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USE OF FORCE
(Title 15, Section 1357)

The El Dorado County Probation Department has established guidelines for the use of force involving minors detained in juvenile detention facilities. “Use of force” is defined as the application of physical techniques or tactics, chemical agents or weapons to a human. It is not a use of force when a minor is searched, escorted or handcuffed. A probation officer shall use only the amount of force that appears reasonably necessary to overcome the resistance of the minor based on the totality of the circumstances presented to the probation officer at the moment the force was applied. The use of any force shall be based on the facts known to the officer at the time of the incident, the officer’s professional judgment, and shall be within the lawful actions of the officer.

In each Juvenile Detention Facility (JDF), the department must provide for the safety and security of minors, staff and visitors, and prevent the destruction of County property. Use of force is authorized:

- In self-defense or defense of another.
- To prevent the escape of a detainee.
- To move a detainee from one location to another.
- To protect a detainee from self-inflicted injuries or suicide.
- To prevent damage to county property.

Services must be provided efficiently and humanely with minimal reliance on the use of force. Force must never be utilized when compliance can be gained by less severe methods. A physically aggressive minor should usually be given verbal direction to stop the behavior before force is used. Force is never to be used as a threat to gain compliance or for punishment, retaliation or discipline. Staff must never allow anger or emotions to cause loss of control during any force or restraint incident.

Probation officers may face circumstances in the course of employment that present life threatening situations and warrant defensive actions beyond the scope of the Use of Force procedure. In other words, this procedure does not prohibit officers from using any lawful means of self-defense when faced with a risk of great bodily injury or a life-threatening situation.

THE OBJECTIVE REASONABLENESS STANDARD

Any use of force will be evaluated under the “objective reasonableness standard,” taking into consideration the totality of the circumstances known to the probation officer at the time the incident occurs, without benefit of “20/20 hindsight.” The reasonableness of force will be evaluated from the perspective of any reasonable probation officer at the time of the incident. Any evaluation of reasonableness must allow for the fact that a probation officer must often make split second decisions about the amount of force that reasonably appears necessary in a

particular situation, sometimes with limited information and in circumstances that are tense, uncertain and rapidly evolving. Further, the “objective reasonableness standard” is the sole justification for whether the probation officer acted reasonably, not whether the officer had less intrusive alternatives available.

CONSIDERATIONS FOR THE USE OF FORCE AND RESTRAINT

Mechanical restraints are handcuffs, leg irons, and waist chains. These devices may be used to maintain control after force is used. They can also be utilized for potentially combative minors who need to be moved from one location to another. In the case of females who are known to be pregnant, the use of mechanical restraints is limited to handcuffs placed with the hands in front of the body.

Mechanical restraints should be removed as soon as the minor arrives at the intended location, has regained emotional and behavioral control and made a verbal commitment to not harm him/herself or others. These mechanical restraints can cause cutting and bruising. If necessary, restraints may be readjusted following application for proper fit, then double locked.

Use of force is defined as physically controlling a minor’s behavior for 15 minutes or less. Use of force also includes deployment of OC spray. Restraint is defined as physically controlling a minor’s behavior for more than 15 minutes.

Where circumstances permit, any instance when a minor becomes out of control to the extent that force or restraint may be necessary, staff shall immediately notify and request the presence of the Supervising Deputy Probation Officer-Institutions, Shift Supervisor, Assistant Superintendent or Superintendent. Absent any imminent danger to themselves or others, staff must contain the minor until one of the above arrives. The Supervisor, Shift Supervisor, Assistant Superintendent or Superintendent will immediately report to the area and approve the use of force and/or restraint, if applicable.

FACTORS USED TO DETERMINE REASONABLENESS

When determining whether to use force, or when evaluating whether a probation officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include, but are not limited to:

- Immediacy and severity of the threat to staff or other minors.
- Officer/minor factors, including age, size, strength, number, injuries, skill and ability levels, previous exhibition of violence, injuries sustained, level of exhaustion or fatigue, etc.
- Influence of alcohol, drugs or mental capacity.
- Availability of other options and their possible effectiveness.
- Seriousness of current situation or offense.
- Training and experience of the probation officer.
- Potential for injury to self and others.
- The risk and reasonably foreseeable consequences of escape.
- Proximity of weapons or dangerous improvised devices.
- The apparent need for immediate control of the minor or a prompt resolution of the situation.
- Any other exigent circumstances.

Further, staff must also assess the conduct and degree of resistance exhibited by the minor; for example:

- The minor is cooperative and complies with verbal commands or other directions.
- The minor is uncooperative or fails to respond to verbal commands or other directions.
- The minor is passively or defensively resisting an officer's authority and direction, which includes verbal or physical cues of non-compliance.
- The minor is attempting to interfere with the officer's actions by inflicting pain or physical injury to the officer without the use of a weapon or object.
- The minor assumes a fighting stance, charges an officer, or verbally or physically indicates intent to commit an assault.
- The minor commits an attack using an object, a weapon, or an empty hand assault, wherein the officer reasonably believes that the assault will result in serious injury and/or death.

In any use of force or restraint situation, staff should be aware of the potential for being subjected to "gassing." Force utilized to prevent and control this possibility must be considered.

An officer involved in using force or restraint must be able to articulate the factors considered and justify the actions taken.

REPUTATION AND PRESENCE

An officer's reputation and presence is the first and most often used option to maintain situational control of minors, often enabling an officer to prevent most situations from requiring physical intervention. Reputation and presence includes an officer's demonstrated professionalism, integrity, and reputation for fairness, and should have an impact on a minor's behavior. These characteristics, to be effective, must be consistently maintained.

The presence of more than one probation officer may also serve to de-escalate a situation and add to the control of a minor.

VERBAL SKILLS AND COMMANDS

A probation officer must have strong verbal skills when dealing with minors, and must develop rapport and an appropriate relationship with minors. Sometimes discussing the minor's situation with him/her will de-escalate a potentially unsafe situation. When necessary, verbal requests or commands can be used to obtain compliance and to control the situation/minor. Verbal commands must be firm, clear, concise and reasonable to be effective, and should not be threatening. It is hoped that strong officer presence and verbal skills with minors will de-escalate the majority of the situations that a probation officer may face.

CONTROL AND RESTRAINT

Probation officers shall be certified by a qualified, approved trainer before they are authorized to utilize any control and restraint techniques, or as approved by the Chief Probation Officer or his/her designee. Thereafter, an approved trainer reviews control and restraint techniques with all probation officers on a regular basis. When determining if control and restraint techniques will be used, a probation officer shall assess the situation and the minor(s) for the appropriateness of attempting to physically control and restrain him/her.

Consideration for the use of control and restraint techniques apply to pregnant females to the extent that all efforts less than physical force shall be exhausted prior to using hands on techniques.

Hand controls and/or compliance holds may be used to take physical control of a minor. Further, a probation officer can use these physical skills, including self-defense as well as escape techniques, when confronted with an immediate risk of assault or violence from a minor or when a minor exhibits resistance.

A probation officer may use mechanical restraints (handcuffs, leg irons, waist chains with attached cuffs) as officer safety tools. For example, handcuffs may be utilized when securing a minor who is in custody. However, restraints shall not be used as a threat or punishment. Restraints shall be applied in a manner compliant with department training standards, including being double locked and checked for proper fit (handcuffs and leg irons).

CHEMICAL AGENTS: OLEORESIN CAPSICUM (OC) SPRAY

Permission to use OC spray has been granted by and is under the sole control of the Chief Probation Officer of El Dorado County. Staff authorized to use OC spray must:

- Be an El Dorado County Probation Department employee with Peace Officer powers pursuant to 830.5 P.C., and completed training required by 832 P.C.
- Be on duty and authorized through the chain of command to possess/use OC spray.
- Successfully complete a department approved chemical agents course pursuant to 22820 P.C. and Management of Assaultive Behavior or Weaponless Defense Course.
- Complete all training re-certification requirements of the above courses.
- Read and sign the acknowledgement of the Department’s policies and procedures on use of force and chemical agents.

OC spray may be used for the purpose of self-defense or defense of another in any situation in which the officer has a reasonable belief there exists risk of assault or violence from a minor. Whenever possible, staff must request assistance and the presence of the Supervisor, Shift Supervisor, Assistant Superintendent or Superintendent when the use of OC spray is likely.

OC spray may only be deployed without warning when it is obvious that even a momentary delay would result in an increased threat to the safety and security of others.

OC spray shall not be used for:

- Punishment.
- Retaliation.
- Discipline.
- Threats.

Whenever possible, OC spray should not be used on minors that are pregnant or with medical histories of:

- Respiratory problems.
- Heart disease or related problems.
- Seizures.
- Under the influence of stimulants (cocaine, methamphetamine, PCP).

- Prescribed psychotropic or stimulant users.
- Obesity.
- Corrective eyewear such as contact lenses.

All reasonable efforts should be made to avoid spraying these minors; however, staff safety and the safety of other minors is the primary responsibility. There may be occasions, due to the violent circumstances, where OC spray must be used on these persons to prevent serious injury to others.

The OC spray canister must be carried in its holster. It should be carried in such a position on the officer to be easily accessible when needed, while minimizing the potential for accidental discharge. Officers must develop the skill to easily unholster, re-holster and secure the canister.

An officer should use whichever hand is most effective to deploy OC spray; however, it is recommended all officers practice with both hands.

Officers should be prepared for the likelihood that some of the chemical might get on them during or after the use of OC spray. Thorough washing of contaminated skin areas is mandatory.

Immediate Action and Medical Attention

The first step after deploying OC spray is to take control of the minor, as soon as possible. Staff may wait and give verbal commands and wait until the spray dissipates from the air. The minor should be placed in mechanical restraints with the use of approved control techniques.

Remove the minor and any officer(s) involved from the contaminated area and remove any contaminated clothing. Any contaminated clothing should be washed thoroughly before future use.

Staff shall ensure first aid and decontamination is immediately provided if safe to do so, followed by further medical treatment, when necessary. The minor shall be kept under direct observation at all times while in OC distress and during the decontamination process. If the minor is injured, or remains in OC distress for 45 minutes or more, the minor must be examined by on-site medical staff, or contact must be made with the on-call medical provider and his/her instructions followed. In all situations where OC has been deployed on a minor, that minor shall be referred to medical staff to be examined on their next available rounds.

Decontamination Guidelines

Prior to decontamination, inquire if the minor is wearing contact lenses and if so, and if possible and safe to do so, allow him/her to remove the lenses. Hard lenses may be cleaned in the normal manner; soft lenses must be discarded.

Monitor the minor and provide verbal reassurance that the effects are only temporary and the decontamination process will begin as soon as possible. The minor should not be placed on or allowed to lie on his/her stomach while suffering the effects of OC spray, especially while handcuffed.

The minor should be exposed to fresh air, when possible.

Use cool water and begin applying water on the eyes and face of the minor, or any other contaminated area of the body. The exposed area of the minor's face must be flushed with large amounts of cool water. Explain that excess spray is being washed away and relief from the contamination is inevitable. The minor's face or eyes cannot be rubbed with a cloth or towel as this will only increase the inflammation.

Creams, salves, oils, lotions, burn cream or oil based products or soaps should not be applied or used on or to clean the skin as these products will only trap the OC spray on the skin.

The minor may produce some amount of bodily fluids, usually in the form of mucous, saliva, and tears. For the officer's protection, universal precautions shall be followed, including wearing rubber/latex gloves for the decontamination process when possible.

Once any initial medical assessment has been completed or first aid has been rendered, the probation officer shall take digital photographs of any areas of the minor's body involving visible injury or the minor complains of pain. The probation officer shall also take overall digital photographs of uninjured areas of the minor's body. Any photographs taken shall be attached to the incident report written by the primary probation officer who utilized force.

Staff must remain alert to any behavior or remarks that may indicate the need for intervention by Mental Health.

Clean and decontaminate, or dispose of, any affected areas including mattresses, pillows, bedding or personal belongings. Re-issue clean clothing and bedding as necessary.

Security and Inventory of OC Spray

Supervising Deputy Probation Officers-Institutions and Shift Supervisors will be responsible for the daily security, inventory, issuing, and authorizing the use of OC spray, including the following:

- Canisters will be stored in a locked drawer in the control room.
- A control system will be maintained that includes inventory, testing for operability, and replacement as needed.
- OC spray shall never be taken off institutional grounds, except on approved transportation of minors.
- Any form of "horseplay" involving OC spray is strictly forbidden and will result in disciplinary action.

The assigned Supervising Deputy Probation Officer-Institutions shall inspect all OC spray canisters at least once monthly for leaks and to assure the OC spray is working properly; this can be done by spraying a short burst in a safe area where no minors or members of the public are present. The assigned SDPO-I should make sure lint or dirt has not clogged the nozzles and each canister is not dented or damaged. The assigned SDPO-I shall become familiar with the weight of each canister's contents. OC spray shall be considered for replacement when the level is reduced to half of the original volume.

The assigned SDPO-I will keep track of expiration dates of OC spray, and order and issue new canisters when appropriate. When a canister needs disposal, the canister shall be given to the Armory Officer in the field division. Expired or used OC spray canisters shall be disposed per

department process by the Armory Officer in the field division. The assigned SDPO-I shall not attempt to dispose of OC spray or canister in any manner, other than being turned in to the Armory Officer in the field division.

(Note: Any person, who changes, alters, removes or obliterates the name of the manufacturer, the serial number or any mark of identification on a tear gas product is guilty of a felony.)

Care should be taken to avoid exposing an OC spray canister to prolonged periods of direct sunlight due to the possibility of seal rupture.

Note: Deadly Force is prohibited in El Dorado County juvenile detention facilities.

DUTY TO INTERCEDE

Any probation officer present and observing another peace officer using force that is beyond that which is objectively reasonable under the circumstance shall, when in a position to do so, intercede to prevent the use of unreasonable force. Any probation officer, who observes another employee use force that exceeds the degree of force permitted by law, policy (including Probation Department Policy IV10, Employee Conduct) and procedure, should promptly report these observations to a supervisor, the Assistant Superintendent, or the Superintendent as soon as possible. Thereafter, as soon as possible but by the end of the following business day, the probation officer who observed the unreasonable use of force shall complete a written memorandum detailing the unreasonable use of force, including the date, time, place of occurrence, the identity of all parties involved, a description of the events, a description of the force used, and any other information deemed necessary in order to completely and accurately describe the use of force incident.

DOCUMENTATION

Any use of force or restraint on a minor shall be documented in a Special Incident Report (SIR), a Use of Force Report (form #546), a Restraint Report (form #524) if necessary, and the logbook.

The Use of Force Report is completed if physical control is needed for 15 minutes or less, or if OC spray is deployed.

The Restraint Report is completed if the use of force exceeds 15 minutes.

The Special Incident Report must include the following, as approved and reviewed by the Supervisor/Shift Supervisor:

- A full description of the incident including the names of all parties involved.
- The factors perceived by the probation officer.
- The risks created by the minor, and why any particular intervention technique was used.
- Why the use of force was “objectively reasonable” under the circumstances presented to the probation officer (i.e. self-defense, defense of another, prevention of self-harm or damage of county property, etc.).
- Any statement made by the minor(s) involved.
- Staff’s efforts to de-escalate the minor(s) involved and gain compliance through less severe interventions, and what the intended result of the application of force might have been.

- Efforts to call for additional assistance and the presence of a supervisor.
- Effects of OC spray exposure on minor(s) and staff, including any injuries, if applicable.
- Decontamination provided to minor(s) and staff, and any first aid given, including effects of first aid, if applicable.
- Decontamination provided to any other person(s) present, and any first aid given, including effects of first aid, if applicable.
- Any pre-existing medical condition(s) of minor(s) or staff, if known, and effects of OC spray exposure on these medical condition(s), if applicable.
- Any outside agencies contacted, if applicable, and services provided by these agencies.
- Any other pertinent information necessary to provide an accurate and detailed account of the use of force or restraint.

The Supervisor/Shift Supervisor on duty must also:

- Review the SIR and Use of Force and/or Restraint Reports for thoroughness, reasonableness and compliance with policies and procedures.
- Ensure that the minor(s) has been referred to medical/mental health staff.
- Determine appropriate placement and disposition of the incident.
- Forward all documents for review by the Assistant Superintendent or the Superintendent.

The Assistant Superintendent or Superintendent must:

- Review all incidents for compliance with policies and procedures.
- Consider the minor's version of the incident.
- Assess the reasonableness of force and the quality of documentation to defend against potential litigation.
- Consider and follow up on any pending issues or injuries.
- Initiate an internal or criminal investigation when necessary.

USE OF FORCE FOR DNA COLLECTION

Force will not be used to collect a DNA sample. If the subject refuses to voluntarily give a DNA sample, the staff member is directed to explain to the subject that they are required by law to submit and allow the sample to be taken. If that effort fails, the staff member shall notify their shift supervisor of the situation. The shift supervisor may attempt to get a voluntary sample. If that fails then the initiating officer shall document the situation on a Special Incident Report, and on the 298.1 PC Admonishment Form (#50) pursuant to Probation Officer Procedures section G11, DNA Testing.

GRIEVANCE BY MINOR

Any minor who believes that force or restraint was utilized in violation of this procedure may seek resolution through the grievance process.