

## Custodial Operations Policy and Procedures

### 13.7 Use of force

#### Policy summary

Correctional officers must use alternative non-physical methods to resolve problematic behaviour whenever possible. A peaceful, injury-free solution is the principal objective. The use of force is an option of last resort.

A correctional officer may use no more force than is reasonably necessary in the circumstances, and the extent and nature of the force will be dictated by the situation and must be limited to that necessary for control and protection.

A correctional officer may use force for the maintenance of good order, discipline and security of the correctional centre. This extends to restraint of an inmate for compulsory medical treatment where it is necessary to save life or prevent serious harm to the inmate's health. Every use of force must be reported and reviewed.

A correctional officer may use force if reasonably necessary when exercising stop, detain and search functions under the *Crimes (Administration of Sentences) Act 1999*. This extends to the arrest of persons who have or are reasonably suspected of having committed an offence under Part 13A of the Act.

#### Management of Public Correctional Centres Service Specifications

Service specification	Professionalism and accountability Safety and security
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## Scope

This section applies to all correctional centres and other facilities administered by or on behalf of Corrective Services NSW (CSNSW).

It also applies to all CSNSW employees, and where relevant to other personnel such as, Justice Health & Forensic Mental Health Network (JH&FMHN), contractors, subcontractors, and visitors.

For Security & Intelligence (S&I) staff, this policy must be read in conjunction with S&I Local Operating Procedures (LOPs).

Requirements to upload data to evidence.com or share evidence from evidence.com may not apply to privately managed correctional centres who may have their own evidence management system and processes in place.

While it is not mandated that privately managed correctional centres use evidence.com, other aspects of this policy document must be complied with. If there is any conflict with process related matters described in this document, and where there is reference to specific CSNSW business units, privately managed correctional centres should seek further advice from the relevant contract management team.

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# 1 Legislation

## 1.1 Crimes (Administration of Sentences) Regulation 2014

Part 6 Division 3 of the *Crimes (Administration of Sentences) Regulation 2014* ('the Regulation') concerns the maintenance of order and discipline in correctional centres:

### 129 Maintenance of order and discipline generally

- (1) Order and discipline in a correctional centre are to be maintained with firmness, but with no more restriction or force than is required for safe custody and well-ordered community life within the centre.
- (2) A correctional officer must endeavour to control inmates by showing them example and leadership and by enlisting their willing co-operation.
- (3) At all times, inmates are to be treated in a way that encourages self-respect and a sense of personal responsibility.

### 130 Directions relating to order or discipline

- (1) Directions for the purpose of maintaining good order and discipline:
  - (a) may be given to inmates by the Commissioner, by the Governor of a correctional centre or by a correctional officer, and
  - (b) may be given orally or in writing.
- (2) An inmate must not refuse or fail to comply with a direction under this clause.

**Note.** Failure by an inmate to comply with this subclause is a correctional centre offence.

### 131 Use of force in dealing with inmates

- (1) In dealing with an inmate, a correctional officer may use no more force than is reasonably necessary in the circumstances, and the infliction of injury on the inmate is to be avoided if at all possible.
- (2) The nature and extent of the force that may be used in relation to an inmate are to be dictated by circumstances, but must not exceed the force that is necessary for control and protection, having due regard to the personal safety of correctional officers and others.
- (3) If an inmate is satisfactorily restrained, the only force that may be used against the inmate is the force that is necessary to maintain that restraint.
- (4) Subject to subclauses (1)–(3), a correctional officer may have recourse to force for the following purposes:
  - (a) to search, if necessary, an inmate or to seize a dangerous or harmful article,
  - (b) to prevent the escape of an inmate,
  - (c) to prevent an unlawful attempt to enter a correctional centre by force or to free an inmate,
  - (d) to defend himself or herself if attacked or threatened with attack, but only if the officer cannot otherwise protect himself or herself from harm,

- (e) to protect other persons (including correctional officers, departmental officers, inmates and members of the public) from attack or harm, but only if there are no other immediate or apparent means available for their protection,
  - (f) to avoid an imminent attack on the correctional officer or some other person, but only if there is a reasonable apprehension of an imminent attack,
  - (g) to prevent an inmate from injuring himself or herself,
  - (h) to ensure compliance with a proper order, or maintenance of discipline, but only if an inmate is failing to co-operate with a lawful correctional centre requirement in a way that cannot otherwise be adequately controlled,
  - (i) to move inmates who decline or refuse to move from one location to another in accordance with a lawful order,
  - (i1) to allow a medical practitioner to carry out medical treatment on an inmate in accordance with section 73 of the Act,
  - (i2) to allow treatment (including any medication) to be given to an inmate in accordance with section 84 of the *Mental Health Act 2007*,
  - (j) to achieve the control of inmates acting defiantly,
  - (k) to avoid imminent violent or destructive behaviour by inmates,
  - (l) to restrain violence directed towards the correctional officer or other persons by an uncontrollable or disturbed inmate,
  - (m) to prevent or quell a riot or other disturbance,
  - (n) to deal with any other situation that has a degree of seriousness comparable to that of the situations referred to in paragraphs (a)–(m).
- (5) Subclause (4) does not limit the operation of any law with respect to the force that may be used to effect an arrest.

### **132 Use of equipment for restraining inmates**

- (1) With the concurrence of the Governor, a correctional officer may use handcuffs, security belts, batons, chemical aids and firearms for the purpose of restraining inmates.
- (2) With the concurrence of the Commissioner, a correctional officer may also use the following equipment for the purpose of restraining inmates:
  - (a) anklecuffs,
  - (b) other articles, other than chains or irons, approved by the Commissioner for use for that purpose.

### **133 Report on use of force**

- (1) Any correctional officer who uses force on an inmate must immediately give a report about the use of force to the Governor.

- (2) The report must:
  - (a) be in writing, and
  - (b) specify the name or names of the inmate or inmates and the name or names of the correctional officer or correctional officers involved in the use of force, and
  - (c) specify the location where the force was used, and
  - (d) describe the nature of the force used and the circumstances requiring its use, and
  - (e) be signed by each correctional officer involved in the use of force.
- (3) This clause does not require a correctional officer to include information in a report if it is impossible or impracticable for the officer to obtain the information.
- (4) This clause does not apply in respect of:
  - (a) a threat of the use of force, or
  - (b) the use of an instrument of restraint in circumstances where:
    - (i) the inmate is restrained for the purposes of being moved from one location to another, and
    - (ii) the move and use of the restraint is required to be noted administratively.

### **303 Authority to discharge firearms**

- (1) A correctional officer may discharge a firearm:
  - (a) to protect the officer or any other person if the officer believes on reasonable grounds that there is a substantial probability that the officer or other person will be killed or seriously injured if the officer does not discharge the firearm, or
  - (b) if the officer believes on reasonable grounds that it is necessary to do so in order:
    - (i) to prevent the escape of an inmate, or
    - (ii) to prevent an unlawful attempt to enter a correctional centre or to free an inmate, or
    - (iii) to attract the immediate attention of correctional officers or other persons to a serious breach of correctional centre security that has arisen or is likely to arise, or
  - (c) to give a warning in accordance with this Regulation.
- (2) Despite subclause (1), a correctional officer must not discharge a firearm at a person if the officer has reasonable grounds to believe that the shot may hit a person other than the person at whom it is directed.

### **304 Warnings**

- (1) A correctional officer must not discharge a firearm in the direction of a person unless the officer has first given a warning to that person of the intention to fire.
- (2) For the purposes of subclause (1), and without prejudice to any other way in which a warning may be given, a warning shot is a warning.



- (3) A warning shot must be fired in a direction in which no one is likely to be hit by it.
- (4) A correctional officer may, without giving a warning, discharge a firearm in order to protect the officer or any other person if of the opinion that:
  - (a) there is a substantial probability that the officer or other person will be killed or seriously injured if the officer does not do so, and
  - (b) a warning would only increase that probability.

### **305 Notice of discharge**

- (1) A correctional officer who discharges a firearm while on duty at a correctional centre, otherwise than while taking part in:
  - (a) an approved training course, or
  - (b) a firearms practice exercise authorised by the Governor, or
  - (c) an activity connected with a training course or practice exercise referred to in paragraph (a) or (b),must notify the Governor of the circumstances in which it was discharged.
- (2) A correctional officer who discharges a firearm while on escort duty must notify a police officer and:
  - (a) the Governor of the correctional centre at which the officer is usually on duty, or
  - (b) if the correctional officer is a member of a Security Unit, the officer in charge of that Unit,of the circumstances in which it was discharged.
- (3) On being notified, the Governor or the officer in charge of the Security Unit is to report the circumstances of the discharge to the Commissioner.
- (4) On receiving the report the Commissioner may hold an inquiry into the discharge.
- (5) The Commissioner must submit a full report of the findings of any inquiry to the Minister.

### **319B Powers of correctional officers—restraint of visitors**

For the purposes of section 253MA(4) of the Act, flexicuffs are prescribed.

## **1.2 Weapons Prohibition Act 1998**

Schedule 1 of the *Weapons Prohibition Act 1998* ('WP Act') lists 'handcuffs' (including ankle cuffs), 'body armour vests', 'extendable or telescopic baton' (expandable baton), and 'anti-personnel spray' such as 'CS' and 'OC' as prohibited weapons.

Section 6(2) of the WP Act provides that a person is not guilty of an offence under the WP Act or regulation only because of something done by the person while acting in the ordinary course of the person's duties as a correctional officer, police officer, special constable, or member of the armed forces. This means that correctional officers, like police officers, are allowed to possess and use schedule 1 weapons such as handcuffs in the ordinary course of their duties.

Section 6(3) provides that an employee or officer of a government agency is not guilty of an offence against Part 2 of the WP Act for possession of a prohibited weapon which the officer lawfully seized in the course of the officer's duties (e.g. an offensive weapon seized by an officer pursuant to section 253I of the *Crimes (Administration of Sentences) Act 1999*).

### 1.3 Crimes (Administration of Sentences) Act 1999

Section 39 provides that a correctional officer may, without warrant, arrest an inmate who has escaped or is otherwise unlawfully absent from custody (e.g. failed to return to the correctional centre on expiration of a leave period specified in a leave permit).

Part 13A of the *Crimes (Administration of Sentences) Act 1999* ('the Act') concerns criminal offences relating to places of detention.

Section 236R provides that a correctional officer must not use a spit hood in the exercise of their functions.

#### ***spit hood***—

(a) *means a covering, however described, intended to be placed over a person's head to prevent the person from spitting on, or biting, another person, but*

(b) *does not include a helmet designed to prevent self-harm, even if the helmet incorporates a part designed to stop spittle.*

Section 253I provides that a correctional officer has certain powers to stop, detain and search persons. Sub-section (6) provides that a correctional officer may exercise the powers of arrest of a police officer in respect of an offence under Part 13A.

Section 253L provides that a correctional officer may use such force as is reasonably necessary to exercise any function under Part 13A.

Section 253M(2) provides that a correctional officer must, before exercising a power to detain, search or arrest a person under section 253I, or as soon as reasonably practicable after exercising the power, provide the person with:

- evidence the correctional officer is a correctional officer, unless in uniform;
- the name of the correctional officer;
- the reason for the exercise of the power;
- a warning that a failure or refusal to comply with a request or direction of the correctional officer, in exercise of the power, is an offence.

Section 253MA concerns the use of reasonable force in relation to visitors. This is in addition to use of force provisions under section 253L.

Section 253MA(1)-(2) provides that a correctional officer may use force to deal with a visitor for the following purposes:

- to protect the correctional officer or any person from attack or harm, but only if there are no other immediate or apparent means available for the protection of the correctional officer or other person
- to prevent damage to the place of detention or to any property within the place of detention

- to prevent an unlawful attempt to enter the place of detention by force or to free an inmate
- to remove the visitor from the place of detention, if the officer is authorised to do so under the regulations
- for the purpose of exercising a power under section 253I or any other provision of Part 13A.

Section 253MA(3) provides that the nature and extent of the force that may be used in relation to a visitor are to be dictated by the circumstances, subject to the following:

- the force used must not exceed the force that is reasonably necessary for protection, or to maintain the good order and security of a place of detention, having due regard to the personal safety of correctional officers and others,
- the infliction of injury on a visitor is to be avoided if at all possible,
- if a visitor is restrained—once the visitor is satisfactorily restrained, no further force must be used on the visitor other than the force reasonably necessary to maintain that restraint.

Section 253MA(4) provides that a correctional officer may use handcuffs, or other equipment prescribed by the regulations, for the purpose of restraining a visitor, but only if it is reasonably necessary in the circumstances (see clause 319B of the Regulation).

Section 253MB stipulates that a correctional officer who uses force on a visitor must provide a written report to the Governor as soon as practicable. The report must:

- specify the names of the visitor and correctional officer involved
- specify the location where force was used
- describe the nature of the force used and circumstances requiring its use
- be signed by the correctional officer involved in the use of force.

## 1.4 Law Enforcement (Powers and Responsibilities) Act 2002

Section 99 of the *Law Enforcement (Powers and Responsibilities) Act 2002* ('LEPRA') provides the statutory powers for a police officer to arrest a person without warrant. A correctional officer exercising a police officer's powers of arrest pursuant to section 253I(6) of the Act is bound by section 99 of LEPRA which states:

(1) A police officer may, without a warrant, arrest a person if:

- (a) the police officer suspects on reasonable grounds that the person is committing or has committed an offence, and
- (b) the police officer is satisfied that the arrest is reasonably necessary for any one or more of the following reasons:
  - (i) to stop the person committing or repeating the offence or committing another offence,
  - (ii) to stop the person fleeing from a police officer or from the location of the offence,

- (iii) to enable inquiries to be made to establish the person's identity if it cannot be readily established or if the police officer suspects on reasonable grounds that identity information provided is false,
- (iv) to ensure that the person appears before a court in relation to the offence,
- (v) to obtain property in the possession of the person that is connected with the offence,
- (vi) to preserve evidence of the offence or prevent the fabrication of evidence,
- (vii) to prevent the harassment of, or interference with, any person who may give evidence in relation to the offence,
- (viii) to protect the safety or welfare of any person (including the person arrested),
- (ix) because of the nature and seriousness of the offence.

A correctional officer may arrest a person under section 100 of LEPR for any offence under any Act or statutory instrument (e.g. offence of assault, harass, intimidate a law enforcement officer under section 60A *Crimes Act 1900*). Section 100 of LEPR states:

- (1) A person (other than a police officer) may, without a warrant, arrest a person if:
- (a) the person is in the act of committing an offence under any Act or statutory instrument, or
  - (b) the person has just committed any such offence, or
  - (c) the person has committed a serious indictable offence for which the person has not been tried.

Section 231 of LEPR provides that a police officer or other person who exercises a power to arrest another person may use such force as is reasonably necessary to make the arrest or to prevent the person from escaping after the arrest.

## 2 Avoiding and limiting the use of force

### 2.1 Responding to aggressive behaviour

Staff must maintain a controlled, calm voice and non-threatening demeanour when dealing with agitated or aggressive inmates and persons. This can often prevent an increase in aggression.

### 2.2 De-escalation strategies

Where possible, correctional officers must give non-compliant inmates reasonable opportunities to willingly comply with directions by using the following de-escalation strategies:

- persuasion and negotiation
- presence of and instructions from a supervising officer
- video recording events with hand-held video (HHV) and body-worn video (BWV) cameras

- presence of additional correctional officers, IAT or SOG as a deterrent.

The above strategies have often proven effective in managing non-compliant behaviour. Some incidents of non-compliance might be better dealt with through disciplinary and administrative processes unless physical intervention is necessary.

## 2.3 Tactical disengagement

Correctional officers may have to consider disengaging where there are insufficient resources available to safely manage a situation or where continued attempts to de-escalate would increase the danger to the officers or other persons. In those situations, officers may have to:

- contain and isolate the incident
- tactically withdraw to a safer position
- observe the aggressor(s)
- wait for back-up to arrive.

## 2.4 Force as a last resort

Force must only be used as a last resort to control or restrain inmates and other persons. Reasonable attempts must be made to resolve a situation without using force unless doing so would place persons, property or correctional centre security at risk of harm. Harm to correctional centre security includes but is not limited to the following:

- escape or attempted escape of inmates
- breach or attempted breach of internal or external security barriers such as fences or walls
- inciting other inmates to violence
- disrupting or obstructing a correctional centre security routine (e.g. refusing to go into a cell at lock-in)
- attempted passing of a dangerous or harmful article to an inmate.

## 2.5 Avoiding injury

Whenever force is used, officers must avoid inflicting any injury on the inmate or other person if possible.

**Tactical options may be used to avoid the infliction of injury** on an inmate or exposing officers to injury.

## Tactical Options



### 2.6 Limits of force

Any force used must be no more than is reasonably necessary under the circumstances. That means it must be proportionate to the seriousness of the situation: e.g. open hand techniques might be sufficient to restrain a non-aggressive inmate from disposing of contraband, while the use of chemical aids might be deemed unnecessary or excessive.

If an inmate is satisfactorily restrained, the only force that may be used against the inmate is the force that is necessary to maintain that restraint: e.g. if three officers have safely restrained an inmate, the intervention of additional officers to assist in that restraint might be deemed unnecessary or excessive, or the continued application of force by the third officer might be deemed excessive.

The duration of restraint must be justified: e.g. if an inmate is handcuffed following an incident, then the handcuffs must be removed as soon as the risk of harm has abated unless there is some other legally justifiable reason for the inmate to remain handcuffed (e.g. inmate is to be immediately escorted from the correctional centre).

## 3 Unplanned use of force

### 3.1 Immediate need for physical intervention

An unplanned (spontaneous) use of force is one with no forewarning and no time for any alternatives to its application, e.g. immediate force to prevent an escape, assault, serious self-harm, destruction of forensic evidence, or to seize a dangerous or harmful article.

Immediate physical intervention might also be required to restrain a defiant or disorderly inmate who is not contained in a secure environment e.g. an inmate being escorted through an open or public area.

### 3.2 Attendance of Supervising Officer

If not at the scene, a supervising officer must be called to take charge of any incident where an unplanned use of force has occurred as soon as practicable. The Supervising Officer must manage the incident response and ensure compliance with this policy.

The incident must be recorded with a HHV camera as soon as practicable if there is time for one to be brought to the scene, e.g. an ongoing situation which is not immediately resolved. If worn, BWV cameras must be activated as soon as possible. (Refer to **subsection 5 Video recording potential and actual force** of this policy).

	Procedure	Responsibility
1.	Call the Supervising Officer to take charge of an unplanned use of force as soon as practicable.	Correctional officer
2.	Respond to and take charge of an unplanned use of force incident immediately and ensure compliance with this policy.	Supervising Officer
3	Activate a BWV camera as soon as possible.	Correctional officer wearing BWV
4.	Ensure a HHV camera is used to record the incident as soon as practicable if one can be brought to the scene in time.	Supervising Officer

## 4 Planned use of force

### 4.1 No immediate need for physical intervention

A planned use of force is one with prior indication that force might be necessary and there is time to prepare for its use without increasing the risk to safety and security, e.g. an inmate refuses to move from one place to another but is satisfactorily contained and isolated in a cell.

### 4.2 Attendance of Supervising Officer

The Supervising Officer must be called to take charge of any planned use of force as soon as practicable. The area must be cleared of all uninvolved inmates and staff. The Supervising Officer must attend the incident and ascertain what steps have been taken to de-escalate the situation. The Supervising Officer must consider whether it is practical to further attempt de-escalation or prepare for physical intervention.

### 4.3 Planning

The Supervising Officer must ensure:

- there are an adequate number of officers for the intervention;
- adequate personal protective equipment (PPE) and restraint equipment is available (e.g. shield, helmets, handcuffs);
- the incident is recorded with a HHV camera (refer to **subsection 5 Video recording potential and actual force** of this policy);
- any available CCTV is recording the incident.

The level and type of force planned for will depend upon:

- the immediate security risk;
- the safety of persons;
- the physical and mental health of the inmate (refer to **subsection 9 Medical considerations** of this policy);
- a need to preserve forensic evidence.

### 4.4 Briefing

If time allows, the Supervising Officer should:

- provide a snap briefing of the situation and objectives;
- inform the officers what their roles are; and
- instruct the officers what they are expected to do.

### 4.5 Warning to inmate

Unless urgent intervention is required, the supervising officer should:

- inform the inmate that they are being video and audio recorded;
- provide clear directions to the inmate as to what the inmate is required to do;
- give the inmate an opportunity to comply with directions; and
- warn the inmate that force may be used if the inmate fails to comply.

**Note:** There are two specific warnings to be given to an inmate where chemical aids are to be used (refer to annexure *Warnings: chemical aids*).

### 4.6 Procedures for planned use of force

	Procedure	Responsibility
1.	Call the Supervising Officer to take charge of an incident where there is an indication that the use of force might be necessary.	Correctional officer
2.	Clear the area of all uninvolved inmates and staff.	Correctional officer
3.	Attend the incident and ascertain what steps have been taken to de-escalate the situation.	Supervising officer



	<b>Procedure</b>	<b>Responsibility</b>
4.	Consider whether further de-escalation is practicable or prepare for physical intervention.	Supervising officer
5.	<b>Planning:</b> Ensure – <ul style="list-style-type: none"> <li>• there are an adequate number of officers for the intervention</li> <li>• adequate PPE and restraint equipment is available</li> <li>• the incident is recorded with a HHV camera</li> <li>• any available CCTV is recording the incident.</li> </ul>	Supervising officer
6.	<b>Briefing:</b> If time allows: <ul style="list-style-type: none"> <li>• provide a snap briefing of the situation and objectives</li> <li>• inform the officers what their roles are</li> <li>• instruct the officers what they are expected to do.</li> </ul>	Supervising officer
7.	<b>Warning to inmate:</b> Unless urgent intervention is required – <ul style="list-style-type: none"> <li>• inform the inmate that they are being video and audio recorded</li> <li>• provide clear directions to the inmate about what he/she is required to do</li> <li>• give the inmate an opportunity to comply with directions</li> <li>• warn the inmate that force may be used if the inmate fails to comply.</li> </ul>	Supervising Officer

## 5 Video recording potential and actual force

### 5.1 Body-worn video

Officers wearing BWV must record all use of force incidents and any situation with a high potential for conflict. BWV is intended to complement the use of HHV and CCTV recording equipment.

**Note:** Officers wearing BWV are not required to operate a HHV camera. Other staff must still use a HHV camera to record the incident as stipulated by this policy.

### 5.2 Mandatory recording with hand-held video camera

A HHV camera must be used to record any situation with a high potential for conflict or where force is planned, regardless of whether the area is covered by CCTV or some officers are wearing BWV.

If the use of force was not video recorded on HHV, or only partially recorded, the Supervising Officer present at the incident must provide an explanation in his or her report.

	<b>Procedure</b>	<b>Responsibility</b>
1.	Ensure a HHV camera is obtained and used to record a situation where there is a high potential for conflict or where force is planned.	Supervising officer
2.	<p><b>Use of force not recorded or only part recorded:</b> Report why the incident was not recorded on HHV or only part recorded. If time did not allow a HHV camera to be brought to the scene, the report must include an explanation as to –</p> <ul style="list-style-type: none"> <li>• the location of the nearest HHV camera at the time of the incident</li> <li>• whether any officer was directed to obtain an HHV camera; and</li> <li>• whether any officer attempted obtain a HHV camera.</li> </ul>	Supervising Officer

### 5.3 Accurate recording

Time and date settings on HHV cameras must be checked for accuracy. Recording must commence as soon as possible and include the narration of relevant information by the HHV camera operator.

All communications and/or interactions between staff and the inmate must be recorded. Recording must continue uninterrupted until correctional officers have ceased communications and/or interactions with the inmate and the inmate is secured.

For BWV cameras, refer to **COPP section 13.9 Video evidence**.

	<b>Procedure</b>	<b>Responsibility</b>
1.	Verify that the time and date on the HHV camera is accurate.	Camera operator
2.	Commence recording as soon as possible.	Camera operator
3.	<p><b>On commencement of recording:</b> State the following –</p> <ul style="list-style-type: none"> <li>• camera operator's name</li> <li>• time and date</li> <li>• location</li> <li>• nature of incident</li> <li>• inmate's name and MIN</li> <li>• names of all involved officers.</li> </ul>	Camera operator
4.	<p><b>During recording:</b> Ensure –</p> <ul style="list-style-type: none"> <li>• all communications and/or interactions between the inmate and officers is captured</li> <li>• recording continues uninterrupted until correctional officers have ceased communications and/or interactions with the inmate and the inmate is secured.</li> </ul>	Camera operator

	Procedure	Responsibility
5.	<p><b>On conclusion of recording:</b> State the following –</p> <ul style="list-style-type: none"> <li>• recording is concluded</li> <li>• time</li> <li>• location (if different from initial location of recording).</li> </ul>	Camera operator

## 5.4 Recording strip searches

The Supervising Officer may decide it is necessary to record a strip search with a HHV camera where there is a high potential for conflict. SOG, IAT and EHS officers are permitted to record all strip searches on BWV and HHV camera (**refer to COPP section 17.1 Searching inmates**).

## 5.5 Restricted access to footage

Officers must not view CCTV, HHV or BWV footage to assist them to complete their misconduct or incident/witness reports if a person has sustained life-threatening or fatal injuries. For further information about viewing footage to assist to complete reports, refer to **COPP Section 13.9 Video evidence**.

## 5.6 Transferring and securing video evidence

For policy and procedures on transferring, registering and securing video evidence refer to **COPP section 13.9 Video evidence**.

## 5.7 Evidence.com

All reports and documents including video footage relating to a use of force that may be required to be shared with internal or external stakeholders must be uploaded and shared via evidence.com

# 6 Post incident medical attention and support

## 6.1 Medical assessment and treatment of inmates

For serious injuries and hospitalisation, medical emergency procedures must be followed (**refer to COPP section 13.2 Medical emergencies**).

A correctional officer or non-custodial officer who was not a participant or witness to the use of force must interview the inmate and complete Part 1 of the *Inmate injury questionnaire – Use of force*.

On-duty JH&FMHN medical personnel must be requested to medically assess or treat the inmate as soon as practicable after the use of force. This applies regardless of the presence or absence of any injury.

The Supervising Officer must record the details of the JH&FMHN staff member notified including time and date on the *Inmate injury questionnaire – Use of force*. This form must be given to the Supervising Officer to complete the medical sections.

If JH&FMHN personnel are not on duty, then the Supervising Officer must notify the JH&FMHN After Hours Nurse Manager (AHNM) as soon as practicable by telephone on:

After Hours Nurse Manager  
 Remote Offsite Afterhours Medical Services (ROAMS)  
 Justice Health & Forensic Mental Health Network  
 Call: **1300 076 267 (24 Hours)**

The Supervising Officer must inform the AHNM of:

- the relevant background to incident (e.g. inmate refused to leave his/her cell);
- the type and level of force applied (e.g. inmate was physically restrained and handcuffed);
- the estimated duration of the use of force;
- any observable injuries or complaint of injury by inmate.

The AHNM will advise the Supervising Officer whether to call the NSW Ambulance Service or wait until JH&FMHN can assess the inmate.

The information provided to and received from the AHNM must be recorded on the *Inmate injury questionnaire – Use of force*.

	<b>Procedure</b>	<b>Responsibility</b>
1.	Interview inmate and complete Part 1 of the <i>Inmate injury questionnaire – Use of force</i> and submit to the Supervising Officer.	Correctional officer or non-custodial officer
2.	Notify JH&FMHN: <ul style="list-style-type: none"> <li>• <b>On-duty JH&amp;FMHN personnel:</b> Request medical personnel medically assess or treat an inmate as soon as practicable after the use of force regardless of the presence or absence of any injury.</li> <li>• <b>After Hours Nurse Manager:</b> Notify the AHNM as soon as practicable and provide all relevant information in respect of the incident and inmate. Follow the AHNMs advice.</li> </ul>	Supervising Officer
3.	Record details of JH&FMHN notification and relevant information on the <i>Inmate injury questionnaire – Use of force</i> as follows: <ul style="list-style-type: none"> <li>• <b>On-duty JH&amp;FMHN personnel:</b> Record name of staff member notified including time and date.</li> <li>• <b>After Hours Nurse Manager:</b> Record information provided to and advice received from the AHNM.</li> </ul>	Supervising Officer

## 6.2 Support service provision for inmates

An inmate must be offered the opportunity to have support services (e.g. counselling) provided by Offender Services and Programs (OS&P).

If the inmate accepts the offer, the case manager must be notified and the inmate must be referred.

	Procedure	Responsibility
1.	Ensure an inmate is offered support service provision by OS&P. If accepted, notify the case manager and make a referral for the inmate.	Supervising Officer

### 6.3 Medical attention for staff

If an officer requires medical attention, immediate arrangements must be made for the officer to be relieved from duty and to be taken by a colleague to a medical centre or hospital, unless the officer elects to proceed unaccompanied.

The officer may complete a use of force report on his or her return to duty.

	Procedure	Responsibility
1.	Arrange for an officer requiring medical treatment to be relieved from duty and taken by a colleague to a medical centre or hospital, unless the officer elects to proceed alone.	Governor or OIC
2.	Permit the officer to submit a use of force report when next on duty.	Governor or OIC

### 6.4 EAP offer of counselling to employees

EAP counselling services must be offered to all employees who participated in or witnessed a use of force incident.

	Procedure	Responsibility
1.	Offer EAP counselling services to all employees who participated in or witnessed the use of force.	Governor or OIC

### 6.5 EAP critical incident support

The Department of Communities and Justice (DCJ) Work Health and Safety (WHS) *Critical incident support procedure* provides that critical incidents include, but are not limited to, the following incidents:

- Work accident resulting in serious injury.
- **Assault on an employee resulting in bodily harm or obvious distress.**
- Needlestick injury.
- Contact with blood or other body substances.
- Discovery of a deceased or grievously injured person.
- Administering Cardiopulmonary Resuscitation (CPR).

The Employee Assistance Program (EAP) must be contacted on the day of the incident by telephone on **1300 687 327**. The EAP service provider will arrange for an external psychologist to attend the workplace and provide psychological support as soon as possible.

Workplace Peer Support Officers both on and off duty must be informed of the incident and all staff involved. On duty Peer Support Officers must be requested to provide practical support and assistance to all staff and their families, unless they are directly involved in the incident.

Following contact with EAP and Peer Support Officers, the CSNSW Senior Human Resources Advisor, Work Health and Safety & Injury Management must be notified by email at [REDACTED]

The DCJ WHS *Critical Incident Support Procedure* provides detailed information at Appendix B – *Critical Incident Support Flowchart* about the critical incident support processes.

	<b>Procedure</b>	<b>Responsibility</b>
1.	Notify the EAP service provider as soon as possible and coordinate attendance of psychologist.	Governor or OIC
2.	Inform Peer Support Officers.	Governor or OIC
3.	Notify the CSNSW Senior Human Resources Advisor, Work Health and Safety & Injury Management.	Governor or OIC
4.	Comply with DCJ WHS <i>Critical Incident Support Procedure</i> .	Governor or OIC

## 7 Restraint equipment

### 7.1 Routine use of mechanical restraints

CSNSW policy or Local Operating Procedures (LOPs) may authorise correctional officers to routinely carry and use handcuffs, anklecuffs or security belts for external escorts or internal movements.

Restraint equipment routinely used on inmates in accordance with CSNSW policy or LOPs does not have to be reported as a use of force provided that the following criteria are met:

- the inmate is **restrained for the purposes of being moved** from one location to another; and
- the **move and use of restraint is required to be noted** administratively.

Examples of where routine use of mechanical restraints satisfies the above criteria are:

- Escort of an inmate according to a movement order/permit that includes a condition or requirement for an inmate to be restrained;

- An inmate management plan stipulating all internal movements for the inmate must be in handcuffs and all movements are noted in an *Inmate Accommodation Journal*;
- The use of restraints when moving an inmate between different areas of a correctional centre (or for the purpose of a cell search) and their use is administratively noted.

Routine use of mechanical restraints do not need to be reported in the IRM.

## 7.2 Non-routine use of mechanical restraints

Except where CSNSW policies or LOPs provide for routine use, correctional officers must have the Governor's approval to use handcuffs and security belts to restrain inmates. A Governor may delegate this authority to the MOS or the OIC, however this must be done in writing. Only the Commissioner can approve the non-routine use of anklecuffs.

All non-routine use of mechanical restraint equipment on an inmate constitutes a use of force and must be reported as such.

## 7.3 Tethering restraints to fixed objects

An officer may restrain an inmate by tethering an inmate to a fixed object (e.g. handrail, pole) where it is reasonably necessary to do so (i.e. as a last resort). Tethering an inmate to a fixed object is considered a use of force, which means it is subject to the restrictions outlined at section 2 (above) and must be reported as a use of force in the correctional environment.

An inmate must not be tethered to a purpose designed tethering point (e.g. wall mounted restraint rings). These are obsolete and not approved for use by the Commissioner.

## 7.4 Use of soft restraints

Only a Governor or OIC of a correctional centre may approve the use of the following soft restraint equipment on inmates:

- Protective headgear
- Mittens
- Restraint mattresses

All use of soft restraint equipment on inmates must be reported as a use of force.

## 7.5 Chemical aids

Chemical aids must only be used by certified chemical munitions operators with the approval of the Governor, except where otherwise approved in LOP (**refer to COPP section 16.13 Immediate action teams**).

Chemical aids may be used prior to open-hand techniques to minimise an assessed risk of violent or prolonged struggle by an inmate, or to restrain multiple non-compliant inmates from violence. Sometimes aggressive or violent inmates will offer little or no

physical resistance to officers and will comply with directions following exposure to CS gas.

There are two specific warnings to be given to an inmate where chemical aids are to be used (refer to Annexure *Warnings – chemical aids*).

The use of chemical aids to control or restrain inmates must be reported as a use of force and as a serious incident (**refer to COPP section 13.1 Serious incident reporting**).

The Governor must refer all use of force incidents when chemical aids were used to the UOF Review Committee.

## 7.6 Batons

For policy on the issue, use and circumstances where batons may be used, refer to **COPP section 16.6 Armoury and armed posts**. The use of batons presents a high risk of physical injury and must not be used if lesser types of force (e.g. chemical aids, open-hand techniques) would be sufficient to resolve a situation. Any use of a baton on an inmate must be reported as a use of force.

The Governor must refer all uses of force when batons were used to the UOF Review Committee.

## 7.7 Firearms

For policy on the issue and use of firearms, refer to **COPP section 16.6 Armoury and Armed Posts**. A firearm must only be discharged in accordance with the circumstances prescribed under clause 303 of the Regulation. Clause 304 provides that a warning of intention to fire must be given before discharging a firearm, except where doing so would increase a substantial probability of a person being killed or seriously injured. A warning shot is a warning.

The Governor must refer all uses of force when firearms were used to the UOF Review Committee.

## 7.8 Firearms not to be discharged towards aircraft

It is an offence under section 24 of the *Civil Aviation Act 1988* (Cth) to do any act which threatens the safety of aircraft or persons on board an aircraft. This includes helicopters and unmanned aerial vehicles (drones).

This does not prevent an officer discharging a firearm at an inmate attempting to run towards an aircraft during an escape attempt, providing that doing so does not threaten the safety of the aircraft or persons on board.

# 8 Restraint for medical treatment

The Governor must refer all uses of force when inmates were restrained for medical treatment to the UOF Review Committee.



## 8.1 Compulsory medical treatment of inmates generally

This part does not apply to medical treatment administered under the *Mental Health Act 2007*. Correctional officers may use force on an inmate to allow a medical practitioner to carry out compulsory medical treatment in accordance with section 73 of the Act. An order under this provision will be made where the inmate has not consented to treatment, but the treatment is necessary to save the inmate's life or prevent serious damage to the inmate's health.

A compulsory medical treatment order must be authorised by a senior JH&FMHN medical officer who has been delegated that authority by the Chief Executive JH&FMHN. The order may be in writing (*JH&FMHN Medical Assessment and Declaration Form*). However, if it is impractical for JH&FMHN to complete a form in urgent or after hours circumstances, an order may be conveyed orally to CSNSW.

When JH&FMHN inform the Manager of Security (MOS), Functional Manager (FM) or Officer in Charge (OIC) that a compulsory medical treatment order has been made, the officer must request the *Medical Assessment and Declaration Form* from JH&FMHN. If force was used to restrain the inmate for treatment, then the *Medical Assessment and Declaration Form* must be attached to the use of force package.

Where JH&FMHN advise that the order has been given orally, then the officer must request the name of the authorising JH&FMHN medical officer and record those details in the appropriate journal (e.g. *Manager of Security Journal*, *'C' Watch OIC's Journal*). If force was used to restrain the inmate for treatment, then the authorising medical officer's details must be recorded in the IRM use of force incident report.

	Procedure	Responsibility
1.	When informed of a compulsory medical treatment order that is – <b>A written order:</b> Request a copy of the <i>JH&amp;FMHN Medical Assessment and Declaration Form</i> <b>An oral order:</b> Request the name of the authorising medical officer and record the details in the appropriate journal.	MOS, FM or OIC
2.	If force was used to restrain an inmate for compulsory medical treatment under – <b>A written order:</b> Attach a copy of the <i>Medical Assessment and Declaration Form</i> to the use of force package <b>An oral order:</b> Record the name of the authorising medical officer in the IRM use of force incident report.	MOS, FM or OIC

## 8.2 Emergency sedation

Correctional officers may use force to restrain a violent and mentally disturbed inmate for emergency sedation by paramedics or hospital emergency department staff. Refer to **subsection 9 Medical considerations** for further details concerning positional asphyxia risk and acute behaviour disturbance.

### 8.3 Enforced medication in mental health facilities

All use of force is subject to the requirements contained in clause 131 (1), (2) and (3) of the *Crimes (Administration of Sentences) Regulation 2014* being met.

The Mental Health Unit at Long Bay Hospital is currently the only location where JH&FMHN has authorised enforced medication to be administered by JH&FMHN to inmates under the *Mental Health Act 2007*.

Correctional officers may restrain an inmate who is a correctional patient or forensic patient to assist JH&FMHN medical personnel administer enforced medication but only for the following purposes:

- to allow treatment (including any medications) to be given to an inmate in a declared mental health facility, in accordance with section 84 of the *Mental Health Act*;
- to protect medical personnel and correctional officers from attack or harm, but only if there are no other immediate or apparent means available for their protection;
- to avoid an imminent attack on medical personnel or correctional officers, but only if there is a reasonable apprehension of an imminent attack;
- to prevent an inmate patient from injuring himself or herself;
- to achieve the control of an inmate patient acting defiantly;
- to avoid imminent violent or destructive behaviour by an inmate patient;
- to restrain violence directed towards medical personnel or correctional officers by an uncontrollable or disturbed inmate patient.

Enforced medication is usually planned and the Supervising Officer must verify that JH&FMHN medical personnel have all medication at hand and ready for administration before restraining the inmate.

Correctional officers should follow directions from JH&FMHN medical personnel regarding the positioning of a patient for the administration of injections. If placed in a prone position, any time in that position must be strictly limited to the time necessary for the medication to be administered. The inmate must be released from the prone position once medication is administered and it is safe to do so.

If there is any delay in administering medication after the inmate is restrained in the prone position, then correctional officers must move the inmate to another position where breathing is unrestricted until the medication is ready. Refer to **subsection 9 Medical considerations** for further details concerning positional asphyxia risk.

## 9 Medical considerations

### 9.1 Positional asphyxia and sudden death under restraint

Applying restraints or using force on a person can result in medical distress leading to serious injury or death. Besides general injuries which may result from such events, such as bruising and lacerations, there is a serious risk to a person's life if they are restrained in any manner which restricts their breathing. This can result in asphyxia, which is a lack of oxygen and excess of carbon dioxide in the blood. A lack of oxygen can result in respiratory and cardiac arrest.

Restraint asphyxia is a form of positional asphyxia, which is any bodily position that inhibits proper respiration and causes asphyxia. Persons who go into respiratory or cardiac arrest due to positional asphyxia while under restraint can die suddenly. Resuscitation attempts are mostly unsuccessful even where medical personnel are in attendance.

## 9.2 Warning signs of positional asphyxia

Warning signs of positional asphyxia are:

- Struggling to breathe (can be mistaken for resistance to restraint)
- Complaining of being unable to breathe (often dismissed as an attempt to persuade officers to release or ease restraint)
- Complaining of feeling sick
- Nausea and vomiting
- Gurgling or gasping sounds
- Expansion of veins in the neck (may indicate impeded blood flow to/from brain)
- Swelling, redness and bloodspots (petechiae) to the face and neck
- Bluish or purplish discolouration of lips, fingertips and skin (indicates a lack of oxygen)
- Sudden exhaustion, stillness and unconsciousness
- Respiratory or cardiac arrest.

### Complaining of being unable to breathe

Attention must be given to a person's claims that they cannot breathe. All reasonable efforts must be made to ensure the person has unrestricted breathing. It is a common misunderstanding that a person who can talk must be able to breathe. That is not the case as little air is required for speech. Persons under restraint have died after repeatedly saying they could not breathe.

### Resistance to restraint and struggling to breathe

A person under restraint who is asphyxiating may resist restraint in an attempt to breathe which can be easily mistaken as non-compliance or violence towards officers. It can be hard for correctional officers to distinguish between violent resistance and a struggle to breathe. Therefore ensuring unrestricted breathing and close monitoring for warning signs is extremely important.

### Action on medical emergency

When a medical emergency occurs, officers must cease restraining the person, call for medical assistance and provide first aid (**refer to COPP section 13.2 Medical emergencies**).

## 9.3 Prone position restraint and other high-risk positions

Positional asphyxia risk can be minimised by using safer restraint practices. The most common and **high-risk** position leading to asphyxia under restraint is the face down (prone) position, particularly where weight or pressure is placed on the person.

A person with abdominal fat (beer belly) is highly likely to have difficulty breathing in the prone position due to the upwards pressure of their organs against their lungs.

A person should not be restrained in the prone position for any longer than is necessary to gain control. As soon as control has been achieved, the person must be moved from the prone position by placing them in a standing, kneeling or sitting upright position to allow unrestricted breathing.

Any other position that a person is restrained in which inhibits proper breathing (e.g. where a person is bent forward with their head forced downward to their knees) increases the risk of positional asphyxia.

Compression of the torso against or towards the thighs restricts the diaphragm and further compromises lung inflation. Transferring a person under restraint in any position where the head is lower than the heart can restrict the diaphragm and deny them the ability to recover from an oxygen deficit following physical exertion.

When restraining a person, the utmost care must be taken not to restrict their airway or expansion of their diaphragm. Pressure must not be placed on their neck, throat or below the angle of their jaw (carotid sinus).

## **9.4 Medical conditions**

The following medical conditions predispose a person to positional asphyxia:

- Acute behavioural disturbance (e.g. serious mental illness, drug induced psychosis)
- Cardiac related conditions (e.g. coronary artery disease, enlarged heart, high blood pressure)
- Respiratory diseases (e.g. chronic obstructive pulmonary disease, asthma, bronchitis)
- Obesity (including high body mass index, abdominal fat)
- Diabetes
- Sickle cell disease.

## **9.5 Sickle cell disease**

Sickle cell disease is a group of inherited red blood cell disorders. Sickle cell anaemia is the most common and serious of the disorders. It mostly affects people of sub-Saharan African ethnicity however it also affects some people of Middle Eastern, Mediterranean and Indian ethnicities.

In the physical restraint context, people with sickle cell disease are more susceptible to exhaustion, oxygen deficiency, collapse and respiratory or cardiac arrest.

## **9.6 Pregnancy**

A pregnant inmate must not be restrained unless it is absolutely necessary and de-escalation has failed. Where it is necessary to restrain a pregnant inmate, every effort must be made to restrain her in a kneeling or standing position only, or to bring her to that position as soon as possible.

## 9.7 Acute behavioural disturbance

Acute behavioural disturbance (ABD) is the sudden onset of aggressive and violent behaviour with dysfunction of the autonomic nervous system. The autonomic nervous system controls several vital bodily functions such as heart rate, body temperature, respiratory rate and 'fight or flight' response.

ABD can be caused by drug/alcohol intoxication or withdrawal, or severe mental illness (e.g. psychosis) or a combination of both. Stimulant drugs (e.g. methamphetamine, cocaine) can cause drug-induced psychosis and are often involved in ABD events. ABD can also be caused by many different medical conditions some of which may be life threatening, including but not limited to:

- Head injuries (which may be the result of a fight or assault)
- Sepsis (a potentially life-threatening complication of an infection)
- Delirium (impaired brain function which may result in confusion and rapid changes in brain activity)
- Underlying brain diseases (e.g. dementia, stroke, Parkinson's disease)
- Use of multiple medications (particularly psychiatric drugs and sedatives) and sudden medication withdrawal
- Severe, chronic or terminal illness (e.g. advanced cancer)
- Immobilization (including physical restraint)
- Sleep deprivation (also a cause when psychotic)
- Severe emotional distress

The person's behaviour can range from mildly erratic to extreme agitation and physical exertion. It may be difficult to determine if a person is merely violent or is affected by ABD. The physical symptoms and signs of ABD are:

- Constant physical activity without apparent fatigue
- Extreme agitation, aggression and violence
- Excessive strength despite restraint by multiple officers
- Abnormal insensitivity to pain
- Abnormal insensitivity to chemical incapacitants such as CS gas or OC spray
- Acute psychosis (e.g. loss of connection with reality, delusional, paranoid)
- High body temperature, hot to touch and profuse sweating
- Stripping of clothing or inappropriate state of undress
- Bizarre behaviour and speech
- Abnormally rapid breathing
- Abnormally rapid heart rate

Verbal calming and de-escalation is the first line of intervention for ABD, however restraint may be necessary. It can be dangerous to restrain a person with ABD without medical support because restraint can be prolonged due to the person's strength and endurance. This can ultimately lead to exhaustion and sudden respiratory or cardiac arrest.

Paramedics or hospital emergency department staff may administer emergency sedation to a person with ABD to minimise the duration of restraint and reduce physical stress.

For further information on ABD refer to *NSW Health and JH&FMHN policy*.

### Action on advice of medical personnel

Where medical personnel advise officers to cease or modify the restraint of a person for medical reasons, the restraint must be ceased or modified as soon as possible with due regard to the safety of staff.

## 10 Use of force reporting

### 10.1 Mandatory reporting of all incidents

All use of force incidents, including incidents where restraints were used in a non-routine manner, must be reported regardless of how little force was used or how little time restraints were applied.

**The Supervising Officer in charge of a use of force incident must inform the Governor or OIC immediately by telephone** where force was used on an inmate or other person. For serious incidents, including where firearms and/or chemical aids were discharged, serious incident reporting procedures also apply (**refer to COPP section 13.1 Serious incident reporting**).

**A correctional officer must report a use of force to the Governor in writing** using the appropriate report form before ceasing duty.

Officers must write their reports from their **own recollection** of events and **independently** from each other. Reporting officers should have adequate facilities to meet this requirement (e.g. access to computers in separate areas).

An officer wearing BWV may view their own footage to assist in writing an accurate report in certain circumstances (**refer to COPP section 13.9 Video evidence**). It is not necessary for officers to detail every conversation or action which is clearly recorded. A reference to the relevant time markings will suffice. The officer should state in their report that they have referred to their BWV footage.

Reports must be of a satisfactory standard (refer to the annexure *Use of force report writing guide* for instructions)

### 10.2 Inmate misconduct report

An *Inmate Misconduct Report* is the appropriate form for reporting a use of force on an inmate where the correctional officer is also reporting the inmate to the Governor for an alleged correctional centre offence (**refer to COPP section 14.1 Inmate discipline**).

### 10.3 Incident/witness report

An *Incident/witness report* is the appropriate form for reporting a use of force where the reporting officer participated in or witnessed the use of force on an inmate or other person. An Officer must not view video footage (CCTV, handheld video or body worn video) if a person has sustained life-threatening injuries or has died. For more

information about viewing footage to assist to write a report refer to **COPP section 13.9 Video evidence**.

## 10.4 Incident reporting module

The use of force must be reported on the IRM as soon as possible by the correctional centre where the incident occurred. If the incident occurred outside a correctional centre, then the IRM is the responsibility of the operational unit or correctional centre to which the escorting officers are attached.

## 10.5 Supervising officer summary report

The Supervising Officer must complete and submit a *Supervising officer summary report*. The senior officer must also complete the *Use of force package coversheet* and append it to the officer's report.

## 10.6 Procedures for use of force reporting

	Procedure	Responsibility
1.	Report a use of force immediately to the Governor or OIC <b>Use of force involving discharge of a firearm or CS gas:</b> follow serious incident reporting procedures ( <b>refer to COPP section 13.1 Serious incident reporting</b> ).	Supervising Officer
2.	Complete and submit the <i>Inmate misconduct report</i> or <i>Incident/witness report</i> before ceasing duty.	Correctional officer (participant or witness)
3.	Complete and submit the following reports/forms before ceasing duty: <ul style="list-style-type: none"> <li>• <i>Supervising officer summary report</i></li> <li>• <i>Use of force package coversheet</i>.</li> </ul>	Supervising Officer
4.	Ensure an IRM is completed as soon as practicable and within two hours.	Supervising Officer
5.	Submit all the following documents/records to the Governor or OIC when completed and before ceasing duty: <ul style="list-style-type: none"> <li>• <i>Inmate misconduct report</i> or <i>Incident/witness report</i> forms</li> <li>• <i>Use of force package coversheet</i></li> <li>• <i>Supervising officer summary report</i></li> <li>• <i>Inmate injury questionnaire – Use of force</i></li> <li>• Any video camera and/or CCTV footage.</li> </ul>	Supervising Officer

## 10.7 Use of force review

All use of force incidents, no matter how minor, must be reviewed impartially by an authorised reviewing officer who was not involved in the incident. The authorised

reviewing officer must be a substantive Senior Assistant Superintendent / Principal Correctional Officer or above.

In correctional centres or Security & Intelligence (S&I) operated locations that do not currently have a substantive SAS / PCO, an appropriately trained Senior Correctional Officer or S&I Assistant Superintendent, acting as an SAS / PCO in a temporary appointment capacity, may act as the authorised reviewing officer. The review must be undertaken as soon as practicable and include all staff reports, coversheets, the supervising officer summary report, *Inmate injury questionnaire – Use of force* and any footage of the incident.

The purpose of the review is to determine whether the force used was reasonably necessary in the circumstances, not excessive, and no longer than was necessary for control and protection. The review must determine whether there was compliance with this policy and any LOPs.

When comparing incident footage to the incident/witness reports, the authorised reviewing officer must bear in mind that the human recollection of events which occurred under stress can be imprecise and inaccurate, particularly when contrasted against a video recording which an officer has not seen. The reviewing officer should exercise caution in drawing conclusions about truthfulness and reliability based merely on individual perceptions and differences in recollections.

The *Use of force review guide* and *Use of force review form* must be completed. The IRM must be verified and updated if necessary to ensure that details of all involved parties are recorded in the *Involved Parties* screen.

The authorised reviewing officer must state in the *comments/recommendations* section of the *Use of force review form* whether the use of force was compliant with policy or whether the use of force was, unwarranted, excessive, unethical or not otherwise in compliance with policy.

The authorised reviewing officer must determine the most appropriate use of force tier level for the use of force being reviewed.

#### Tier 1

- An inmate was injured during the use of force and was escorted to an external hospital or medical facility for medical treatment as a result of the use of force
- A staff member was injured during the use of force and was taken to an external hospital or medical facility for medical treatment as a result of the use of force
- Impact weapons (batons and/or firearms) were used
- Chemical aids were used
- Last reviewing officer was involved in use of force (Governor / MOS / SAS)
- Force was used on, or involving visitors or persons other than inmates
- Force was used on a Juvenile Offender as per *Crimes (Administration of Sentences) Act 1999* at section 41C
- An inmate was restrained for medical treatment (compulsory medical treatment of inmates generally, emergency sedation and/or enforced medications)
- The use of force was possibly an unreasonable, unwarranted, unjustified or excessive use of force.



## Tier 2

- All others

The Governor must make a determination in consideration of the reviewing officer's comments and recommendations. The Governor may decide to review the incident again before making a determination. The Governor will decide whether to:

- take no further action in relation to the incident;
- prescribed remedial actions; and/or
- take any other action the Governor considers appropriate.

In the event that the Governor decides to take action in respect of the conduct of an officer, the Governor may inform the officer and offer them the opportunity to comment. This must also be recorded on the *Use of Force Review Form*.

The Governor must access the relevant IRM and record their determination in the '*Involved Parties*' field.

The Governor must refer all Tier 1 assessed uses of force to the Use of Force Review Committee.

	<b>Procedure</b>	<b>Responsibility</b>
1.	Review a use of force incident as soon as practicable including all staff reports, coversheet, the <i>Supervising officers summary report</i> , <i>Inmate Injury Questionnaire – Use of Force</i> and any footage.	Authorised reviewing officer
2.	Complete the <i>Use of Force Review Guide</i> and <i>Use of Force Review Form</i> .	Authorised reviewing officer
3.	<ul style="list-style-type: none"> <li>• Verify and update the IRM if necessary to ensure details of all involved parties are recorded in the <i>Involved Parties</i> screen.</li> <li>• Enter your details in the <i>Involved parties</i> field as MOS/Authorised officer reviewing the UOF and answer the questions in that section.</li> </ul>	MOS/Authorised reviewing officer
4.	Comment on whether the use of force was compliant with policy, or whether the use of force was unwarranted, excessive, unethical or not otherwise in compliance with policy. Make recommendations as appropriate.	Authorised reviewing officer
5.	Determine the appropriate use of force tier level for the use of force being reviewed.	Authorised reviewing officer
6.	<ul style="list-style-type: none"> <li>• Enter your details in the IRM <i>Involved parties</i> field as Governor/Authorised officer reviewing the UOF and answer the questions in that section.</li> <li>• Make a determination in respect of the use of force in consideration of the reviewing officer's comments and recommendations.</li> </ul>	Governor or MOS in charge

	<b>Procedure</b>	<b>Responsibility</b>
7.	Refer all Tier 1 assessed uses of force to the Use of Force Review Committee. (Refer to <b>subsection 10.8 Referral to the Use of Force Review Committee</b> of this policy).	Governor or MOS in charge

## 10.8 Referral to the Use of Force Review Committee

The Governor must refer all Tier 1 assessed uses of force to the Use of Force Review Committee (UOFRC). In such cases, the entire use of force package must be

forwarded to the Chairperson of the UOFRC at [REDACTED]. The use of force package must include the following:

- *Use of force package coversheet*
- *Use of force review guide*
- *Use of force review form*
- *Supervising officer summary report*
- *All Incident/witness reports*
- *All Inmate misconduct reports*
- *All Inmate injury questionnaires – Use of force*
- *JH&FMHN incident/assault form*
- *Serious incident briefing note (only if applicable)*
- *After action review report*
- *IRM printout*
- *All Hand-held & Body-worn video*
- *All CCTV footage*
- *Referral to the UOF Review Committee Form*

The UOFRC members will review and assess each use of force package to determine whether:

- the force used was appropriate;
- the incident was compliant with the Custodial Operations Policy and Procedure (COPP); and
- the incident requires any further action.

The UOFRC will issue findings. They may choose to:

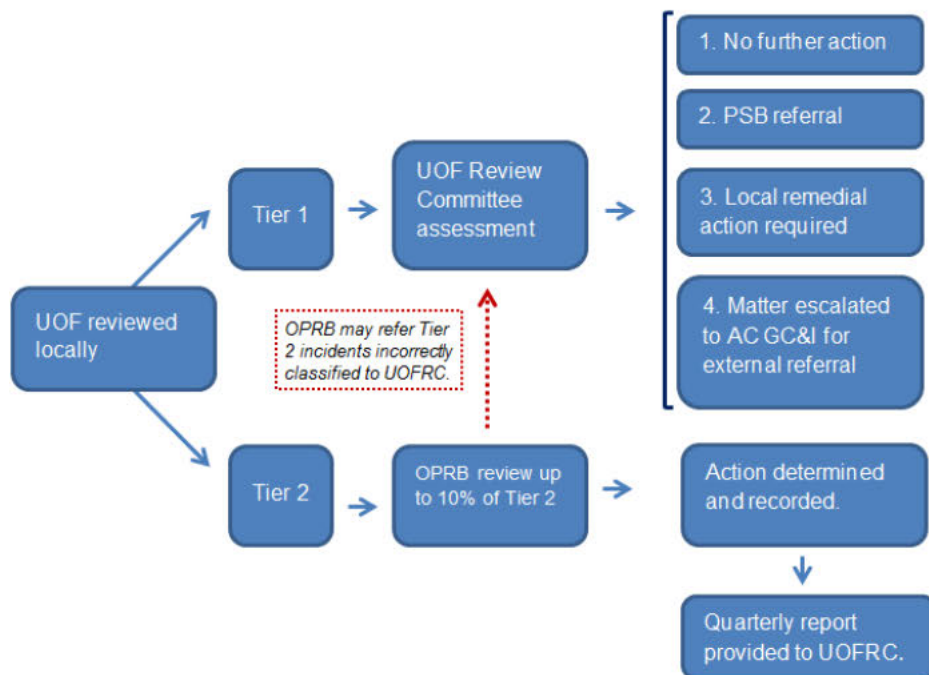
- take no further action; or
- prescribe remedial action; and/or
- refer the matter to the Professional Standards Branch (PSB); and/or
- escalate the matter immediately to the Assistant Commissioner Governance and Continuous Improvement.

In each case the UOFRC's findings must be unanimous. In the event of dissenting views, the matter should be escalated to the Assistant Commissioner, Governance and Continuous Improvement (ACG&CI) for determination and the ACG&CI must be kept informed throughout the process. The Committee reports to the ACG&CI.

The ACCC and Assistant Commissioner, Security and Intelligence (AC, S&I) will be made aware of the findings of the UOFRC before the UOFRC acts on those findings.

If the UOFRC’s finding includes a requirement for local remedial action (such as training to be undertaken), the UOFRC will issue written requests to the Governor/MOS. These requests and the time limits imposed by the UOFRC must be followed by the correctional centre.

Figure 1 – Use of Force Review Committee (UOFRC) process diagram



If a matter subject to review by the UOFRC originates from the General Manager’s location of work (correctional centre, court location, SOG operation, etc.) they must excuse themselves from the assessment process. If there is more than one matter from that location for any given meeting an alternate member must be substituted.

The members and structure of UOFRC will be reviewed on a quarterly basis for the first year of operation. Subsequent to this membership will be reviewed annually.

### 10.9 EDRMS records management and video evidence

All reports and documents relating to a use of force must be registered, stored and managed using the EDRMS in accordance with the *Records Management Procedure*, NSW Department of Justice (D12/637168).

Video evidence is to be registered and secured in accordance with **COPP section 13.9 Video evidence.**

	Procedure	Responsibility
1.	Ensure all reports and documents are registered and stored in EDRMS in accordance with the <i>Records Management Procedure</i> .	Governor or OIC
2.	Ensure any video evidence is registered and secured in accordance with <b>COPP section 13.9 Video evidence.</b>	Governor or OIC

# 11 After action review

## 11.1 Purpose

The after action review (formerly known as an operational debriefing) is a quality assurance system to identify risks and provide an opportunity to strengthen internal controls, accountability or supervision.

The review provides all staff who were directly or indirectly involved in the use of force the opportunity to discuss the incident and to identify effective responses as well as any deficiencies in the overall outcome of the incident. It also allows staff to make recommendations to improve the response and management of any future incidents. The review is specific to operational matters and is not a group counselling session.

## 11.2 When required

The review is to be conducted for all serious incidents after officers have submitted incident reports and following the completion of police inquiries (if there is police involvement). The review may be conducted for less serious use of force incidents where the Governor or OIC considers it would be beneficial for staff and centre operations.

## 11.3 Review process

The review must be conducted in the order that the events took place. Each event should be reviewed in light of the previously mentioned criteria. The review details must be documented and include any recommendations. A review report template is available as an annexure - *After action review report template*.

Recommendations for improvement and follow up action must be monitored. In the absence of some other local method, the follow up and monitoring must be included as a standing agenda item on the correctional centre's management committee meeting.

## 11.4 Procedures for an after action review

	Procedure	Responsibility
1.	Conduct an after action review into a serious incident at the conclusion of police inquiries (if police involved).	Governor or OIC
2.	Conduct an after action review into a serious incident or other use of force incident where it would be beneficial for staff or centre operations.	Governor or OIC
3.	Document the review using the <i>After action review report template</i> .	Governor or OIC

# 12 Use of force on persons other than inmates

## 12.1 Reference to 'person' in this part

This part of the policy concerns the use of force on persons other than inmates.

A person is anyone including visitors and staff. This part of the policy should be read in conjunction with **COPP section 17.3 Stop, detain and search of visitors and staff.**

## 12.2 Stop, detain and search of persons

Section 253L of the Act provides that correctional officers may use such force as is reasonably necessary to exercise a function under Part 13A of the Act (Offences relating to places of detention). These functions include stop, detain and search of persons and vehicles.

## 12.3 Safeguards in exercise of detain, search and arrest powers

In exercising a power to detain, search or arrest a person under section 253I of the Act, correctional officers must adhere to the safeguards provisions of section 253M.

## 12.4 Seizure of evidence and conduct of search

Section 253I(5) provides that a correctional officer has the power to seize a thing

- that he or she suspects on reasonable grounds may provide evidence of an offence; and
- was found as a result of a search.

However, for the seizure to be lawful, the search must be conducted in accordance with section 253J of the Act (conduct of search provisions). Therefore if a correctional officer uses force to seize the thing, that force may only be justifiable if the search was conducted lawfully.

## 12.5 No force permitted to open a person's mouth

A correctional officer may request and/or direct a person to produce anything the officer has seen or detected, and reasonably suspects may provide evidence of the commission of an offence under Part 13A of the Act. This may include anything the person has concealed in his or her mouth.

If the person refuses to produce the thing, the correctional officer may detain the person for a search by police or arrest the person for failing to comply with a search requirement. The correctional officer may use such force as is reasonably necessary to detain or arrest the person, but the officer must not use force to:

- open the person's mouth;
- make the person spit the thing out of his or her mouth; or
- prevent the person swallowing a thing which is already in the person's mouth.

**Note:** Sections 21A and 28 of LEPRA do not authorise police to forcibly open a person's mouth when conducting a search of a person without warrant, under a warrant, or on arrest.

## 12.6 Arrest of persons

Correctional officers may use such force as is reasonably necessary when exercising their powers of arrest for offences under Part 13A of the Act, or when arresting a person for an offence under any other Act or statutory instrument (e.g. arresting a person for assaulting an officer or for wilfully damaging property).

Correctional officers may use such force as is reasonably necessary to prevent an arrested person escaping.

## 12.7 Use of force on visitors

In addition to the use of force power under section 253L of the Act, section 253MA provides that a correctional officer may use force to deal with a visitor for the following purposes:

- to protect the correctional officer or any person from attack or harm, but only if there are no other immediate or apparent means available for the protection of the correctional officer or other person
- to prevent damage to the place of detention or to any property within the place of detention
- to prevent an unlawful attempt to enter the place of detention by force or to free an inmate
- to remove the visitor from the place of detention, if the officer is authorised to do so under the regulations
- for the purpose of exercising a power under section 253I or any other provision of Part 13A.

The nature and extent of the force that may be used in relation to a visitor are to be dictated by the circumstances, subject to the following:

- the force used must not exceed the force that is reasonably necessary for protection, or to maintain the good order and security of a place of detention, having due regard to the personal safety of correctional officers and others
- the infliction of injury on a visitor is to be avoided if at all possible
- if a visitor is restrained—once the visitor is satisfactorily restrained, no further force must be used on the visitor other than the force reasonably necessary to maintain that restraint.

## 12.8 Handcuffing

Under the Act and Regulation, a correctional officer may use handcuffs or flexicuffs to restrain a visitor, but only if it is reasonably necessary in the circumstances.

Under the common law, a correctional officer may handcuff a person they have arrested but only where there are reasonable grounds for doing so under the circumstances. For there to be reasonable grounds, **there must be something in the conduct or demeanour of the person, or nature of the offence**, that the officer considers handcuffing a necessary precaution to:

- protect persons or property from injury or interference; or
- prevent the person escaping from the officer's custody.

## 12.9 Attendance of Supervising Officer

The Governor or OIC must be informed immediately if a correctional officer used force to detain or arrest a person. A supervising officer must be called on to take charge of the incident as soon as practicable.

The Supervising Officer must manage the incident response and ensure compliance with this policy and **COPP section 17.3 Stop, detain and search of visitors and staff**. A video camera must be brought to the scene and the incident recorded as soon as practicable.

	Procedure	Responsibility
1.	Report a use of force on a person other than an inmate immediately to the Governor or OIC.	Correctional officer
2.	Assign a supervising officer to take charge of the incident as soon as practicable.	Governor or OIC
3.	Manage the incident response and ensure compliance with this policy and <b>COPP section 17.3 Stop, detain and search of visitors and staff</b> .	Supervising Officer
4.	Ensure a video camera is obtained and the incident is recorded as soon as practicable.	Supervising Officer

## 12.10 Offer of medical attention

Where a correctional officer used force to detain or arrest a person, the Supervising Officer must ask the person if he or she is injured or wants medical attention as soon as practicable.

If the person is injured and/or requests medical attention, the Supervising Officer must call the NSW Ambulance Service and provide the person first aid if required.

	Procedure	Responsibility
1.	Ask the person if he or she is injured or wants medical attention as soon as practicable.	Supervising Officer
2.	Call the NSW Ambulance Service if the person is injured and/or requests medical attention.	Supervising Officer

## 12.11 Reporting the use of force on a person

Where a correctional officer uses force on a person other than an inmate, the incident must be reported in accordance with **COPP section 13.1 *Serious incident reporting***.

	<b>Procedure</b>	<b>Responsibility</b>
1.	Report a use of force on a person other than an inmate in accordance with <b>COPP section 13.1 <i>Serious incident reporting</i></b> and section 253MB of the Act.	Correctional officer/Supervising Officer and OIC/ Governor



## 13 Quick links

- [Related COPP](#)
- [Forms and annexures](#)
- [Related documents](#)

## 14 Definitions

ABD	Acute behavioural disturbance: The sudden onset of aggressive and violent behaviour usually caused by serious mental illness, drug misuse, metabolic condition, head injury or situational stress (see <b>subsection 9.7</b> for detailed description). Also known as acute severe behavioural disturbance or excited delirium.
ACCC	Assistant Commissioner, Custodial Corrections
ACG&CI	Assistant Commissioner, Governance and Continuous improvement
AHNM	After Hours Nurse Manager
Authorised reviewing officer	The manager of security or substantive senior assistant superintendent authorised by the Governor to review a use of force incident.
BWV	Body-worn video
CCTV	Closed Circuit Television
CESU	Court Escort Security Unit
CIG	Corrections Intelligence Group.
COPP	Custodial Operations Policy and Procedures.
CPR	Cardiopulmonary Resuscitation
CS	The chemical aid known as orthochlorobenzalmalononitrile or 2-chlorobenzalmalononitrile. CS is the only chemical aid approved for use in NSW correctional centres.
Correctional centre	Any place of detention including a correctional centre, correctional complex, police or court cell complex or residential facility where inmates are in Corrective Service NSW custody.
CSNSW	Corrective Services NSW.
DCJ	Department of Communities and Justice
EAP	Employee Assistance Program.
Governor	For this policy, a Governor includes a general manager.
HHV	Hand-held video
IAT	Immediate Action Team.
IRM	Incident Reporting Module.
JH&FMHN	Justice Health and Forensic Mental Health Network.

LEPRA	Law Enforcement (Powers and Responsibilities) Act 2002
LOP	Local operating procedure
MOS	Manager of Security
OIC	Officer in charge: the on-duty ranking correctional officer who is in charge of the correctional centre (or S&I operated location) in the absence of the Governor, e.g. manager of security, night senior or S&I Assistant Superintendent.
OIMS	Offender Integrated Management System.
OS&P	Offender Services and Programs
Place of detention	Section 253A of the <i>Crimes (Administration of Sentences) Act 1999</i> defines a place of detention as a correctional centre, correctional complex or residential facility.
PPE	Personal Protective Equipment
PSB	Professional Standards Board
ROAMS	Remote Offsite Afterhours Medical Services
Supervising Officer	The Supervising Officer is the officer in charge of the correctional centre area (e.g. FM Accommodation or other functional manager) or OIC.
S&I	Security and Intelligence, a branch of CSNSW
SOG	Security Operations Group.
UOFRFC	Use of Force Review Committee
Visitor	<p>A visitor to a correctional centre or to a particular person within a correctional centre, and includes any person who comes onto the premises of a correctional centre, whether by request or otherwise, other than in the performance of his or her functions under the <i>Crimes (Administration of Sentences) Act 1999</i> or the <i>Crimes (Administration of Sentences) Regulation 2014</i>.</p> <p><b>Note.</b> Tradespersons and media personnel are examples of visitors. (Refer to clause 3 of the <i>Crimes (Administration of Sentences) Regulation 2014</i>).</p>
WHS	Work Health and Safety
WP Act	Weapons Prohibition Act 1998

## 15 Document information

<b>Business centre:</b>	Statewide Operations	
<b>Approver:</b>	Dr Anne Marie Martin (Deputy Commissioner Security and Custody)	
<b>Date of effect:</b>	16 December 2017	
<b>EDRMS container:</b>	18/7555	
<b>Version</b>	<b>Date</b>	<b>Reason for amendment</b>
1.0		Initial publication ( <i>Replaces section 13.7 of the superseded Operations Procedures Manual</i> ).
1.1	25/03/19	Includes policy about the tethering of inmates to fixed objects, inserted at [7.3]
1.2	2/07/19	Reference to <b>13.9 Video evidence</b> at [5.5] and [10.3] to reference new policy about the viewing of CCTV and HHV footage when writing an incident/witness report
1.3	5/07/19	Clarified the procedures for use of force reporting at [10.6]. Reporting officers are not required to complete a <i>Use of force package coversheet</i> , only the Supervising Officer compiling the use of force package is required to do this. All references to 'senior officer' has been changed to 'supervising officer' to reduce ambiguity about who is responsible for those duties (see definition). Other minor edits for clarity
1.4	6/11/19	Amendment made to subsection 1.1 and 8.3 in accordance with legislative amendment to include clause 131(4)(i2) of the <i>Crimes (Administration of Sentences) Regulation 2014</i> .
1.5	19/11/19	Policy amendment to incorporate the new procedures for use of force incidents considered tier 1 to be forwarded to the UOF review committee for determination. See 10.7 Use of force review and 10.8 Referral to the use of force committee
1.6	20/11/19	Referred to S&I equivalent roles for the purposes of the V1.5 update
1.7	12/03/20	General formatting update and improvements
1.8	16/03/20	Caveat for S&I LOPs included in Scope to cater to differences in appointment capacity of officers in Court Escort Security Unit (CESU) who are required to undertake local use of force reviews
1.9	23/06/20	The following example of a tactical option that may be used to avoid the infliction of injury in part [2.5] Avoiding injury has been removed: 'the use of CS gas (which causes temporary pain and discomfort) to gain compliance from an aggressive and defiant inmate might negate the need for multiple officers to physically restrain the inmate.'

1.10	26/06/20	In line with the change to the <i>Table of reportable incidents</i> , [7.1] <i>Routine use of mechanical restraints</i> was updated to note that a routine use of mechanical restraints is not required to be reported in the IRM. The examples for scenarios when a report in writing to the Governor following a routine use of mechanical restraints is not required (when an inmate is being moved and it is administratively noted) was updated to provide clarity to staff.
1.11	13/07/21	Additions to table of procedures at [10.7] <i>Use of force review</i> to require the Governor/MOS-in-charge and the MOS/Authorised officer to add themselves as an <i>Involved party</i> and answer specific questions when reviewing a use of force incident in the IRM.
1.12	11/08/21	Minor amendment at [10.7] <b>Use of force</b> review that clarifies the requirement for the Governor to access the relevant IRM and record their determination in the ' <i>Involved Parties</i> ' field.
1.13	23/03/23	Addition of subsection 5.7 – inclusion of all reports and documents including video footage on evidence.com
1.14	25/06/24	Minor amendment at [1.3] Crimes (Administration of Sentences) Act 1999 to reflect the change in legislation prohibiting the use of spit hoods.