



## JUVENILE FACILITIES MANUAL

# 5

**Chapter:** Classification and Separation  
**Section:** Use of Force

1357

**Effective:** 10/23/20

**Authority:** Title 15, California Code of Regulations: Minimum Standards for Juvenile Facilities Penal Code Sections 835a, 3407, and 22820; and Government Code Section 7286

**Replaces:** 1357  
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**Responsible for Updates:** Juvenile Facilities

Approved By

Chief Probation Officer

Wendy Still

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Date

### I. Principle

The Alameda County Probation Department (ACPD) respects and values the sanctity of life as well as human rights and dignity. The powers and authority granted to peace officers by the State of California to use force, when appropriate, represents a great responsibility and such authority will be exercised with care and professionalism. The ACPD's preferred method of resolving conflict and maintaining safety and security at the Juvenile Facilities is through the application of de-escalation and crisis intervention techniques. However, in circumstances where the use of force is the most reasonable option, the ACPD's expectation is that the level of force used will be based directly upon the level of resistance exhibited by a youth and will escalate and/or de-escalate in relation to the level of resistance. While the amount or type of reasonable force to be applied in any given situation is dependent on the circumstances, sworn staff are expected to use the guidelines contained within this policy which were developed in cooperation with the responsible physician and mental health director, as well as ACPD-approved training, to guide their decisions in a professional, impartial, and reasonable manner.

### II. Policy

Pursuant to Title 15, Section 1357, *Minimum Standards for Juvenile Facilities*, this Use of Force policy defines staff responsibilities and limitations concerning the use of force. Further, this policy also establishes a process by which instances of use of force is reported,

#### USE OF FORCE

Sworn staff must only use a level of force that is reasonably proportional to the seriousness of the situation or the reasonably perceived level of actual or threatened resistance and must not use unnecessary or excessive force.

recorded, evaluated and, if necessary, referred for discipline in cases of violations of this policy.

Sworn staff must use the lowest level of force necessary to overcome resistance, subdue an attacker, protect youth, staff and others from being injured, protect county property from being damaged and/or destroyed, de-escalate a crisis situation, restore order, effect custody, prevent escape, and gain compliance with a lawful order. Sworn staff must only use a level of force that is reasonably proportional to the seriousness of the situation or the reasonably perceived level of actual or threatened resistance and must not use unnecessary or excessive force. Prior to using any physical force option, sworn staff must use de-escalation techniques, crisis intervention tactics, and other alternatives to the use of force when feasible and safe to do so. If any use of force is needed, it must be carried out in a manner that is fair and unbiased.

Staff must never use force against a youth for punishment, retaliation, coercion, treatment, therapy, or discipline.

Staff must only use departmental approved techniques and interventions when using force.

Sworn staff may not use any type of force to collect DNA specimens from youth who are required to provide specimens per a court order. Sworn staff must attempt to secure voluntary compliance from the youth. Should the youth not comply with the collection of a DNA specimen, the matter must be returned to court.

#### MEDICAL EVALUATION

Any time force is used on a youth, the youth must be evaluated by medical staff and referred to the behavioral health clinician as soon as possible.

Any time force is used on a youth, the youth must be evaluated by medical staff and referred to the behavioral health clinician as soon as possible. Notification regarding the circumstances of the use of force must be made to the youth's parent(s)/guardian(s)/person(s) standing in loco parentis and the Assistant Superintendent or their designee, as soon as possible.

All use of force incidents must be evaluated to determine if the force used was appropriate using the "Objectively Reasonable" standard as defined in *Graham vs. Connor*, 490 U.S. 368 (1989).

All use of force incidents must be documented in an Incident Report and submitted to an Institutional Supervisor I and II (IS I and IS II) prior to the involved staff going off duty. The IS I and IS II must review all incident reports and provide a critique of the use of force incident prior to going off duty.

**NOTE**

Situations where a youth is compliant and submits to search, escort, or the application of mechanical restraints is not considered a use of force. Non-physical intervention options are not considered a use of force.

Situations where a youth is compliant and submits to search, escort, or the application of mechanical restraints is not considered a use of force. Non-physical intervention options are not considered a use of force.

Any sworn staff present during a use of force incident where another officer (internal or external) is clearly using force beyond that which is objectively reasonable given the circumstances must, when in a position to do so, intervene to prevent the unreasonable force. Any ACPD staff who observes such use of force must promptly report the incident to a supervisor.

The ACPD will not tolerate any form of silence as it pertains to reporting unnecessary or excessive use of force and will not tolerate any form of reprisal or retaliation against staff who report unnecessary or excessive use of force. Any staff, regardless of rank, sworn or non-sworn, who fails to report unnecessary or excessive use of force or who acts in a manner that fosters a code of silence, may be subject to corrective action or disciplinary action, up to and including termination from County service as described in the Administrative Manual, Section 325, *Corrective Action and Disciplinary Action*.

Pursuant to the Administrative Manual, Section 117, *Staff Response to Emergencies or Disturbances*, any sworn staff must intervene during a verbal or physical confrontation or other disturbances within ACPD buildings (this applies to both Deputy Probation Officers [DPOs] at the Facilities and Juvenile Institutional Officers [JIOs] that may be in the Field). The sworn staff response will be based on the individual's training and experience.

Staff are not permitted to post any information regarding a use of force incident on social media or otherwise publish the information by any other means (e.g., blogs, electronic comments sections, news reports, etc.). Additionally, staff are not permitted to speak with the media, unauthorized staff or other outside entities about the use of force incident, with the exception of individuals with whom the staff have privileged communications (e.g., private legal counsel, including legal counsel provided by a union, or licensed medical health providers). Staff must refer all inquiries from the media to the Chief Probation Officer (CPO), the ACPD Public Information Officer, or their designees.

This policy was developed in cooperation with the Superintendent and responsible physician of the Juvenile Facilities.

### III. Definitions

*Alternative Restraint Device (Prohibited):* A restraint device that is utilized in lieu of approved mechanical restraints.

*Choke Holds (Prohibited):* A control hold utilized to temporarily cut off the blood supply to the brain or cause asphyxiation/strangulation, rendering the subject being restrained unconscious. These holds, commonly referred to as "carotid holds" are not authorized by ACPD.

*Crisis Intervention Techniques:* De-escalation techniques designed and employed to intervene in a youth's negative behavior with non-threatening, non-verbal, or verbal interventions, which reinforce expected behaviors and allow the individual to self-regulate emotions and begin to demonstrate acceptable behaviors.

*Force:* Force is any physical contact, coupled with exertion of strength and/or weight or power, or application of chemical restraint deliberately made by sworn staff towards a youth. Physical force includes all restraint, control, and physical intervention options available to sworn staff through approved ACPD training. Types of force include:

- *Chemical Restraint:* The application of Oleoresin Capsicum (OC) as authorized under Penal Code Section 22820 to control behavior and subdue violent behavior.
- *Excessive Force:* The use of force greater than that which is objectively reasonable to overcome resistance and accomplish a lawful order.
- *Non-Conventional Force:* Force that utilizes techniques or instruments that are not specifically authorized in policy, procedures, or training. Depending on the specific circumstances, non-conventional force can be necessary and reasonable; it can also be unnecessary or excessive.
- *Reasonable Force:* Force used that is necessary to ensure safety and security of staff, youth, other persons and the facility, subdue an attacker, overcome resistance, effect custody, prevent escape, defend self or others or gain compliance with a lawful order, as judged from the perspective of a competent, objectively reasonable officer faced with similar facts and circumstances and with similar training and experience.

- *Unnecessary Force*: The use of force when none is required or appropriate.

*Hogtie (Prohibited)*: A procedure whereby mechanically restrained hands and feet are drawn together and secured behind the back. This type of restraint technique is prohibited.

*Incident Commander*: The first IS I or IS II on scene of the use of force incident in charge of giving directives to sworn staff and performing a variety of post incident duties. Note: Since the Incident Commander is the first IS I or IS II on scene, the identity of the person acting as the Incident Commander may change from incident to incident.

*Least Restrictive Alternative*: The lowest level intervention necessary to maintain or restore order and security within the facility.

*Levels of Resistance*: The following outlines the types of resistance that may be encountered by sworn staff. Types of resistance include:

- *Cooperative*: No resistance exhibited; the use of physical intervention techniques is prohibited.
- *Non-Compliance*: Verbal and physical actions indicate the engaged person is not responding to verbal commands but also offers no form of physical resistance.
- *Passive Resistance*: Engaged person responds without compliance or takes physical actions that do not prevent sworn staff's attempts to exercise control of a person or place them in custody.
- *Active Resistance*: Physically evasive movements to defeat sworn staff's attempts at control including bracing, tensing, or pulling/running away. Active resistance also includes verbal responses that indicate an unwillingness to comply with sworn staff's directives and indicate a threat to the safety and security of the sworn staff or others.
- *Assaultive Resistance (threat)*: Physical movement which demonstrate an intent and present ability to assault the sworn staff or another person. Assaultive resistance is resistance that is not immediately life-threatening.

- *Life-Threatening Resistance (threat)*: Any action likely to result in death, great bodily injury, or seriously bodily injury to the sworn staff or others.

*Mechanical Restraints*: Handcuffs, shackles or leather restraints utilized to immobilize a youth's extremities.

*Medical Assessment*: An exam performed by licensed medical staff to evaluate and treat youth involved in physical incidents and document the results of the examination in a report.

*Non-Physical Intervention*: The use of verbal and non-verbal interpersonal skills to affect and influence persons, such as command presence and verbal directives. A non-physical intervention is not considered a use of force.

*Objectively Reasonable*: The standard used to determine if an officer's actions are reasonable considering the facts and circumstances confronting them, without regard to their underlying intent or motivation.

*Oleoresin Capsicum (OC)*: The technical name for the chemical restraint spray utilized by the ACPD.

*Physical Intervention Options*: An intervention option that requires force and/or restraint. A physical intervention option is considered a use of force. Whenever a physical intervention option is used an incident report and medical assessment are required.

*Positional Asphyxia*: A situation in which an individual who is obese or is known to have asthma, respiratory, substance abuse or cardiac problems, may be at increased risk for asphyxiation or death when placed in a prone position following the application of a physical intervention.

*Positive Behavior Management Techniques*: Techniques such as regrouping, restructuring and/or problem solving used to assist in the development of positive staff-youth relationships.

*Serious Bodily Injury*: A serious impairment of physical condition, including, but not limited to, the following: loss of consciousness, concussion, bone fracture, protracted loss, or impairment of function of any bodily member or organ, a wound requiring extensive suturing, and serious disfigurement.



**Shackles:** Leg irons (larger sized handcuffs) which join the youth's ankles together.

**Show of Numbers:** The assembly of enough departmental sworn staff to dissuade and contain a youth's disruptive behavior and to attempt to avoid the use physical intervention.

## IV. Procedures

The procedures contained within this policy outline what intervention options are available to sworn staff and provide guidelines on when to use these interventions. These procedures also contain information regarding what notifications are required after force is used, how to document a use of force incident, and what supervisors, managers and review committees are required to do to ensure oversight and accountability regarding the use of force.

### Intervention Options

Sworn staff are trained to use a variety of intervention options to maintain or restore order and security within the facility. Intervention options may be used by sworn staff to overcome resistance; subdue an attacker; protect youth, staff and others from being injured; protect county property from being damaged and/or destroyed; de-escalate a crisis situation; restore order; effect custody; prevent escape and gain compliance with a lawful directive.

Intervention options do not have to be utilized in any sequence, but the decision on which intervention(s) to use must be based on the "Objectively Reasonable" standard given the circumstances presented to the sworn staff. Sworn staff must also use the Least Restrictive Alternative based on the circumstances presented to resolve the situation and keep the youth, staff, and others safe. Sworn staff must continuously reassess the situation to determine if the chosen intervention is still reasonable and necessary and may, at any time, change intervention options or escalate/de-escalate the level of force used in relation to the level of resistance exhibited by the youth.

When assessing the situation and determining which intervention(s) to use, sworn staff must consider any known factors that may assist in choosing an intervention option. Such factors may include but are not limited to those contained in the "Factors Used to Determine Reasonableness of Force" section of this policy. Upon considering the

#### CONTINUOUSLY REASSESS

Staff must continuously reassess the situation to determine if the chosen intervention is still reasonable and necessary.

factors of the situation, sworn staff are authorized to use the following intervention options.

Reference the *Use of Force Continuum Diagram* (ACPD Form 254) for a visual guide on intervention options.

### **Non-Physical Intervention Option**

Non-physical intervention options are considered less restrictive than physical intervention options. Non-physical intervention options are best utilized when a youth is exhibiting behavior that is disruptive, non-compliant and threatening, but has not yet risen to the point of being an immediate threat to the safety and security of the facility, staff, and other youths. Non-physical intervention options include the following:

- Non-verbal (presence, eye contact, hand gesture)
- Verbal de-escalation, dialogue, and counseling; including Crisis Intervention Techniques and Positive Behavioral Management Techniques
- Notification to a supervisor
- Referral to or request for assistance from the behavioral health clinician/guidance clinic
- Increase the number of sworn staff by requesting assistance (Show of Numbers)

### **Physical Intervention Options**

Though the ACPD trains for and prefers the utilization of preventative de-escalation techniques in resolving the aggressive, disruptive and resistive behavior of youth, it recognizes that situations will arise where a youth presents an immediate threat to themselves or others or all non-physical means have been exhausted or are ineffective to gain compliance with a lawful directive/command, related to safety and security, issued by the sworn staff. In such circumstances, the Least Restrictive Alternative may require the use of a physical intervention option. The only physical intervention options or specific techniques permitted are those authorized by the ACPD as established and taught through ACPD-approved training classes. Restraints and control holds may only be used by sworn staff trained according to ACPD guidelines. In physically restraining a youth, sworn staff may use only those means reasonably necessary to control a situation. Physical Intervention Options include the following:

#### **PERMITTED RESTRAINT OPTIONS**

Restraints and control holds may only be used by sworn staff trained according to ACPD guidelines.

**Physical Control:** A low-level physical intervention option used to gain control and overcome non-compliance or passive resistance. This



includes physically maneuvering the engaged person's body, escorting the individual or using a firm grip. This level of force is not intended to cause injury or pain.

**Compliance Techniques:** A low-level physical intervention option used to overcome passive resistance and active resistance, depending on the totality of circumstances. These techniques are not intended to cause injury but use body mechanics and leverage to gain compliance and movement. These include control holds and arrest control. Compliance Techniques used on persons exhibiting passive resistance must be objectively reasonable based on the totality of circumstances.

**Defensive Tactics:** Techniques and tactics used to overcome active, assaultive, and life-threatening resistance. Defensive tactics used on persons exhibiting active resistance must be objectively reasonable based on the totality of circumstances. These include control holds, arrest control, takedowns, and personal body weapons.

**Less-Lethal Methods:** The ACPD authorized less-lethal method is OC spray followed by decontamination immediately as behavior permits. The use of OC spray is authorized for assaultive and life-threatening resistance. Reference Juvenile Hall Manual Section 1357.2, *Use of Chemical Intervention*, for more information regarding the use of OC spray.

Once the behavior or circumstances that prompted the use of physical intervention cease, and the youth no longer presents a threat to safety and security, sworn staff must immediately cease the use of the physical intervention or switch to a non-physical intervention option.

#### PROHIBITED RESTRAINT METHODS

Use alternative restraint devices, choke holds or hogtie a youth.

Such techniques could lead to positional asphyxia, great bodily injury, or death.

#### Prohibited Actions

Sworn staff must never do any of the following:

- Use an intervention option as coercion, punishment, discipline, treatment, therapy, or retaliation.
- Deploy OC in a youth's locked room from the outside, deploy OC on a youth who is passively resisting, or deploy OC on a youth in restraints.
- Apply leg irons, waist chains, or mechanical restraints behind the body of a youth known to be pregnant or in recovery after delivery. Sworn staff must also never restrain a pregnant youth in labor, during delivery or in recovery after delivery by the wrists, ankles or

both, unless deemed necessary for the safety and security of the youth, staff, public, or facility (Penal Code Section 3407).

Sworn staff must exercise extreme caution when utilizing any physical intervention option on a youth known to be; pregnant; suffering from a serious medical condition (e.g., respiratory condition, asthma, or other condition that could contribute to the youth sustaining serious bodily injury or death as a result of the use of a physical intervention), youth taking psychotropic medication; or having a physical, mental, or developmental disability.

Any staff who commits a prohibited action identified in this section may be subject to discipline as identified in Section 325, *Corrective Action and Disciplinary Action*, of the Administrative Manual.

### Required Notifications

Any time sworn staff use a physical intervention option on youth, they must contact medical staff and the behavioral health clinician immediately after the use of force incident has resolved and it is safe to do so. If a supervisor is not already on scene, sworn staff must also notify a supervisor of the use of force incident as soon as possible.

If medical or behavioral health staff are not available, the sworn staff must immediately inform the Incident Commander. The Incident Commander is responsible for ensuring any youth involved in a use of force incident is evaluated by medical and behavioral health staff as soon as possible. In addition, the Incident Commander is responsible for notifying the parent(s)/guardian(s)/person(s) standing in loco parentis and assigned DPO of any youth involved in a use of force incident. All notifications must occur prior to the Incident Commander going off duty and must be documented in the Incident Report (see “Documentation” section of this policy).

### Medical Staff and Behavioral Health Clinician

In all instances where a physical intervention option has been used or a youth is involved in a physical altercation, a medical evaluation must be provided to the youth as soon as possible and when it is safe to do so. Licensed health care professionals are the only staff authorized to accept a youth’s refusal of a medical evaluation after a use of force incident.

In addition, the behavioral health clinician must assess each youth involved in the use of force incident to determine if follow up counseling is required.

### **Parent(s)/Guardian(s)/Person(s) standing in loco parentis**

The Incident Commander is responsible for notifying, via telephone, the parent(s)/guardian(s)/person(s) standing in loco parentis of all youth who had a physical intervention option applied to them. The Incident Commander must make a bona fide attempt to reach each guardian of each youth. If the Incident Commander is unable to reach a live person, a voice message may be left. The Incident Commander must relay the following information:

- A brief description of the circumstances surrounding the use of force incident;
- Any injuries sustained by the youth;
- Medical and mental health services provided to the youth;
- Any verbal counseling or cognitive exercises/interventions provided to the youth; and
- Contact information for the Duty IS II for any follow up questions.

### **Deputy Probation Officer**

The assigned DPO of any youth that had force applied to them or contributed to the circumstances that resulted in the use of force incident must be notified via email by the Incident Commander. The email must include the time, date and persons involved in the use of force incident, incident report number, and a brief description of the circumstances surrounding the use of force event. If a youth does not have an assigned DPO, the Incident Commander must email the information to the supervisor of the intake unit.

## **Follow-up to a Use of Force Incident**

### **Debriefing**

Debriefing after a use of force incident can be an effective tool to learn about the well-being of the youth and staff. Debriefing can also be a valuable tool in determining what factors may have caused the event, helping to evaluate the effectiveness of interventions utilized, and proactively mitigating future events. Debriefing is not intended to be a substitute for normal review and investigative processes. Issues arising

from a use of force incident that may result in corrective or disciplinary action must not be discussed at the debriefing. Behavior that could lead to corrective/disciplinary action must be documented in the Supervisor's Incident Report and discussed with the Superintendent or their designee. Debriefing is an integral part of a program's efforts to reduce the need for force and must occur as soon as practical and safe to do so.

A staff debriefing may occur at any location conducive to dialog and, if possible, should occur prior to the involved staff going off duty. Debriefings do not need to be lengthy in duration so long as the involved staff have an opportunity to comment on and receive feedback regarding the use of force incident. It is the responsibility of the Incident Commander to lead and organize the debriefings. Any additional questions, comments or concerns stemming from the debriefing should be routed up the chain of command to the Superintendent via a memorandum from the Incident Commander.

If possible, debriefings should include an interview with involved youth to get their perspective regarding the following:

- What happened?
- Why did it happen?
- Could staff have done anything to prevent the incident?

The interview must be conducted by the Incident Commander after the use of force event has resolved and it is safe to do so. If the youth provided information during the interview, the Incident Commander is responsible for sharing this information during the staff debriefing. Note: This interview is not intended to take the place of any required Brief Intervention Tools as required in Juvenile Hall Manual Section 1354.5, *Room Confinement and Reintegration and Safety Plan*.

The Incident Commander has the discretion to involve other staff in the debriefing if their inclusion will assist in the discussion of the incident (i.e., arrest control instructor, behavioral health clinician, etc.). The Debriefing must be documented by the Incident Commander in the Incident Report.

### **Documentation**

Any staff who uses force or observes a use of force on a youth must immediately report the use of force to a supervisor and submit a completed *Incident Report* (ACPD Form 87) to the IS I or IS II prior to going off duty. Staff must write the incident report utilizing their own memory and account of events and should not collaborate with other staff

in the preparation of reports. The one exception to this requirement is that staff may contact Central Control to confirm radio communication times (such as when a Code or Supervisor was called). The report must identify the time, date, and location of the incident as well as the staff and youth involved, and any witnesses to the incident. If the following information is known to the report writer, it should be included in the incident report, along with any of the following additional information that will assist in evaluating the use of force incident:

- The circumstances giving rise to the use of force
- De-escalation attempts utilized
- The nature and degree of the force used
- Description of the youth's level of resistance
- If OC was used, identify from what distance it was deployed
- Injuries sustained during the use of force
- Aid rendered to the youth after force was used
- If necessary, the decontamination procedures applied
- Reason for the sworn staff's intervention
- Youth's actions and statements prior to use of force
- What the sworn staff was thinking and perceiving at the time, and what the sworn staff did, including all verbal instructions/commands
- A clear and factual rationale for the use of force
- Type and amount of force used to overcome resistance
- A description of the use of force and the results obtained
- Observable injuries
- Time of supervisory notification and to whom
- Time of medical and behavioral health clinician notification and to whom
- Time the parent(s)/guardian(s)/person(s) standing in loco parentis and DPO were notified and by whom
- Time and persons involved in debriefing
- Witness statements
- Evidence collected if applicable, including photos

In addition to the Incident Report, the following forms, if applicable, must be completed by the staff designated below and included in the final Incident Packet (reference Juvenile Hall Manual Section 1362, *Incident Packets*, for more information).

- *Participant or Witness Statement* (ACPD Form 90) - To be completed by other youth or persons not employed by the ACPD.

- *Use of Mechanical Restraint(s) Form* (ACPD Form 120) - To be completed by the JIO and signed off by the IS I, IS II and medical staff.
- *Notice of Injury to Youth* (ACPD Form 88) - To be completed by the JIO and medical staff.
- *Department of Justice Oleoresin Capsicum (OC) Application Report* - To be completed by the JIO and signed off by the IS I and IS II.

### Department of Justice Reporting

In accordance with Government Code Section 12525.2, the ACPD must submit use of force incident data to the Department of Justice (DOJ) annually. Information may be submitted electronically via a web-based data collection system known as URSUS (the DOJ's Use of Force Data Reporting System). In support of this requirement, the Adult Field Services Division submits one (1) entry for all ACPD Divisions (i.e., Adult Field Services, Juvenile Field Services, and Juvenile Facilities).

For the Juvenile Facilities, the Deputy Chief Probation Officer (DCPO) of Juvenile Facilities must submit the following information to the DCPO of Adult Field Services:

- Any incident in which the use of force by sworn staff against a youth results in serious bodily injury or death; and
- Any incident in which use of force by a youth against sworn staff results in serious bodily injury or death.

### Right to Grieve Use of Force

Any youth subject to a use of force has the right to grieve the use of force, as outlined in Juvenile Hall Manual Section 1361, *Grievance Procedure*.

### Unnecessary or Excessive Use of Force

Any sworn staff witnessing inappropriate use of force on a youth must intervene by verbal and/or physical action. An attempt to stop such use of force may be made verbally or by application of force, provided that such application of force will not create a substantial risk of death or serious bodily injury to the youth or staff. In addition, any ACPD staff witnessing, or having knowledge of, inappropriate use of force is required to immediately report the incident to the duty IS II. Notification must be verbal and followed up in writing via an *Incident Report* (ACPD Form 87), which must be completed prior to the staff going off duty.

#### DUTY TO INTERVENE

Any sworn staff witnessing inappropriate use of force on a youth must intervene by verbal and/or physical action.



The seriousness of the inappropriate use of force incident may require that staff complete a Suspected Child Abuse Report pursuant to the Administrative Manual Section 113, *Reporting of Suspected Child Abuse or Neglect*.

## Administrative Review

Each individual use of force incident must be evaluated at both supervisory and management levels to determine if the force used was both appropriate and lawful under applicable laws, regulations, policy, procedures, and training.

### Factors Used to Determine the Reasonableness of Force

When determining if applying force is necessary and in evaluating whether a sworn staff has used reasonable force, several factors should be taken into consideration. These factors include, but are not limited to:

- The immediacy and severity of the threat to sworn staff or others;
- The conduct of the individual being confronted, as reasonably perceived by the officer at the time;
- Sworn staff/youth factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, and the number of officers available vs. youths);
- The effects of drugs or alcohol on the youth;
- The youth's mental state or capacity;
- The proximity of weapons or dangerous improvised devices;
- The degree to which the youth has been effectively restrained and their ability to resist despite being restrained;
- The availability of other options and their possible effectiveness;
- Seriousness of the suspected offense or reason for contact with the youth;
- The training and experience of the sworn staff;
- The potential for injury to officers, youth, and others;
- Whether the youth appears to be resisting, attempting to evade arrest by flight, or is attacking the sworn staff;
- The risk and reasonably foreseeable consequences of escape;
- Whether the conduct of the youth being confronted no longer appears to pose an imminent threat to the officer or others;
- Prior contacts with the subject or awareness of any propensity for violence;

- The apparent need for immediate control of the youth or a prompt resolution of the situation; and/or
- Other exigent circumstances.

### Supervisors' Review of Use of Force Incidents

#### INCIDENT REVIEW

All Use of Force Incidents must be reviewed by an IS I and IS II as soon as practical, but prior to the end of their workday.

All use of force incidents must be reviewed by an IS I and IS II as soon as practical, but prior to the supervisor going off duty. The IS I and IS II must ensure all staff involved in or observing a use of force incident submit an *Incident Report* (ACPD Form 87). The review must include a viewing of all available video surveillance.

The IS I and IS II must review each JIO incident report for content and accuracy, and to ensure the report contains enough detail related to the use of force incident. If additional information or clarification surrounding an incident is required, the IS I and/or IS II must maintain the original report and direct the staff to complete an amended report to clarify and/or expand upon the information provided.

In addition, the IS I and IS II must provide a critique of the use of force incident. The following information must be documented in the critique:

- Whether sworn staff actions prior, during, and after the use of force incident were in compliance with ACPD policy, procedures, and training;
- Any alternatives to force used (i.e., additional sworn staff, referral to behavior health clinician, verbal counseling, etc.);
- Whether any crisis prevention and intervention techniques were used prior to the use of force incident;
- The date and time surveillance footage was viewed and if the video corroborates what is contained within the incident report;
- Any injuries sustained by staff or youth and type of injury; and
- Any behavior by staff that could lead to corrective/disciplinary action.

The critiques must also contain a definitive statement regarding the supervisor's opinion on whether policy, procedure, and training were followed as well as if the force used was reasonable and necessary (including an analysis between the amount of force used in comparison to the amount of resistance encountered). A recommendation for additional training, if any, must also be provided. If any supervisor suspects a case of excessive or unnecessary use of force may have occurred, the supervisor must indicate this in the critique and immediately notify the Superintendent, or their designee, as well as the Use of Force

Coordinator (UFC) via email and verbally, if possible. The subject line of the email must read, "Use of Force Incident: Urgent". The supervisor's critique must be completed by the IS I and IS II prior to going off duty.

Note: Any instance of a youth sustaining a serious injury, including a serious injury sustained as a result of the application of force, must be reported to the Superintendent as soon as possible. It should be noted any instance of a youth sustaining a serious injury is considered a Critical Incident, pursuant to the Administrative Manual, Section 133, *Critical Incident Reporting Process*.

### Superintendent and Deputy Chief's Review

The Superintendent must review all Incident Report Packets within seven (7) business days of submission and conduct a thorough analysis of the use of force incident to determine if the force used was within the guidelines of ACPD policy, procedures, training and lawful under applicable laws and regulations. The Superintendent must also verify that all staff involved in or observing a use of force incident submitted reports and that all levels of supervisors provided a thorough critique.

In instances where staff violated policy, procedures, and/or training standards, but there are no allegations of excessive or unnecessary use of force, the Superintendent must submit a memorandum to the UFC and DCPO within five (5) business days of reviewing the Incident Packet. The memorandum must include the staff's training record, any known history of counseling and corrective action related to use of force and a recommendation for corrective action, if any, and/or training remediation. The DCPO must decide whether to follow the Superintendent's recommendation, impose an alternative resolution, or refer the incident to the Executive Use of Force Review Committee (EUFRC). The DCPO must be responsible for informing the UFC of their final decision. However, the UFC maintains authority to refer the matter to the EUFRC as part of their regular duties.

Use of force incidents deemed to be within policy, where no further action is required, must be forwarded to the DCPO and UFC by the Superintendent within five (5) business days.

## Superintendent and DCPO's Responsibilities: Excessive or Unnecessary Use of Force

In any case where a supervisor contacted the Superintendent with an allegation of unnecessary or excessive use of force, the Superintendent must review the Incident Report Packet within one (1) business day, utilizing all available information, including video surveillance. Regardless of how the Superintendent became aware of the allegation (reported or independent determination), the Superintendent is responsible for gathering information and making a recommendation regarding whether an internal investigation is warranted by the Professional Standards Unit (PSU).

The Superintendent must, within two (2) business days of becoming aware of any allegation of excessive or unnecessary use of force, notify the UFC, Director of Professional Standards, DCPO of Facilities, Assistant CPO of Juvenile, and the CPO. This notification must be through memorandum and include the complete Incident Packet, a summary of what occurred during the use of force incident, any steps taken to immediately address the situation (i.e., medical care provided to the youth, reported to law enforcement, etc.), the staff's training record, any known past history of corrective or disciplinary action related to use of force and a recommendation regarding whether a PSU investigation should be opened. The UFC is responsible for downloading video surveillance footage and presenting the video directly to the CPO.

The CPO is responsible for determining if a PSU investigation should be opened to investigate the allegation. The CPO may convene the EUFRC Committee to assist in the determination. Allegations of excessive or unnecessary use of force may be referred to the Alameda County Sheriff's Office for investigation and/or to the District Attorney's Office for prosecution.

Any sustained allegation of retaliation, the willful abuse of a youth and/or the deprivation of their rights by any sworn staff under the color of law or color of authority will be subject to disciplinary action, up to and including, termination and possible prosecution based on the severity of the act.

## Use of Force Oversight and Review Committee

### Use of Force Coordinator (UFC)

The UFC is responsible for coordinating materials for the use of force committee and verifying staff, at all levels, are adhering to the policies, procedures and training requirements related to the use of force. The UFC reports directly to the CPO and has the authority and responsibility to review each use of force incident, including associated video surveillance, to provide quality assurance over the ACPD use of force review process. The UFC must also be granted access to staff training records, personnel records, corrective action and disciplinary records/files and facility data regarding incidents of use of force.

The UFC has the following responsibilities:

- Attend training and maintain certification in all Juvenile Facilities-required use of force trainings, including the use of chemical restraints;
- Read the contents of each Incident Report Packet and view all available video surveillance;
- Identify and make an independent determination regarding potential cases of excessive/unnecessary use of force and promptly report the cases to executive management (DCPO, Assistant CPO, and CPO);
- When an allegation of excessive/unnecessary use of force occurred, download and present video surveillance to the CPO;
- Verify that staff, including JIOs, IS Is/IS IIs and the Superintendent are adhering to the reporting and review procedures outlined in this policy;
- Provide a monthly report to the CPO regarding the facilities compliance with policies, procedures and training requirements related to use of force; and
- Recommend use of force incidents for review by the EUFRC.

When conducting a review of a use of force incident, the UFC must utilize the criteria identified under the Administrative Review section of this policy to determine if the use of force was objectively reasonable, appropriate and necessary given the circumstances and information available. The UFC must evaluate the actions of staff before, during and after a use of force incident.

The UFC must, within two (2) business days of becoming aware of any potential case of excessive or unnecessary use of force by an ACPD staff (which has not already been reported to administration by the

Superintendent), notify the Superintendent, Director of Professional Standards, DCPO of Facilities, Assistant CPO of Juvenile, and the CPO. The notification must be through a memorandum and include the complete Incident Packet, a summary of what occurred during the use of force incident, any steps taken to immediately address the situation (i.e., medical care provided to the youth, reported to law enforcement, etc.), the staff's training record, staff's past known history of corrective action and/or disciplinary actions related to the use of force, and a recommendation on whether a PSU investigation should be opened.

The UFC is the primary facilitator of the EUFRC. Any member of EUFRC wishing to discuss or screen an incident of use of force must refer the incident to the UFC. The UFC must gather all relevant materials, including Incident Report Packets and video surveillance, and forward the materials to EUFRC members prior to any meeting. The UFC must be responsible for scheduling EUFRC meetings monthly and at the CPO's discretion.

### **Executive Use of Force Review Committee (EUFRC)**

The EUFRC consists of a team designated by the CPO and tasked with evaluating if staff actions are in accordance with the ACPD *Use of Force* policy and training standards. For each use of force incident, all levels of staffing must be evaluated to verify that line staff, supervisors and managers are adhering to this policy. The EUFRC must also make recommendations regarding training, follow up actions and revisions to policies, procedures, and practices necessary to reduce use of force incidents, ACPD liability and injuries.

The EUFRC will be comprised of the following members or designees:

- CPO and/or Assistant CPO of Juvenile (who must serve as the Chair)
- DCPO of Juvenile Facilities
- Superintendent/Assistant Superintendent of the Juvenile Hall and Camp Wilmont Sweeney
- Director of the PSU
- Chief of Policy and Standards Compliance
- Training Manager
- UFC (who must serve as facilitator)
- External subject matter expert(s) or stakeholders, as determined by the CPO

The EUFRC will review use of force incidents that include, but are not limited to, the following criteria:



- Serious youth-on-youth assault
- Serious youth-on-staff assault
- Group disturbances
- Allegations of excessive or unnecessary force
- Self-injurious behaviors or suicide attempt
- Serious injury to youth or staff as a result of force
- Use of force on a youth with a Mental Health designation or identified disability
- Use of force identified in the supervisor's critique as being outside of policy
- Any other use of force incident deemed of interest by the facilities' administration, PSU, CPO, or other members of the EUFRC committee

The EUFRC must meet monthly, or as required, depending on the number of identified referrals. The EUFRC must review Incident Packets and available video surveillance footage (provided by the UFC) to answer the following questions:

- Were the accounts provided in the incident reports consistent with video surveillance footage?
- Did the supervisors provide an adequate critique of the use of force incident utilizing the factors outlined within this policy?
- Did all staff involved in the use of force (as identified in surveillance footage) complete an incident report?
- Was the use of force appropriate, reasonable, and necessary?
- Was the use of force in compliance with policy and consistent with training?
- Were staff actions prior, during and after the use of force occurrence in compliance with ACPD policy, procedures, training and were the actions lawful under applicable laws and regulations?
- Are there gaps in training that may assist in reducing future use of force incidents or in preventing injury?
- What follow up actions or training are necessary to remedy any identified deficits or problems?

The UFC must be responsible for scheduling, recording minutes and maintaining a sign in sheet for all EUFRC meetings as well as assigning and tracking any action items.

## Electronic Maintenance of Records

All use of force Incident Reports and Incident Packets must be maintained in an electronic database for record keeping purposes. Said records must be maintained pursuant to government standards for the retention of records. In addition, for each use of force incident the following information must be inputted into a database or record management system:

- Incident type (assault, battery, group altercation, disturbance, mutual combat, etc.)
- Type of force used (technique)
- If mechanical restraints were used
- If OC spray was used
- If room confinement was utilized as a result of the use of force incident
- Location of incident
- Date and time of incident
- Youth involved
- If the youth had a mental health designation or identified disability
- Staff who applied force
- All related critiques pertaining to the use of force incident
- All findings related information to determine if the use of force was lawful under applicable laws, regulations, policy, procedures, and training

The database must be capable of producing various statistical reports to be utilized by managers to evaluate trends, reasons for the application of force, and the factors involved. The Superintendent must be responsible for ensuring use of force information is accurately and consistently recorded in the database.

## Training

Sworn staff must be trained in ACPD-approved physical intervention and restraint techniques that restrict mobility or movement and disengage the youth from harmful physical contact. In addition, all sworn staff must be trained in de-escalation techniques and all other training elements outlined in Penal Code Section 13519.10 to include a review of this policy and guidelines regarding vulnerable populations such as children, elderly persons, pregnant women, and people with physical, mental, and developmental disabilities.

Additionally, training must include, but is not limited to, the following topics:

- Known medical and behavioral health conditions that would contraindicate certain types of force;
- Acceptable chemical agents and the methods of application;
- Signs or symptoms that should result in immediate referral to medical or behavioral health;
- Instruction on the Constitutional Limitations of Use of Force; and
- Physical training force options that may require the use of perishable skills.

All sworn staff must participate in initial training upon assignment to include, but not limited to, the Use of Force for Facilities, OC Training, and the Natural Response Control Tactics (NRCT) modules.

Initial training must consist of sixteen (16) hours and cover the topics identified above. Regular update training must consist of sixteen (16) hours, occur annually, and cover the topics identified above.

### Citizen Complaints

Citizens may submit complaints to ACPD in accordance with the Administrative Manual, Section 116, *Citizen Complaint Process*.

### Disclosure of Public Record

If the incident involved the use of force resulting in death or great bodily injury, personnel records, if requested, may be disclosed as a public record in accordance with Penal Code Section 832.7, and the California Public Records Act.

### Review of Policy

This policy must be reviewed on a regular basis and updated to reflect any developing procedures regarding the use of force.



## USE OF FORCE CONTINUUM DIAGRAM (Juvenile Facilities)

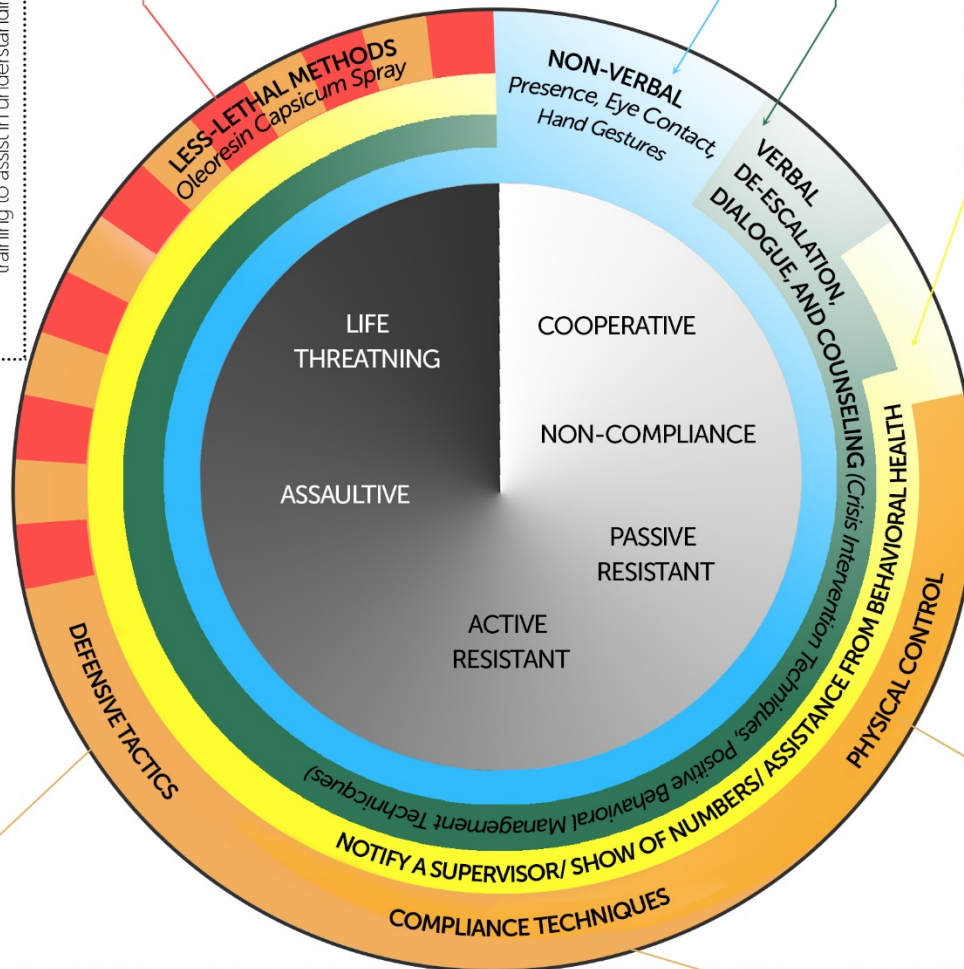
The deployment of Oleoresin Capsicum (OC). OC may cause serious bodily injury and is only authorized for use against assaultive and life-threatening resistance. Note: Sworn must exercise extreme caution when utilizing any physical intervention option on a youth known to be; pregnant; suffering from a serious medical condition (e.g., respiratory condition, asthma, or other condition that could contribute to the youth sustaining serious bodily injury or death as a result of the use of a physical intervention), youth taking psychotropic medication; or having a physical, mental, or developmental disability.

Non-physical intervention option which is employed to gain compliance with all levels of resistance. Verbal Commands should be clear and understandable. Verbal commands also include de-escalation dialogue, verbal counseling, and crisis intervention and positive behavioral management techniques. If feasible, and safe to do so, verbal commands/de-escalation techniques should be issued prior to the use of a physical intervention option.

**DISCLAIMER**  
Note: this Use of Force Continuum Diagram is intended as a visual guide and not a substitution for the guidelines contained within the Juvenile Facilities Manual Section 1357, Use of Force policy, nor does it replace the instruction and information provided in training. Officers have a responsibility to review the department's Use of Force policy and attend training to assist in understanding this guide.

A non-physical intervention option that includes, officer presence, eye contact, and hand gestures. Officer presence is always in effect regardless of level of resistance. Eye contact and hand gestures are options that may be utilized to communicate commands to cooperative persons and may also prevent the need for the use of a physical intervention option.

Calling for assistance can take the form of requesting additional sworn staff, calling a supervisor, or requesting assistance from behavioral health. Calling for assistance is a non-physical intervention option that can be used when encountering all levels of resistance. The goal of calling for assistance is to attempt to de-escalate the situation by bringing more resources to the scene. If feasible, and safe to do so, calling for assistance should be considered prior to the use of a physical intervention option.



A physical intervention option that includes, control holds, arrest control, takedowns, and personal body weapons. This level of force is used on assaultive and life-threatening resistance and may also be used on active resistance (if objectively reasonable based on the totality of circumstances).

A low-level physical intervention option that entails using control holds and arrest control. These techniques are not intended to cause injury but use body mechanics and leverage to gain compliance and movement. This level of force is used on active resistance, and passive resistance (if objectively reasonable based on the totality of circumstances).

The lowest level physical intervention option which entails physically maneuvering an engaged person's body. This may include physically moving a person's body and/or limbs, escorting the person or using a firm grip. This level of force is not intended to cause pain or injury and is used on non-compliance or passive resistance.