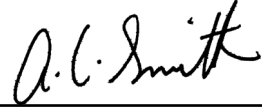




Department of  
Rehabilitation & Correction

SUBJECT: <b>APA Use of Force</b>	PAGE <u> 1 </u> OF <u> 9 </u>
	NUMBER: <b>104-TAW-02</b>
RULE/CODE REFERENCE: ORC 2909.01, 2967.01, 5120.01, 5149.04; AR 5120:1-1-39	SUPERSEDES: 104-TAW-02 dated 04/17/2015
RELATED ACA STANDARDS: 4-APPFS-3A-2A, 3B-01, 3B-02, 3B-06, 4-APPFS-3G-01, 3G-02	EFFECTIVE DATE: <b>October 1, 2021</b>
	APPROVED: 

## I. AUTHORITY

Ohio Revised Code 5120.01 authorizes the Director of the Department of Rehabilitation and Correction, as the executive head of the department, to direct the total operations and management of the department by establishing procedures as set forth in this policy.

## II. PURPOSE

The purpose of this policy is to set forth conditions governing the use of force by employees of the Adult Parole Authority (APA) when engaged in the scope of their supervisory duties or responsibilities.

## III. APPLICABILITY

This policy applies to all employees of the APA when engaged in the scope of their supervisory duties or responsibilities.

## IV. DEFINITIONS

The definitions for the below listed terms can be found at the top of the policies page on the Ohio Department of Rehabilitation and Correction (ODRC) Intranet at the following:

### [Definitions Link](#)

- **Deadly Force**
- **Enterprise Information Management (EIM)**
- **Force**
- **Offender**
- **Prone Restraint**
- **Risk**
- **Serious Physical Harm to Persons**
- **Substantial Risk**
- **Transitional Hold**

## V. **POLICY**

It is the policy of the ODRC that physical force is used by employees of the APA in instances of self-defense from physical harm; defense of third persons (e.g., other employees, offenders, or bystanders) from physical harm; controlling or subduing an offender who refuses to obey a condition of supervision; effecting arrests; prevention of a crime; and/or prevention of an escape. APA employees are responsible for using only the amount of force reasonably necessary under the circumstances and shall be appropriately documented and reviewed.

## VI. **PROCEDURES**

### A. **Justification for Use of Force**

Justification for use of force shall be based upon the facts and information known to the employee at the time of the incident and whether, under the circumstances, the use and degree of force was reasonable. The four elements necessary to justify the use of force by APA personnel are as follows:

1. Ability - The aggressor's capability to do harm. It may be demonstrated by size, strength, physical skills, or weapons of any type. The greater the aggressor's ability, the greater the amount of force necessary to overcome the ability.
2. Opportunity - The distance between the aggressor and the defender. For opportunity to be present, the defender must be within the range of the aggressor, e.g., the range of a firearm, or the range of the aggressor to punch or kick.
3. Jeopardy - The perception by the defender of the aggressor's intent. When the defender reasonably believes that the aggressor by word or action has shown that he intends to use his ability, the defender is in jeopardy.
4. Preclusion - The elimination of other reasonable alternatives to the use of force available to the employee at the time of the incident.

### B. **Use of Force Guidelines**

Use of force must be logical and reasonably necessary under the circumstances; and the force must be reasonably necessary to eliminate the threat or prevent an injury. The use of prone restraint is prohibited, though transitional holds may be used as defined by this policy.

1. In the event of an escape of an offender under the supervision of the APA during transport, the officer(s) shall make every attempt to apprehend the escapee and seek law enforcement assistance.
2. Deadly force may only be used when the employee has an objectively reasonable belief that deadly force is necessary to protect life. Deadly force may be used only under the following circumstances:
  - a. In self-defense from serious physical harm or death,

b. In defense of others from serious physical harm or death.

3. Unacceptable Force

Excessive Force - Any application of force which either by the extent or type of force employed exceeds that force which is reasonably necessary under the circumstances.

4. The use of transitional hold may be permitted only when necessary and only when all the following conditions are met:

a. Transitional hold may be applied only by staff with current training on the safe use of this procedure, including how to recognize and respond to signs of distress in the individual.

b. Transitional hold may be applied for the limited duration necessary to control and safely place an individual into restraints. The transitional hold should only be applied in a manner that does not compromise breathing; including the compromise that occurs with the use of: (1) sustained pressure or weight bearing on the back for an unreasonable amount of time; (2) soft devices such as pillows under an individual's face or upper body; or (3) the placing of an individual's or staff's arm under the individual's head, face, or upper body for an unreasonable amount of time. Once an individual is securely placed in restraints, the individual shall be transitioned from a face down position to a recovery position or other position that will not cause a restriction of breathing (ex., seated position or standing position). No individual shall be left in a prone restraint position once they have been securely placed in restraints. Chokeholds or other vascular neck restraints are prohibited in all circumstances except when officers are justified in using deadly force.

c. Transitional hold may be applied only for the reasonable amount of time necessary to safely bring the person or situation under control and to ensure the safety of the individuals involved.

d. Transitional hold may be applied only with consistent and frequent monitoring during and after the intervention (use of force) with every intent to assure that the person is safe and suffers no harm.

5. Post-Hearing Transportation of Pregnant and Post-Partum Women

a. These guidelines apply to women whose health care providers have confirmed to ODRC that the woman is pregnant/post-partum and continue to apply until a woman is six (6) weeks postpartum.

i. Officers are prohibited from using any leg, ankle, or waist restraints on women who are pregnant or up to six (6) weeks post-partum.

ii. While conducting an in-custody transport of a pregnant or post-partum woman from prison or jail, restraints should only be used when the woman presents a serious threat of physical harm to self or others, presents a serious threat of physical harm to property, or presents a substantial security or flight risk.

- iii. If a health care professional who is treating the woman provides a notice to the PO or ODRC that the restraint poses a risk of physical harm to the woman or the woman's unborn child, the officer is prohibited from using any type of restraint through the period ending after six (6) weeks postpartum; if restraint was already applied, the restraint shall immediately be removed.

**C. Officer Demeanor**

To minimize the need for use of force, an employee shall never verbally or physically provoke or abuse an individual.

**D. Warning Commands**

In a use of force situation, the employee shall ensure that the warning and identification does not interfere with the employee's safety and shall comply with all the following:

1. Make every effort to identify themselves and give a verbal warning (e.g., "Stop!, Parole Authority, Drop Your Weapon!") to the subject, especially in deadly force situations,
2. Never identify themselves as the police or police officers,
3. Never fire a warning shot,
4. Never use a firearm as a threat.

**E. Notification**

1. Submitting Reports - Whenever an employee is involved in any use of force greater than slight force or when handcuffing a pregnant or post-partum female, the following shall occur:
  - a. Verbal notification to the supervisor immediately.
  - b. Notification from the supervisor to the regional administrator before the end of the business day of any force beyond slight force. Immediate notification to the regional administrator if deadly force is used.
  - c. All employees involved in the use of force incident, including witnesses, shall complete an Incident Report (DRC1000) and send to their immediate supervisor by the end of the business day. The Incident Report (DRC1000) shall be sent to the regional administrator/designee, investigations coordinator, and superintendent before the end of the business day pursuant to ODRC Policy 01-COM-08, Incident Reporting and Notification. The superintendent/designee shall notify the Division of Parole and Community Services deputy director. This report shall include the following:
    - i. Names of all persons involved in the incident,
    - ii. All activities surrounding the incident,
    - iii. Names of any witnesses,
    - iv. Extent of injuries to staff or others,
    - v. Medical assistance if needed, and

- vi. Any other information pertinent to the use of force.
- d. The unit supervisor shall review all the Incident Reports received from staff and prepare a Special Incident Report (DRC2091) detailing the information obtained from the Incident Reports (DRC1000). The report shall be sent to the regional administrator/designee, investigations coordinator, and superintendent.
  - e. If further information is recalled or becomes known, supplemental Incident Reports (DRC1001) must be completed pursuant to the requirements of ODRC Policy 01-COM-08, Incident Reporting and Notification. These shall be sent to the regional administrator/designee, investigations coordinator, and superintendent.
2. Firearms Exhibited or Displayed - An Incident Report (DRC1000) shall be completed whenever an officer's firearm is pointed at a civilian or an offender.
  3. Force Used Against the Public - In addition to the aforementioned reporting procedures, any use of force beyond slight force against the public shall be immediately reported by the employee to the law enforcement agency having jurisdiction of that area.
  4. Force Requiring Medical Assistance
    - a. If medical assistance is required by any of the parties involved in a use of force incident, it is the responsibility of the employee, unless precluded by personal injury, to ensure that appropriate medical personnel are notified to provide assistance. A copy of any hospital report(s) shall be submitted with the corresponding Incident Report (DRC1000) or with a Supplemental Incident Report (DRC1001) when it becomes available. This may require a signed Authorization for Release of Information from the offender or other parties. If signed authorizations are not provided by the offender or other parties, the employee shall document in any Incident Reports (DRC1000/1001) completed. All employees injured must follow the employee accident reporting guidelines as outlined in ODRC Policy 10-SAF-15, Employee Accident Reporting and Analysis.
    - b. If an offender under arrest appears to have or complains of injury, the arresting officer shall notify jail personnel during booking and request a medical evaluation for the offender. All requests and subsequent action of the receiving facility's response shall be documented in the Incident Report (DRC1000). A copy of the medical report shall also be attached whenever possible.
    - c. If an offender has been sprayed with pepper spray, the offender shall be decontaminated in the appropriate manner. If the offender appears to need medical assistance, such assistance shall be sought by the officer(s).
    - d. If a jail will not accept an offender due to medical reasons, the officer(s) shall transport the offender to the nearest hospital for an evaluation. The officer(s) shall notify the unit supervisor/designee as soon as possible about the offender's medical status. After the offender has been evaluated and treated, or refused treatment, the offender shall be returned to the jail with any documentation of medical treatment

provided by the hospital. This information shall also be included in the Incident Report (DRC1000).

5. Deadly Force - The following steps shall be taken by an employee when deadly force is used:
  - a. Secure scene in a safe manner including securing the offender(s) or assailants via restraints considering the offender(s) or assailant's medical condition, if appropriate.
  - b. Call for medical assistance; to the extent the officer is able, render first aid to any person injured until medical personnel arrive on the scene.
  - c. Notify the appropriate law enforcement agency and remain at the scene until law enforcement arrives.
  - d. Surrender the firearm to the investigating law enforcement agency if requested; if the law enforcement agency does not request the firearm for purposes of their investigation, surrender the firearm to the regional administrator/designee; the firearm may be replaced by the appointing authority.
  - e. Notify the immediate supervisor who, in turn, shall notify the regional administrator/designee.
  - f. The regional administrator/designee shall notify the investigations coordinator and superintendent. The superintendent/designee shall notify the appointing authority, chief inspector, Communications chief, and other staff as applicable.
  - g. The regional administrator/designee shall notify the appropriate Critical Incident Stress Management Team about the incident as soon as practical following the incident to provide assistance to the employee.
  - h. The appointing authority shall determine whether relief from duty for the officer involved in the deadly force incident is appropriate.

#### **F. Review of Use of Force Incident and Special Incident Reports**

All Incident Reports (DRC1000) and Special Incident Reports in EIM that document APA use of force incidents shall be reviewed by the regional administrator/designee, investigations coordinator, and superintendent within fourteen (14) calendar days of receipt.

#### **G. Use of Force Investigator**

The regional administrator shall appoint one (1) exempt employee to serve as a use of force investigator to review regional use of force incidents.

1. Any use of force investigator must be proficient in their knowledge of this policy and ODRC Policy 01-COM-08, Incident Reporting and Notification.

No staff member involved in the use of force incident under review shall be assigned to serve as the investigator of the use of force incident.

2. Except for investigations subject to ongoing criminal investigation, a use of force investigation shall be completed within sixty (60) calendar days of the use of force incident. The regional administrator/designee may approve an extension if the nature of the incident precludes completing within sixty (60) calendar days. The regional administrator must notify the investigations coordinator or superintendent if an extension is granted.
3. A use of force investigation shall be assigned when:
  - a. Deadly force is used,
  - b. Allegations of excessive force are brought forth,
  - c. Force greater than slight force is used against the public, which includes an employee pointing a firearm at a member of the public,
  - d. There is significant or serious injury to an offender, an employee, or a member of the public, or
  - e. A weapon is discharged.
4. The use of force investigator is responsible for:
  - a. Calling any employee to appear before the use of force investigator to give statements, accounts, or information regarding the incident under review. All employees shall cooperate fully in any use of force investigation as stipulated in the ODRC Standards of Employee Conduct. Any employee called before the use of force investigator shall be permitted to have a representative accompany them during the interview in accordance with the Collective Bargaining Agreements.
  - b. Impartially reviewing the use of force incident using all available reports, statements, photographs, etc. pertinent to the matter.
  - c. Determining if the force used by the employee was appropriate and justified and whether excessive force was applied under the circumstances using the following factors:
    - i. The actual force applied, the formal techniques applied, if any, and the need for the application of force,
    - ii. The relationship between the amount of force used and the need for using force,
    - iii. The extent of inflicted injury,
    - iv. Whether the force used was applied in a good faith effort to maintain or restore control or maliciously applied for the very purpose of causing harm,
    - v. The behavior(s) and background of the subject against whom force was used,
    - vi. The actions by third parties who were present,
    - vii. The physical odds against the employee(s),
    - viii. The feasibility or availability of alternative courses of action,
    - ix. The behavior of the employee during and immediately preceding the incident,
    - x. To establish if there was a violation of policy, procedure, or work rules.

- d. Determining if any other recommendations concerning the matter shall be included in the final report.
- e. Recording all interviews electronically or in writing.
- f. Completing a written report, using the recordings of the interviews, any external investigation reports, and all other information compiled during the investigation, which shall be written by the use of force investigator within two (2) weeks of completion of the investigation, and shall include:
  - i. The date and location of the meeting,
  - ii. The date and location of the use of force incident under review,
  - iii. A list of the use of force investigator(s) assigned,
  - iv. A list of all employees appearing before the use of force investigator(s),
  - v. A list of all documents, statements, photographs, etc. reviewed during the investigation,
  - vi. A list of the offenders involved in the incident,
  - vii. A list of the members of the public involved in the incident,
  - viii. A brief statement of the facts as found by the use of force investigator,
  - ix. The use of force investigator's specific findings and conclusion of the investigation as to the necessity for the use of force response and whether the force was appropriate and justified and the reasons supporting the conclusion,
  - x. The use of force investigator's specific findings and conclusion of the investigation as to whether excessive force was used and the reasons supporting the conclusion,
  - xi. The use of force investigator's specific findings and conclusion of the investigation regarding any allegation of abuse and the reasons supporting the conclusion,
  - xii. Any other recommendations formulated by the use of force investigator, and
  - xiii. The signature of the use of force investigator.
5. An external investigation report may be submitted in lieu of an investigation report only if the employee's actions are determined to be compliant with policy.
6. The use of force investigation report shall be distributed to the superintendent/designee and the investigations coordinator.
7. The use of force investigator shall not inform the employee involved in the use of force incident of its findings and conclusions.

## **H. Further Investigation**

The superintendent or investigations coordinator shall review the report within seven (7) calendar days of receipt from the use of force investigator. The superintendent or investigations coordinator may accept the report, send it back to the use of force investigator for additional investigation if necessary, or reassign the investigation to a new investigator. Any additional interviews must be conducted in accordance with section VI.H of this policy.



**I. Notification to Employee**

The regional administrator/designee shall provide the employees involved in the use of force incident with a copy of the use of force investigator's report when the regional administrator/designee receives notice that the use of force incident is no longer under investigation and the employee is not subject to disciplinary action.

**Referenced ODRC Policies:**

01-COM-08	Incident Reporting and Notification
10-SAF-15	Employee Accident Reporting and Analysis

**Referenced Forms:**

Incident Report	DRC1000
Incident Report Supplement	DRC1001
Administrative Investigation Report	DRC2641