behavior
 - Based upon the minor's behavior I thought he/she might _____
 - To prevent this I dispersed O.C. spray to stop the _____
 - Based upon my observation of the minor's behavior, which was _____ we developed a plan to stop the behavior by _____
- ☐ For O.C. warnings to minors inside their room, articulate circumstances.
"This is your O.C. warning. We are going to open your door. If you do anything hostile you will be sprayed. Get back, away from the door." Upon entering the room another O.C. Warning shall be given in the event the minor displays an imminent threat and immediately before dispersing O.C.
- ☐ Was the incident gang/racially motivated?
- ☐ Complete the Restraint Documentation Form/Log

SUPERVISORS

- ☐ All staff involved must be documented and listed in the Debrief, MIRR, and Primary IR
- ☐ All video footage, **handheld and passive**, shall be reviewed as part of the debrief PRIOR to staff completing their incident reports
- ☐ The Incident Commander shall note in the Debrief that the video footage was reviewed with staff involved in the incident. Also note if the UOF was captured on video.
- ☐ Ensure that all IR's are received complete and signed from each staff by the staff submitting the IR.
- ☐ Complete and submit the IR packet within 24 hours.
- ☐ Make sure that the minor(s) involved are interviewed after the incident to find out why the incident took place
- ☐ The Incident Commander shall document if the Use of Force was captured on video.
- ☐ Make sure that the video(s) are uploaded to the JDAC Video Tracking Log
- ☐ Ensure that the level of force used is identified in the Primary IR for each staff involved and on the MIRR
- ☐ Make sure that the entry for the B.S.C.C. log in CE is completed
- ☐ Did the incident rise to the level of a new crime? If yes, was the matter referred to Intake or an outside law enforcement agency

Important Elements an Officer Must Include
in an Incident Report





Documentation Review for Use of Force

Basic Content Elements

- Reporting Facility
- Time of Occurrence
- Youth Involved
- Staff Involved
- Incident Involved
 - Who did what to who?
- Narrative
 - Times & dates are clearly written.
 - Report is thorough and can be considered the basis for investigation or fact finding
 - Report is grammatically/mechanically sound.
 - All data is checked for accuracy.
 - Report has no misspelled words (especially words used often).
 - All quoted material is cited accurately and punctuated correctly.
 - Acronyms used only when initially spelled out (HT and job titles acceptable).
 - Word choices/language use are clear and objective; use of job-related jargon and slang acceptable if in quotation marks; psychiatric, medical, and technical terms acceptable when supported by fact(s) or a professional initiates use.

Basic Elements cont...

- **DESCRIPTION OF ANY INJURY**, if applicable- (None, Staff, Youth, Other selected)-All injuries are described; no diagnosis or estimations of severity are noted (just physical description of what writer viewed).
- **BACKGROUND INFORMATION**, if applicable- Only documented background information is included here. References to entries in Caseload Explorer or history of physical and mental/behavioral issues, court visits, counseling session(s), conversations, from prior shift(s) are appropriate in this section.

O.C. Use Elements

Officers should attempt to make all arrests, control detained minors and perform other enforcement actions in a manner that minimizes the need for O.C. Spray use and maximizes voluntary compliance.

O.C. Used cont...

- O.C. Spray shall be considered a moderate level application of force, for use when a youth refuses to comply verbal directives to desist during a fight, takes overt threatening action physically toward staff, or any other immediate and exigent circumstances that threaten the safety of staff, the youth, or others.
 - **Immediate:** Requiring immediate aid or action
 - **Exigent:** A demanding, taxing, or difficult situation

O.C. Used cont...

Pepper spray shall not be used for punishment, retaliation or disciplinary purposes, or when a subject is not posing a threat to officers, himself/ herself, or others.

O.C. Used cont...

- Before pepper spray is deployed in a JDAC or treatment facility, a reasonable effort should be made to verbally persuade voluntary compliance, and to give a warning that pepper spray will be used, when time permits such verbal persuasion. An O.C. use warning should be given in most situations, even if it is given just prior to an O.C. application in a rapidly unfolding situation.
- Example of Directives:
 - “O.C., get down”
 - “This is your O.C. warning, stop, get down”
 - Continue with commands once the minor has been sprayed)

O.C. Used cont...

- While officers shall attempt to de-escalate any situations verbally, it is also recognized that some situations occur rapidly.
- O.C. spray shall be used to stop actions that may result in injury to officers, subjects, or other persons present.
- O.C. spray may be used to stop assaultive conduct between detained youth. It is recognized that, frequently, such use is better than allowing the assault to continue, or having a more serious injury inflicted on an officer or detained youth through an attempt at physical intervention.

O.C. Used cont...

The use for pepper spray shall be reported in writing on an Incident Report form. The report shall contain a description of the circumstances surrounding the use of pepper spray.

Including:

- What steps were taken to de-escalate the situation
- Avoid the application of O.C. spray
- What other force options were considered
- Why they were determined to be unsuitable or ineffective

OC Used cont...

- Thorough documentation needs to be written regarding what other options were available and not chosen as the appropriate response to stop the threat.
- The split-second decisions made by staff are a part of the officers actions, but the thought process is seldom documented well.
 - For example: "It was unsafe for me to physically intervene using a control hold due to the risk of personal injury, therefore, I gave an O.C. warning and sprayed a short burst of O.C. to stop..."

Decontamination Documentation

- Check the subject for breathing or signs of any other injury
- Place subject in front of an operating fan, if possible. If not available, then decontaminate in fresh air
- Mist cool water into the subject's face
- Continue misting until the subject reports that the irritation has decreased
- Encourage subject to force open their eyes in order to flush out the OC particulates
- Use a clean towel and blot the subject's face
- Exchange clothes and (linen if O.C. was in the room)
- Placed on a 5 minute room check observation for (1) hour

Course Title: **2015-2016 Force Options Training**
Defensive Tactics

Trainer(s):

Trainer Qualification: See Bio's

Date Prepared:

Prepared By:
Fierros, Mickey
Elliott, Fred

Length of Training:
8 Hours

Recommended Maximum
Number of Trainee: 30

Classroom Set-up: Group Setting

Trainer Materials: Video and Discussion

Testing:

Performance Objectives: The class will meet department requirements for all officers, as well as State Standards in Training for Corrections. This class will incorporate kicks and strikes, ground fighting, chemical weapons, and handcuffing.

The trainee will be able to:

This training will give the Officers an opportunity to practice and demonstrate knowledge of Defensive Tactics techniques. Officers will demonstrate proper Department techniques of Control Holds, Handcuffing techniques, Ground Control and Strikes.

At the Conclusion of training:

This training will give the Officers an opportunity to practice and demonstrate knowledge of Defensive Tactics techniques. Officers will demonstrate proper Department techniques of Control Holds, Handcuffing techniques, Ground Control and Strikes.

Time/ PowerPoint Slide/ Trainer(s) Note/Method		Trainer(s) Script/ Activity/ Topic
0800-0830	<p><u>Sign in and Introduction</u></p> <ul style="list-style-type: none"> • Injury notification – Officers will be given the opportunity to notify the instructor of any prior or recent injuries that would prevent them from performing defensive techniques. Furthermore, officers will wear colored tape on sensitive areas, as well as, completing <u>The Failure to Comply with Training Requirements</u> form when applicable. <p>Officers will see a video of the Techniques and Positional Asphyxia</p>	
0830-0900	<p><u>Warm up and Stretching Using Defensive Tactics Technique Review</u></p> <ul style="list-style-type: none"> • FI Stance, Combat Stance • Falls, Getting Up in Base, create distance and stand up when it is safe to do so. • Fighting Position from the ground, offenses and defenses • Kicks and strikes from the ground <p><u>Code Red Sprint from pod to pod as a dynamic Stretch</u></p>	
0900-1030	<p><u>Ground Control:</u> Instructors will demonstrate all ground control techniques to the class. All officers will demonstrate the proper ground control techniques, create tactical distance from an attacker, identify the level of force and use verbal commands to gain control. All officers will be instructed to partner up in teams of two enable to perform the following techniques.</p> <ul style="list-style-type: none"> • Heave From Mount (3) (close heave, far heave and over your head heave) • Heave Side Mount • Lateral Head Displacement 	

SAN BERNARDINO001414

Time/ PowerPoint Slide Trainer(s)
Note/ Method

Trainer(s) Script/Activity/ Topic

USE OF FORCE CONSIDERATION AND CASE LAW

Defensive Tactics Annual Training 2017

TURNER TEST (YOU HAVE TO KNOW IT)

□ Turner v. Safley Test

1. Is there a 'valid, rational connection' between the regulation and the legitimate **governmental interest** put forward to justify it?
2. Are there **alternative means** of exercising the basic right that remain available to the inmate?
3. The impact accommodation of the asserted right will have on officers and other inmates and on the allocation of prison resources (**ripple effect**).
4. The existence of obvious, easy alternatives-
"exaggerated response"

USE OF FORCE : Hudson v. McMillian

- All other Use of Force Scenarios:

- Precedent: **Hudson v. McMillian**. 112 S. Ct. 995 (1992)

- Holding:

- The extent of the injury is “one” of the factors considered in determining whether the force was unnecessary and wanton.
 - The use of excessive force against a prisoner may constitute cruel and unusual punishment even though the inmate does not suffer serious injury.

USE OF FORCE : Hudson v. McMillian

- Key Factors in determining whether excessive force (malicious and sadistic) was used?
 1. Threat perceived by a reasonable officer.
 2. Need for Use of Force
 3. Amount of force used in relation to the need for force
 4. Effort(s) made to temper forceful response
 5. Extent of the injury
 - Exigent circumstances: one factor to be considered in determining whether the use of force was wanton and unnecessary.
 - All other use of force scenarios- serious injury is not a requirement.

USE OF FORCE : Whitley v. Albers

- Exigent Circumstances:

- Precedent: **Whitley v. Albers**, 475 U.S. 312 (1986)
- Issue: Whether force was applied in a good faith effort to maintain or restore discipline or maliciously and sadistically for the very purpose of causing harm?

ACTIVELY RESISTING

- **Abston v. City of Merced.** Civ. No. 11-16500 (9th Cir. January 13, 2013) Remanded.
 - At issue. Abston being in the prone position, hands behind his back for 1 minute, 7 seconds and whether he was violently resisting to justify the use of force.
 - A reasonable fact-finder could conclude that defendants use of body compression as a means of restraint was unreasonable and unjustified by any threat of harm or escape when Abston was handcuffed and shackled, in a prone position and surrounded by numerous officers.

ACTIVELY RESISTING CONT.

- Drummond ex rel. Drummond v. City of 2 Anaheim. 343 F 3d 1052, 1056 (9th Cir. 2003) (concluding that “the force allegedly employed was severe and under the circumstances capable of causing death or serious injury” where defendant officers allegedly pressed their weight on [plaintiff’s] neck and torso as he lay handcuffed on the ground and begged for air)

FAILURE TO DECONTAMINATE

- **McNeeley v. Wilson, 2016 WL 1730651 (11th Cir. 2015)**
 - Staff who were aware that an inmate was not decontaminated after being sprayed with pepper spray could be held liable vs. staff who were not aware (Deliberate Indifference)

Threat and Assessment OC Spray

Time/ PowerPoint Slide Trainer(s)
Note/ Method

Trainer(s) Script/Activity/ Topic

JCO-CORE USED 2017-2018

Course Title: O.C. Pepper Spray Practice and Certification

Trainer(s):

Ydren Jones
Darrell Warren

Trainer Qualification: See Bio's

Date Prepared: 01/27/17

Prepared By: Fred Elliott Jr.

Length of Training: 4 Hours

Recommended Maximum
Number of Trainee: 25

Classroom Set-up: Group Setting, Trainee Practice

Trainer Materials: Inert Spray Cans, Department Approved Pepper Spray Cans, BOBS, Access to Water for Decontamination, and Clean Towels

Testing: Trainee will be exposed to O.C. Pepper Spray and will have to demonstrate the ability to fight through it by delivering strike and kicks to the BOBS, and see.

Performance Objectives:

The trainee will be able to:

Demonstrate the course-instructed balance, footwork and body movements to avoid an attacking juvenile.

Demonstrate the ability to spray the BOB while properly holding the Inert OC Spray can (Thumb on the trigger guard and then thumb on the trigger).

Demonstrate the ability to deliver strikes and kicks on the BOBs after being O.C. Pepper Sprayed. Trainees will also demonstrate the ability to give clear verbal commands to their suspect and show the ability to see.

At the Conclusion of training:

Be certified to carry and deploy O.C. Pepper Spray in the institution and field while on duty. Trainee will understand that they can fight through the effects of O.C. Pepper Spray and

Time/ PowerPoint Slide Trainer(s)
Note/ Method

Trainer(s) Script/Activity/ Topic

complete their job duties.

Time/ PowerPoint Slide/ Trainer(s)
Note/Method

Trainer(s) Script/ Activity/ Topic

1300- 1430 Hours

- 8.2.1** Demonstrate the course-instructed balance, footwork and body movements to avoid an attacking juvenile. These movements to incorporate the following:
- balance
 - position in response to juvenile's movements
 - self-control

1430- 1530 Hours

- 8.2.2** Demonstrate the course-instructed footwork to evade an attack. For example:
- not backing straight up in the line of attack
Tactical "L"
 - moving laterally or diagonally out of the line of attack
Drag step
 - using pivoting techniques
 - **"C" Step**

1530- 1700 Hours

- O.C. Certification Process:**
- **Practice with inert spray:** While utilizing the footwork that they have learned, trainees will practice upholstering their inert sprays, spraying the BOBS while using proper hand positioning (Thumb on the trigger), and giving verbal commands to the BOBs.
 - **Students receive a direct spray to the face:** Trainees will receive a burst of O.C. Pepper to the face from a Certified Chemical Agents Instructor.
 - **After being sprayed students must complete palm strikes and knees strikes:** Trainee will deliver strike and kicks to the BOBs on the command of a Defensive Tactics instructor. Once the trainee has demonstrated the ability to

	<p>fight through the O.C. Pepper Spray, give clear verbal commands to the BOBs, and show the ability to see, they will be sent to the decontamination station.</p> <ul style="list-style-type: none">○ Students are then decontaminated: Trainees will be escorted to the decontamination station by an instructor and assisted with their decontamination○ Students will know how OC affects them: Trainee will understand that they can fight through the effects of O.C. Pepper Spray and complete their job duties.○ Can you fight through? Trainees will learn that they can fight through the affects of O.C.○ Can you do your job? Trainees will learn that they can fight through the affects of O.C., give verbal commands to their suspect and complete their job duties.
--	--

SAN BERNARDINO COUNTY PROBATION

OC Certification Course

O.C. Spray (Oleoresin Capsicum)

Inter-Bureau Procedure #06-11-134

Detention Corrections Bureau Procedure
#1357

CERTIFICATION

- Practice with inert spray
- Students receive a direct spray to the face
- After being sprayed students must complete palm strikes and knees strikes
- Secure (BOB) in handcuffs with double lock
- Students are then decontaminated

CERTIFICATION CONTINUED

- Students will know how OC effects them
- Can you fight through?
- Can you do your job?

EFFECTS OF OC

- Blurred or no vision
- Breathing difficulties
- Skin irritation
- Focus on safety
- Surroundings

OLEORESIN CAPSICUM

- OC - Color coded orange
- Inflammatory agent
- Closing of eyes, inflammation
- Disorientation, panic, fear
- Primary target – Eyes
- Secondary target - nose, mouth

CONE

- Cone is best used within the range of four to eight feet
- Flip top = 25 Burst per unit
- Cone is developed for both indoor and outdoor usage
- Cone pattern= Accurately launches a expanding cone pattern

PROCEDURE #06-11-134 O.C.

Before pepper spray is deployed in a JDAC or treatment facility, a reasonable effort should be made to verbally persuade/counsel to gain compliance, and to give a warning that pepper spray will be used, when time permits such verbal persuasion. An O.C. use warning should be given in most situations, even if it is given just prior to an O.C. application in a rapidly unfolding situation.

Example of Directives:

“O.C.- get down”

“This is your O.C. warning”

(Continue with commands once the youth has been sprayed.)

HOLDING AN OC CANISTER

- Hold the canister as if you are making a fist around it
- Place your thumb on top of the safety until ready to deploy
- Do not use your index finger in place of your thumb

APPLYING OC

- OC is applied by using a short bursts
- The water and CO₂ which carries the pepper solution must be able to evaporate quickly for OC to be effective

EFFECTIVE RANGE

- Stream is best used within the range of eight to twelve feet
- Cone is best used within the range of four to eight feet

RESPONSIBILITIES:

O.C. spray shall be considered a moderate level application of force, for use when a minor fails to follow verbal commands to desist during a fight, takes over threatening action physically toward staff, or any other immediate and exigent circumstances that threaten the safety of staff, the minor, or others.

APPLICATION CONSIDERATIONS

- SPRAY-the subject - *determine that the subject is contaminated or that the OC is ineffective and other measures are necessary.*
- COMMAND- them to get on the ground - *end command with “Do it now”.*
- EVALUATE- their response - *repeat steps 1-3 if required, escalate, or de-escalate.*
- CONTROL- use handcuffing and approved control techniques.
- MEDICALLY- check subject - *start decontamination.*

PROCEDURE # 06-11-134 OLEORESIN CAPSICUM

Officers should attempt to make all arrests, control detained youth and perform other enforcement actions in a manner that minimizes the need for O.C. Spray use and maximizes voluntary compliance. While officers shall attempt to de-escalate any situation verbally, it is also recognized that some situations occur rapidly and may not permit sufficient time to attempt de-escalation.

PROCEDURE # 06-11-134 OLEORESIN CAPSICUM

O.C. Spray shall be used to stop action that may result in injury to the officer, subject, or other persons present. O.C. Spray may be used to stop assaultive conduct between detained youth is to be used in a defensive manner; where the safety of the officer, the subject, or other individual is jeopardized, or as a control technique when the subject cannot be safely controlled in any other manner available to the officer

PROCEDURE # 06-11-134 OLEORESIN CAPSICUM CONT'D

O.C. spray shall be considered a moderate level application of force, for use when a youth fails to follow verbal commands to desist during a fight, takes over threatening action physically toward staff, or any other immediate and exigent circumstances that threaten the safety of staff, the youth, or others.

WHEN O.C. SPRAY IS APPLIED

- A Code Red shall be called
- Youth shall be handcuffed and moved to a safe area for decontamination
- When the scene of the incident is secure, an officer on scene shall notify the nurse immediately
- Begin the decontamination process as soon as possible.
- Once the youth is decontaminated placed on a one-on-one constant watch
- Remain on 5- minute room checks for one hour
- As soon as possible, FAST. Staff shall be notified

CHECK THE SUBJECT FOR BREATHING OR SIGNS
OF ANY OTHER INJURY
PLACE YOUTH IN FRONT OF OPERATING FAN OR
FRESH AIR
MIST WATER INTO FACE WITH SPRAY BOTTLE
AND BLOT DRY
CONTINUE UNTIL YOUTH REPORTS LESS
IRRITATION
ONE HOUR OF CONSTANT SUPERVISION IS
REQUIRED IF NO MEDICAL STAFF IS AVAILABLE
OR AS INSTRUCTED BY A SUPERVISOR
STAFF WILL COMPLETE 5 MINUTE ROOM CHECK
FOR ONE HOUR
EXCHANGE ALL CLOTHING AND LINEN

PROCEDURE # 06-11-134 OLEORESIN CAPSICUM CONT'D

Before issuance of OC employees must complete:

- ▶ Tactical Communications
- ▶ Chemical agent with OC training
- ▶ PC 832

PROCEDURE # 06-11-134 OLEORESIN CAPSICUM CONT'D

Peace Officers may carry and use on duty only the OC products approved and issued by the Department. Peace Officers are not authorized to use OC issued by the Department off duty.

Authorization to possess and use OC on duty may be withdrawn at the discretion of the Chief Probation Officer or Deputy Chief Probation Officer at any time

PROCEDURE # 06-11-134 OLEORESIN CAPSICUM CONT'D

PCOs working in a Juvenile Detention and Assessment Center or Treatment Facility are not authorized to carry their department issued pepper spray on their person while off duty. PCO's working at multiple institutions or facilities may transport their Department issued OC spray secured in their vehicle in a safe manner between work locations.

PROCEDURE # 06-11-134 OLEORESIN CAPSICUM CONT'D

- Field Officers will follow institutional protocol with respect to possession of OC within institutions
- OC will be issued by the Safety Officer or an authorized departmental representative to any Peace Officer who has completed the required training. Each Peace Officer must sign for his/her own OC canister
- When the canister is empty or ready for disposal, it will be returned to the Safety Officer for proper disposal

CONTINUED

- A reasonable effort must be made to verbally gain voluntary compliance
- A warning of OC must be issued if voluntary compliance is not obtained
- Exception:
 - OC may be deployed without warning when the safety and security of staff, youth and the institution are threatened
 - Momentary delay will result in further injury to a person

- Generally should not be dispensed in a moving vehicle
- Used when empty hands restraint is inappropriate/unavailable in gaining control of physically aggressive youth
- Shall not be used for punishment, retaliation or discipline
- For control without physical aggression toward others requires supervisors presence and approval

LEVELS OF DEFENSIVE FORCE

- Deployment is followed by handcuffing youth and moving youth to safe area for decontamination
- All Staff issued O.C. Pepper Spray shall be responsible for checking the expiration date of their O.C. Canister. Staff shall inspect the condition of the canister and shake the canister periodically

- Present danger of injury
- Gravity of the situation
- Destruction of property
- Consequence if behavior does not cease

- When available, have subject flush eyes with copious amounts of cool water.
- Encourage subject to force open their eyes in order to flush out the OC particulates.
- Non-oil-based soap, shampoo or detergent can be used to help remove resin from the skin.
- DO NOT use any creams, salves, or oils.

- Usually an individual will recover within one hour, but vast improvements should be noted within 20-30 minutes.
- Anyone not exhibiting significant improvement after one hour should be closely monitored to ensure continued recovery.

Course Title: *Threat Assessment and OC Spray*

Course Summary: The purpose of this course is to provide staff with a better understanding of Graham v Connor factors and threat assessment. Staff will better understand how and when to engage with a threat in the institution. This course will also cover the purpose of OC spray, when and how to deploy, utilize control holds, and when to disengage from a threat.

Performance Objectives: At the conclusion of this course, staff will have a better understanding of preventive measures to control their environment and when to engage a threat and when it is best to disengage from a threat. Staff will understand the difference between imminent threat and exigent circumstances. Staff will have a better understanding on when to use OC spray and be able to gauge the OC sprays effectiveness. Staff will learn about tactical distance and reactionary gaps. Staff will also learn how to assess and control a potential threat quickly. Staff will demonstrate the effectiveness of assessing and controlling a threat thru placement, distance, verbal commands, control holds and OC spray.