

POLICY OF STATE OF DELAWARE DEPARTMENT OF CORRECTION	POLICY NUMBER 8.30	PAGE NUMBER 1 of 3
	RELATED ACA STANDARDS: 4-4090, 4-4202, 4-4203, 4-4206, 4-4190, 4-4191, 4-4281; 4-ACRS-2B-01, 4-ACRS-2B-03; 4-APPFS-3B-02, 4-APPFS-3B-06, 2-CO-3A-01, 4-APPFS-3G-01, 4-APPFS-3G-02	
CHAPTER: 8 ADMINISTRATION	SUBJECT: USE OF FORCE	
APPROVED BY THE COMMISSIONER AND EFFECTIVE THIS DATE:		
		
APPROVED FOR PUBLIC RELEASE		

I. AUTHORITY: 11 *Del. C.* § 464-471, 6517; 29 *Del. C.* § 8903

II. PURPOSE: It is the intent of the Department of Correction (DOC) to provide a single source of reference for its employees concerning the authorization, documentation and control of the use of physical force by Department employees. Employees of the Department may encounter situations that necessitate the use of physical force or a weapon to provide for the safety and welfare of the public, departmental employees, contractors, offenders and themselves. All employees are responsible for understanding existing procedures and directives concerning the use of force and reporting requirements.

III. APPLICABILITY: To Department employees, volunteers, persons or organizations conducting business with the Department.

IV. DEFINITIONS:

Use of Force: An action involving direct or indirect physical contact as employed by Department staff to obtain compliance of offenders and other individuals with orders from staff to (1) control disruptive or violent offenders, (2) enforce or restore order, (3) defend oneself against unwanted physical contact or harm, (4) protect other persons from imminent death, serious bodily harm, or physical harm, (5) protect state property, (6) prevent escapes or capture escaped/ing inmates, (7) administer non-emergent and emergent involuntary medications prescribed by a qualified health professional and (8) apply clinical or therapeutic restraints authorized by a qualified health professional.

Deadly Force: Means of force causing, or that a person knows or should know, would create a substantial risk of causing, death or serious bodily harm.

Indirect Contact: Contact employed by Department staff that is achieved through some intervening medium such as impact weapons, OC Spray, Electronic Immobilization Devices (EID), Canine and Firearms.

Significant Incident Review Board (Board): Responsible for reviewing significant use of force incidents to determine if a matter should proceed administratively or be referred for criminal investigation, either internally (*i.e.*, Internal Affairs) or by an outside agency (*e.g.*, the Delaware State Police). The Board consists of the following members: Deputy Commissioner, Bureau Chief of Prisons, Bureau Chief of Community Corrections, Bureau

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Chief of Healthcare Services and the Human Resources Director. The Board shall meet as often as is necessary to ensure that matters are reviewed and referred as promptly as possible.

- V. POLICY:** The Department recognizes that offenders may at times demonstrate violent and destructive behaviors that may seriously endanger the health and safety of staff, offenders or the public. It is understood that the need to use force occurs most often in situations that are unplanned and unanticipated. Split-second decision making is often necessary. The Department has adopted the attached Use of Force Model to guide staff in making use of force decisions. The Use of Force Model identifies a graduated approach to the use of force in situations that may be experienced by employees. All employees responsible for offender supervision are trained regarding the Use of Force Model and this policy as a means to reduce and prevent the need to use force and to establish guidelines of reasonableness when force is required.

The use of force must be reasonable under the circumstances, and should be used only when no other reasonable alternative is available. If possible, staff shall take reasonable steps to deescalate a situation or otherwise prevent the need to use of force. The use of force may not be used as a retaliatory or disciplinary measure.

The use of deadly force is a last resort and is authorized only when there is an imminent threat to human life or serious physical injury that cannot be prevented by any other available means. The use of deadly force is prohibited when it presents a substantial risk of injury to bystanders or other persons not involved in or related to the need for the use of force. Whenever the use of deadly force is a planned response to inmate actions, and time permits, the respective Bureau Chief and/or the Commissioner shall be consulted.

In accordance with Delaware Code, a guard (Department of Correction, Correctional Officer) or other person authorized to act as a peace officer is justified in using any force, including deadly force, which the person believes to be immediately necessary to prevent the escape of a person from a jail, prison or other institution for the detention of persons charged with or convicted of a crime. This section of the policy applies to offenders housed at Howard R. Young Correctional Institution, Baylor Women's Correctional Institution, James T. Vaughn Correctional Center, Sussex Correctional Institution, and all offenders under the supervision of the Court and Transportation Unit.

Deadly force shall not be used to prevent an escape from any Level IV community confinement facility, nor from any Probation and Parole office, unless there is a threat of death or serious physical injury by the person escaping.

If possible, staff should consider the age, gender, health and mental status prior to the use of force. Medical conditions such as pregnancy, respiratory ailments, advanced age, or physically debilitating diseases may create an increased risk of serious injury and, if known, should be factored into the decision as to the appropriate amount and type of force to use.

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The Delaware Automated Correctional System (DACS) shall serve as a mechanism to track use of force incidents by type, location, and employee.

The DOC prohibits the use of restraint techniques that cause or could cause partial or complete impairment of respiratory exchange, such as the “hogtie” position, or certain restraints on the neck.

Security personnel are authorized to use force to administer clinical therapeutic restraints upon receiving prior authorization from and within the guidelines of *DOC I-01.1: Use of Clinical Therapeutic Restraints*.

Security personnel are authorized to use force to assist clinical personnel while they administer emergent and non-emergent involuntary medications in accordance with *DOC I-02: Emergency Psychotropic Medication and DOC I-02.1: Non-Emergency Involuntary Medication Administration*.

Physical instruments of restraint (handcuffs, Shackles, chains, etc.) of any type shall not be applied as punishment.

A program of training will accompany the use of deadly and non-deadly force tactics and equipment.

Use of excessive force by Department employees or other persons is prohibited. Any violation of this policy may result in disciplinary action, up to and including termination.

Personnel involved in or witness to a use of force incident shall submit written reports to their chain of command no later than the conclusion of their tour of duty when any of the following occur:

- A. discharge of a firearm or other weapon;
- B. use of force to control offenders and other individuals; or
- C. offender(s) remain in restraint at the end of the shift

Each Bureau which is responsible for the custody and/or supervision of offenders shall be responsible for establishing procedures to implement this policy. These procedures must include the following:

- A. weapons training, certification and re-qualifications for all authorized staff;
- B. provisions requiring prompt medical review and, if appropriate, treatment of persons injured in a use of force incident; and
- C. a review process for all incidents involving the use of force.

Integrated Use of Force Model

The Use of Force Paradigm for Enforcement and Corrections

