



COUNTY OF TUOLUMNE

## POLICY MANUAL (SECTION VI, No. 60)

**SUBJECT:** Classification and Segregation

**TITLE:** Use of Force

PROBATION DEPARTMENT  
Mother Lode Regional Juvenile  
Detention Facility

APPROVAL DATE: 04-17-2017  
REVIEWED:  
REVISED: NEW

### AUTHORITY

California Code of Regulations, Title 15

§1357

California Penal Code

§835(a)

### PURPOSE

To establish, implement, and enforce clear and specific guidelines regarding the ethical and responsible use of force by staff at the Mother Lode Regional Juvenile Detention Facility.

### POLICY

#### I. FORCE:

- A. Force is defined as the use of hands, other parts of the body, objects, instruments, chemical devices, or other physical methods employed by an objective, trained, and competent Juvenile Correctional Officer (JCO) to subdue an attacker, overcome resistance, effect custody/arrest, prevent escape, or gain compliance with an aggressive or combative youth. Use of force is only employed when all non-use of force options have been exhausted, or the emergent nature of a volatile, or potentially volatile situation requires immediate physical intervention (Graham v. Connor, 490 U.S. 386 (1989)).

#### II. USE OF FORCE:

- A. The use of force by JCO staff at the Mother Lode Regional Juvenile Detention Facility (MLRJDF) is a serious responsibility which requires continuous evaluation, monitoring, and administrative oversight. The use of force is only authorized when all non-use of force options have been exhausted or the emergent nature of a volatile, or potentially volatile situation requires immediate physical intervention, and only to the immediate degree required to subdue an attacker, overcome resistance, effect custody/arrest, prevent escape, or gain compliance with an aggressive or combative youth.
- B. When a use of force situation arises, it is necessary that staff employ only the level of physical intervention/restraint required to stop the aggressive conduct and ensure the safety of the youth and others within the facility. While there is no way to dictate the amount of force which should be applied in every potential scenario, staff are expected to use these guidelines and their training to make sound judgments regarding the use of force in a professional, ethical, impartial, and safe manner. At all times, the primary concern is the physical safety of the involved youth, other youth present, staff, and visitors within the facility:

1. Use of force should be used only after clear, specific, and understandable verbal directives are not followed.
2. The amount of force used shall be reasonable and appropriate to the situation, and only deployed at the level immediately appropriate to control a resistive, aggressive, or combative youth and overcome said resistance, while ensuring the safety of the involved youth, other youth present, and the employee(s) involved in the use of force situation.
3. All use of force strategies and/or instruments will always be based upon what is reasonable, available, and appropriate given the immediate circumstances. When physical intervention cannot be avoided through the use of dialogue, officer presence, or verbal commands, employees shall only employ use of force tactics and/or control/restraint methods which have been approved by the Tuolumne County Chief Probation Officer, and for which the employee has received Departmental approved training.
4. The use of force shall be avoided unless critically necessary.
5. Force shall never be deployed for reasons of discipline, treatment, punishment, or in retaliation for a youth's resistive, aggressive and/or combative acts, or any other acts.
6. When applying physical intervention/restraint, staff must not allow adrenaline, anger, or emotion to cause a loss of control and judgment. It is important that staff develop and utilize professional strategies which stress and reinforce emotional control, sound judgment, and quality decision-making abilities when responding to a volatile or potentially volatile situation.
7. Corporal punishment or the unreasonable use of force is prohibited under any circumstances. Any use of corporal punishment or improper application of force will result in immediate disciplinary action, up to and including termination of employment, and referral for potential criminal prosecution. All staff observing unnecessary or excessive use of force or the utilization of corporal punishment are required to take immediate affirmative action to stop the inappropriate use of force or corporal punishment, and report their observations forthwith to the Facility Superintendent or his/her designee. Staff will then document their observations in an Incident Report prior to leaving the facility at the end of their shift, and immediately provide the Incident Report to the Facility Superintendent or his/her designee.

### **III. STAFF TRAINING:**

- A. The MLRJDF provides its staff with annual training and guidance regarding the use of force and defensive tactics/physical interventions authorized for use within the facility. Staff may only utilize use of force techniques and tactics for which they have been properly trained and have been approved for facility use by the Chief Probation Officer.
- B. Staff shall review the Use of Force Policy on an annual basis. This annual review will be documented and placed in their employee file. Annual use of force training is facilitated by a Standards and Training for Corrections (S.T.C.) certified Defensive Tactics Instructor, and includes classroom and physical instruction regarding important aspects of the use of force, including but not limited to:
  1. The appropriate application of force given the totality of the presenting situation;
  2. Departmental approved methods (techniques and tactics) of force;
  3. Documentation requirements when involved in a use of force situation;
  4. Duty to intercede when confronted with staff employing the inappropriate use of force;
  5. Protocol for reporting and documenting observations to management;
  6. Known medical conditions which may preclude certain methods of force; and
  7. Signs and symptoms which require immediate referral to medical and/or Behavioral Health staff following a use of force situation.

### **IV. USE OF FORCE OPTIONS AND PROTOCOL:**

- A. JCO staff are authorized to use force under the following circumstances:



1. To defend themselves against an assaultive or combative youth;
  2. For defense of another employee or youth;
  3. To overcome resistance with a physically aggressive youth;
  4. To prevent escape;
  5. To effect a custody/arrest; or
  6. To prevent youth from harming his/herself.
- B. Factors to consider when determining what level of force is necessary to control an incident include the following:
1. Conduct of youth (risk to self and others within the facility);
  2. Age, size, strength, and skill-level of youth;
  3. Mental capacity;
  4. The influence of any drug/alcohol usage;
  5. Medical health status (e.g. injuries, pregnancy, etc.);
  6. Potential of injury to youth or others within proximity to the incident;
  7. The training and experience level of the involved staff; and
  8. Other exigent circumstances.
- C. Care shall be taken when employing defensive force on a pregnant youth. Extreme diligence shall be employed to avoid use of force situations with pregnant youth. Medical staff shall be notified if force is used on a pregnant youth, regardless of the lack of apparent injury.
1. Pregnant youth, or youth in recovery after delivery shall not be restrained by the use of leg irons, waist chains, or handcuffs behind the body.
  2. Restraints shall be removed from pregnant youth if deemed medically necessary by the professional responsible for their medical care during a medical emergency, labor, delivery or recovery after delivery.
- D. Prior to the administration of force on a combative or assaultive youth, staff shall determine whether non-physical methods of control could be employed to appropriately de-escalate the situation (given sufficient time when considering the potential for an emergent situation), potentially negating the need for a use of force situation. Some non-physical methods include the following:
1. Staff presence: Additional staff may be used to assist in de-escalating a combative or potentially combative youth. Their participation and presence may suffice in resolving an incident. (It may take a few minutes for additional staff to arrive; stalling maneuvers may be utilized).
  2. Dialogue: A JCO's ability and obligation to engage in a two-way conversation with youth to de-escalate a volatile or potentially combative situation. Dialogue, when used properly and professionally on a daily basis, may be the only option necessary in most situations.
  3. Counseling: A JCO's ability to use dialogue to control a situation with youth through reasoning, rapport building, problem solving, and personal insight into the youth's individual needs may prevent a use of force situation.
  4. Verbal commands: During volatile situations dialogue/counseling and staff presence may not be sufficient to maintain control. Staff should give clear, direct orders to the youth, while using command presence. Commands should be clear, concise, and easy to understand (i.e. "Sit down now," or "Return to your room, immediately.") When issuing verbal commands, staff must at all times maintain professionalism and personal composure.
- E. Staff shall use their best efforts to prevent injury when using force on a youth. Staff should not use restraint devices in a manner that would result in injury to youth or other staff. Staff should consider whether additional staff could assist in preventing injury to youth when using

force. Should non-physical methods prove ineffective in controlling a combative or assaultive youth, approved strategies for physical restraint and control or immobilization of a youth through the use of hands-on defensive force techniques include the following:

1. Departmental approved unarmed defensive tactics;
2. Departmental approved control holds.
3. This does not include the use of carotid control hold techniques, which are never to be employed in any use of force situation unless in an Imminent Defense of Life (IDOL) situation; or
4. The use of Departmental approved mechanical restraints (i.e. handcuffs, leg shackles, waist chains).

**V. DOCUMENTATION/ADMINISTRATIVE REVIEW:**

- A. The use of physical force shall be reported in writing on an Incident Report. The individual applying the force or restraint shall be responsible for completing the Incident Report before the end of his/her shift during which the use of force or restraint occurred, before leaving the premises, unless directed otherwise by the Senior JCO, or by the Facility Superintendent.
- B. The Incident Report will be submitted to the Senior JCO for review, who will forward the Incident Report to the Facility Superintendent. Should the Senior JCO be involved in a use of force incident, he/she will provide their documentation directly to the Facility Superintendent for review. Other officers on-duty shall write an Incident Report as to their observations or participation in the use of force situation, and provide the report to the Senior JCO on-duty, who will review the reports and provide them to the Facility Superintendent.
- C. The Facility Superintendent shall then review all of the Incident Reports to ascertain the nature and severity of the use of force situation, and determine whether the use of force was justified and reasonable given the presenting situation. The Facility Superintendent will also determine whether Departmental policy and procedure was properly followed during the incident.
- D. The Incident Report shall be documented in the Case Management System and a copy filed in the Use of Force Incident Binder.
- E. All use of force incidents, if captured on video, will be reviewed by the Facility Superintendent. After reviewing the Incident Report and corresponding video (if captured on video), the Facility Superintendent shall determine whether a violation of policy has occurred, identify training needs or issues, and determine whether injuries to staff or youth have been appropriately referred for follow up medical treatment. Upon such determination, the Facility Superintendent shall take appropriate action. In certain instances, such video recordings may be used as a training tool for future incidents.
- F. When a substantial violation of policy or other significant event has occurred, the Facility Superintendent shall advise the Chief Probation Officer of the incident and related issues. Use of force reports will clearly articulate the following:
  1. The immediate threat reasonably perceived by the officer;
  2. Efforts made to negate the need for force (i.e. utilization of verbal commands, dialogue/counseling, etc. prior to utilization of force);
  3. The need for the use of force (youth actively resisting);
  4. Whether a verbal warning was provided to the youth (time permitting, based upon the emergence of the situation), and whether the youth was provided with sufficient time to respond to the warning and comply with directives;
  5. The amount of force employed relative to the amount of force required;
  6. The extent of any injury or injuries related to the use of force visible to the officer at the time of the report, including action taken to obtain any needed medical or mental health treatment for the involved youth; and



7. Other factors that should be considered and included when applicable.

**VI. MEDICAL REFERRAL AFTER USE OF FORCE:**

- A. When use of force is deployed, referrals may be made to medical and Behavioral Health staff for a medical and counseling follow up, depending on the nature of the force used, the nature of the underlying incident leading to the use of force, and the judgment of the responding officers as to the appropriateness of such referrals.
- B. If a youth appears to have injuries as a result of a use of force situation, and there are no on-site medical personnel available, the Senior JCO will contact on-call medical services immediately or arrange for Emergency Room transport.
- C. If the Senior JCO determines the injury is severe and/or life threatening, 9-1-1 resources shall be utilized.
- D. The Facility Superintendent shall then be contacted and apprised of the situation.

**VII. GRIEVANCES:**

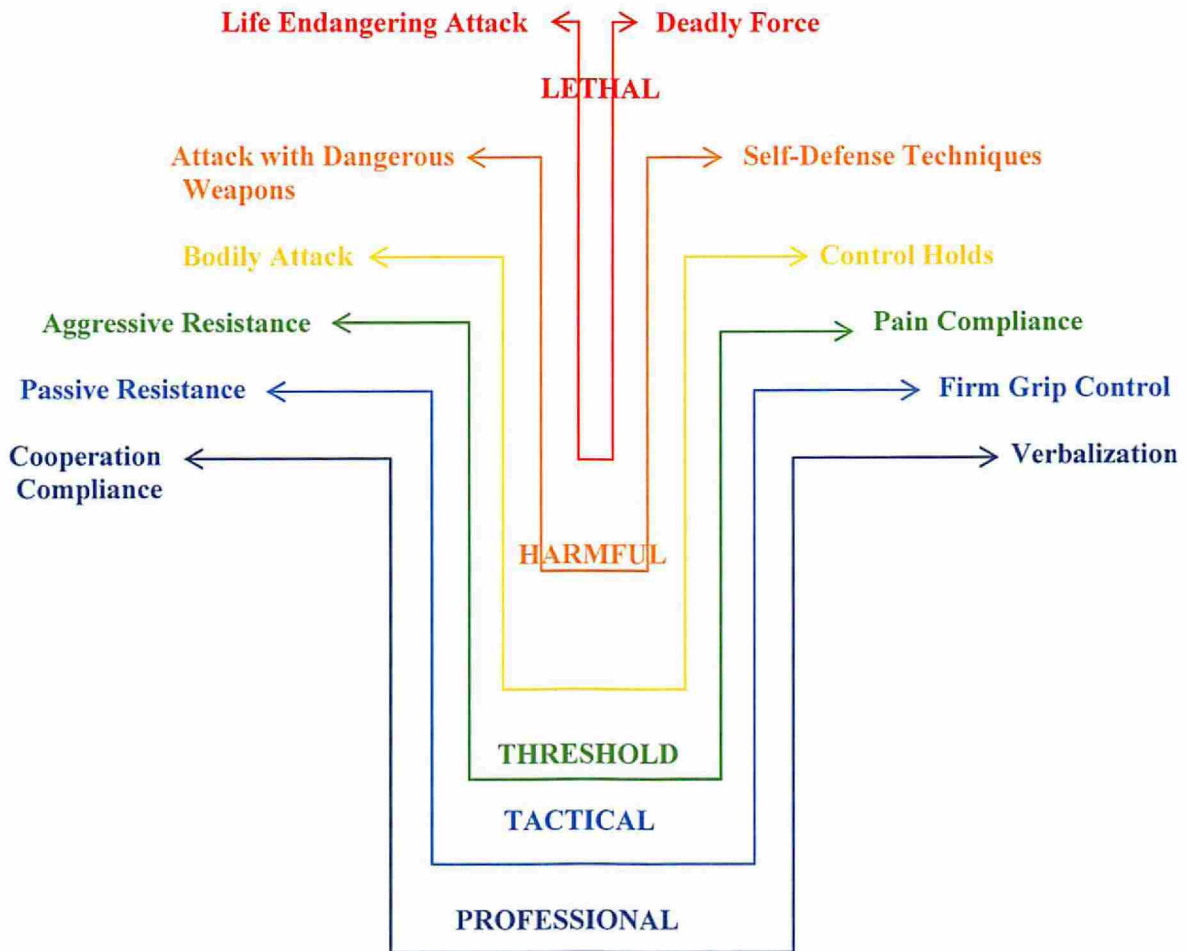
- A. Youth shall be afforded the right to submit a written grievance regarding any use of force incident in which they were a participant, should they believe the use of force incident was inappropriate or in violation of their personal rights.
- B. All grievances submitted by youth regarding a use of force situation shall be specifically reviewed by the Facility Superintendent, who will review the grievance, and meet with the youth to discuss their concerns and explain the administrative oversight/investigative process in use of force situations.
- C. Youth shall be advised of the grievance process during the Intake and Orientation process.

**PROCEDURE**

**I. USE OF FORCE CONTINUUM (NATIONAL INSTITUTE OF JUSTICE):**

- A. MLRJDF JCOs shall respond with a level of force appropriate to the situation at hand, acknowledging that the officer may move from one part of the continuum to another in a matter of seconds.
  - 1. Officer Presence: No force is used. Considered the best way to resolve a situation.
    - a. The mere presence of a peace officer works to deter crime or diffuse a situation; and
    - b. Officers' attitudes are professional and nonthreatening.
  - 2. Verbalization: Force is not physical.
    - a. Officers issue calm, nonthreatening commands, such as "return to your room;" and
    - b. Officers may increase their volume and shorten commands in an attempt to gain compliance. Short commands might include, "stop," or "don't move."
  - 3. Empty-Hand Control: Officers use bodily force to gain control of a situation.
    - a. Soft Technique: Officers use grabs, holds, and joint locks to restrain an individual; or
    - b. Hard Technique: Officers use punches and kicks to restrain an individual.

# USE OF FORCE CONTINUUM



## REFERENCED FORMS

*Incident Report Form*



COUNTY OF TUOLUMNE

PROBATION DEPARTMENT  
Mother Lode Regional Juvenile  
Detention Facility

## POLICY MANUAL (SECTION 0000)

**SUBJECT:** Classification and Segregation

**TITLE:** Oleoresin Capsicum – OC Spray

APPROVAL DATE: 04-17-2017

REVIEWED:

REVISED: NEW

### AUTHORITY

California Code of Regulations, Title 15

§1357

### PURPOSE

To establish and implement policy and procedure for the use of chemical agents within the Mother Lode Regional Juvenile Detention Facility, in addition to establishing reporting procedures for any incident resulting in the use of chemical agents being deployed on youth.

### POLICY

#### I. CHEMICAL AGENTS:

- A. Only oleoresin capsicum (OC) sprays of a type and strength approved by the California Department of Justice shall be provided for the Senior Juvenile Correctional Officers (Senior JCOs) of the Mother Lode Regional Juvenile Detention Facility (MLRJDF). All other staff is prohibited from bringing personal OC spray to the work site, and from using spray not provided for them by the department.
- B. Chemical agents may be used to control, restrain, or subdue imminent or actual violent behavior where such behavior presents a clear danger to staff, youth, or other persons in the facility.
- C. Before using chemical agents, Senior JCO staff should always consider the use of alternatives rather than chemical agents if such alternatives do not significantly increase the risk of danger to staff or others.
- D. Noteworthy Case law (U.S. vs. Neill (1999), 166 F. 3d 943) held that “Pepper spray qualifies as a ‘Dangerous Weapon’ because it may cause ‘serious injury’ namely ‘extreme physical pain or the protracted impairment of a function of a bodily member, organ or mental faculty’...” Therefore, Senior JCO staff shall:
  1. Give warning when feasible;
  2. Determine whether the person to be sprayed is actively resisting;
  3. Consider the potential effects on bystanders, medical attention following the use of OC spray, and the rise in liability, criminal charges, discipline, or termination of employment
  4. If the youth is asthmatic, OC spray shall not be used. Staff shall identify other force options along the continuum, and use the minimum amount of force necessary to accomplish compliance; and



5. If the youth is pregnant, OC spray shall not be used. Staff shall identify other force options along the continuum, and use the minimum amount of force necessary to accomplish compliance.
- E. Chemical agents shall never be used indiscriminately, nor shall they be used in response to simple threats of violence, but may only be used when there is a credible threat of violence coupled with a present ability to cause injury or loss of life.
- F. Use of OC spray on youth with documented asthma or other breathing problems, or youth known or believed to be pregnant is strictly prohibited except in cases of mortal danger. Such documentation shall be made in the youth's folder and updated to the "No Spray List" displayed in Central Control.
- G. All incidents requiring the use of OC spray will be documented on an Incident Report.
- H. OC spray shall not be used as an offensive weapon to persuade a person to move or act in a desired manner, nor to stop undesired conduct (examples include, but are not limited to: noise, cursing, door banging, excessive room noise, etc.), which in itself, does not amount to an immediate threat to the safety and security of the youth, staff or the facility, or to effectuate an escape.
- I. OC spray shall not be used when the person's violent activity is no longer likely to cause injury to another person or effectuate an escape.
- J. Chemical agents shall not be used for punishment, retaliation, disciplinary purposes, or to achieve an administrative request. Rather, its use is limited to control of specific kinds of behavior.
- K. At no time shall staff allow youth access to OC spray containers for any reason.
- L. OC Spray containers shall be inspected for required maintenance on a monthly basis. The inspection is to be conducted concurrently with the monthly Fire Safety inspections. The inspection will check for the expiration and capacity of all canisters issued to Senior JCOs. Canisters that are too low or have been in service for over one year are to be removed from service and given to Facility Superintendent for replacement and disposal.

## **PROCEDURE**

### **I. USE OF OC SPRAY:**

- A. All OC containers shall be issued to Senior JCOs to be worn on their duty belt.
- B. Before using OC spray, Senior JCO staff shall always consider use of alternatives other than chemical agents. In any event, staff shall always use the lowest level of force where they are most likely to be successful to ensure the safety of staff and unnecessary injury to the youth.
- C. Whenever conditions allow, OC spray should be applied from a distance of three feet or more to prevent injury to the eyes of the recipient.
- D. The Facility Superintendent is to be informed of OC use immediately following the incident.
- E. Following approved decontamination procedure, the California Forensic Medical Group (CFMG) is to be notified of OC spray use. All health directives from the CFMG are to be documented and followed.



- F. An Incident Report is to be completed prior to the end of the shift by all staff involved in the use of OC spray. The report shall contain the following:
  - 1. A clear and factual rationale for the use of the chemical agent; and
  - 2. A description of how the agent was used and the result obtained.
  
- G. First Aid procedures following contamination from OC:
  - 1. Avoid contamination with spray whenever possible. Staff is to wear latex gloves during the decontamination process;
  - 2. Leave the contaminated area and direct the youth to the outdoor recreation area and into fresh air;
  - 3. If the youth continues to be combative after being sprayed, handcuffs and/or shackles may be used during the decontamination process;
  - 4. As soon as the youth is no longer considered a threat, the restraints may be removed;
  - 5. The youth is directed to utilize a cold-water rinse on the face and eyes until relief is obtained;
  - 6. The youth may be directed to a cool shower and given a change of clothing. Soaps and lotions should be avoided;
  - 7. The area of the spray should be cleaned and aired until clear. If sprayed in a housing room, bedding shall be replaced: contaminated bedding washed, and the mattress decontaminated if exposed; and
  - 8. Medical staff should be advised should the youth develop a rash, as this is an indication of possible allergic reaction.

#### REFERENCED FORMS

*FORM #041 – No Spray List*

*FORM #005 – Incident Report*



# Office of the County Counsel

"Providing Quality Legal Services to the County of Tuolumne"

**Sarah Carrillo**  
County Counsel

Deputies

Christopher Schmidt  
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Cody M. Nesper

June 1, 2018

Sent via email: mochoa@aclusocal.org

Assistant to  
County Counsel  
Leah Moroles

**RE: Public Records Act Request**

Dear Mr. Kysel:

I am in receipt of your letter dated May 9, 2018, which was referred to my office for a response. You are requesting documents under the California Public Records Act (Government Code § 6250 et seq.). On May 18, 2018, I sent you a letter via email indicating a 14-day extension would be necessary to prepare a response. I will deal with your request(s) separately below.

Specifically, the information you request is as follows:

1. Requested policies and procedures used/in effect between January 1, 2015 and March 31, 2018 (inclusive) in each facility operated by TCPD.

**Response:** All relevant policies and procedures responsive to your request are included as a digital attachment to the email in response to your request.

2. Requested training materials used/in effect between January 1, 2015 and March 31, 2018 (inclusive) in each facility operated by TCPD.

**Response:** All relevant policies and procedures responsive to your request are included as a digital attachment to the email in response to your request.

3. Requested data on the use of chemical agents between January 1, 2015 and March 31, 2018 (inclusive) in each facility operated by TCPD, and records regarding maintenance and storage of chemical agents.

**Response:** There has been no use of chemical agents in any facility operated by TCPD during the period in your request, and there are no responsive records regarding the maintenance and storage of chemical agents. Moreover, the requested records related to the maintenance and storage of chemical agents would be privileged under California Government Code, Section 6254(f), as records of security procedures. Therefore, there are no records responsive to this request.





# Office of the County Counsel

"Providing Quality Legal Services to the County of Tuolumne"

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Cody M. Nesper

Assistant to  
County Counsel  
Leah Moroles

Should you have any questions, please feel free to contact me.

Regards,

SARAH CARRILLO  
County Counsel

A handwritten signature in blue ink, appearing to read "Cody M. Nesper", is written over a horizontal line.

Cody M. Nesper  
Deputy County Counsel

Enclosure

C: Ms. Linda Downey, Chief Probation Officer