



MONTANA STATE PRISON OPERATIONAL PROCEDURE

Procedure:	MSP 3.1.8 USE OF FORCE AND RESTRAINTS
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Reference(s):	<i>DOC 3.1.8</i>
Signature/Title:	/s/ Jim Anderson, Public Safety Division Chief

I. PURPOSE

To establish guidelines for the use of temporary restraints and the application of force to maintain safety and security at Montana State Prison including Riverside Special Needs Unit and Montana Correctional Enterprises. Use of force and restraints are only used when reasonable and essential to the degree necessary to control inmates, protect inmates, staff or the public or to restore order.

II. DEFINITIONS

Chemical Agent – such as orthochlorobenzalmalononitrile (CS), commonly known as tear gas. It is an irritant that may cause a burning sensation and tearing of the eyes and a burning irritation of the mucous membranes of the nose, mouth and throat resulting in profuse coughing, nasal mucus discharge, disorientation, and difficulty breathing.

Conductive Energy Device – Less than lethal weapon system that uses electrical current. These short bursts of high-voltage current cause neuromuscular incapacitation. Usually, short bursts are between 5 to 20 seconds, or as specified by the manufacturer.

Deadly Force – Force that may reasonably be expected to cause serious injury or death.

Disability – see *DOC 3.3.15 Americans with Disabilities Act Offender Accommodations*, for the definition and an explanation of disability.

Documentation – for purposes of this procedure, reports such as incident, medical evaluation, disciplinary infraction, and use of force information, or photographs and/or videotapes of an incident, including all information identifying relevant evidence.

Duty Officer- The Shift Commander who is scheduled to be on call for emergency call outs.

Escort Technique - actions to ensure appropriate moderate control of an inmate while moving them. These techniques can also be used in the event further control becomes necessary.

Expandable Baton – composed of a cylindrical outer shaft containing telescoping inner shafts that lock into each other when expanded.

Flex Cuffs - temporary restraints made of flexible material to be used during emergency situations or when other restraints are unavailable.

High-Ranking Staff Member – for the purpose of this procedure includes the Warden, Associate Wardens, Bureau Chiefs, Captains, Lieutenants and Staff Sergeants.

Immediate Use of Force – Use of force when time and circumstances do not permit advance planning, consultation, or approval by a high-ranking staff member.

Inflammatory Agent – a substance classified as an inflammatory agent that affects the mucous membranes and the upper respiratory system, such as Oleoresin Capsicum (OC), derived from the cayenne pepper plant. Also known as pepper spray.

Kinetic Stunning Device – a projectile(s) delivered to inflict blunt force designed to temporarily incapacitate. These devices may be delivered by use of firearms.

Mechanical Restraint – a device such as handcuffs, belly chains, and leg irons.

Non-Deadly Force – Physical force not intended nor reasonably expected to cause serious injury or death.

Passive Counter Measures – techniques/strategies used by staff to gain compliance/control of an inmate without forcible physical contact.

Physical Restraints – Physical techniques/strategies used by staff to gain compliance/control of an inmate with forcible physical contact to the extent needed to stop the aggression.

Planned Use of Force – the use of force when time and circumstances allow the opportunity for planning and consultation, and approval by a high-ranking staff member.

Qualified Mental Health Professional (QMHP) – Psychiatrists, psychologists, psychiatric social workers, psychiatric nurses, psychiatric nurse practitioners, licensed professional counselors, licensed clinical social workers, and others who, by virtue of their education, credentials, training, and experience, are permitted by law to evaluate and care for the mental health needs of patients, including Department staff and contracted or fee-for-service professionals. This definition excludes Mental Health Technicians.

Severe Mental Illness (SMI) – A substantial organic or psychiatric disorder of thought, mood, perception, orientation, or memory which significantly impairs judgment, behavior, or ability to cope with the basic demands of life. Intellectual disability, epilepsy, other developmental disability, alcohol or substance abuse, brief periods of intoxication, or criminal behavior do not, alone constitute severe mental illness. The individual must also have or have had within the past year exhibited signs and symptoms of a mental disorder. See *MCA 53-21-102*. Specific classifications of mental disorders are elaborated in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders and are to be designated by a QMHP.

Show of Force – movement of appropriate staff and/or equipment/weapons to an incident site for the purpose of convincing an inmate(s) that adequate staff and measures are available and will be used to successfully resolve the situation.

Soft Restraints – restraints made of leather, nylon, canvas or other soft material.

Use of Force Control Continuum – the application of progressive levels of force to gain control of an inmate, starting with passive counter measures up to and including deadly force. Use of force will be limited to the minimum amount of force necessary to control the situation.

III. USE OF FORCE PROCEDURES

A. General

1. The use of force is authorized only as a last alternative, after all other reasonable efforts have failed to resolve a situation, or when the urgency of the situation does not allow for other non-force alternatives. Staff must only use the amount of force necessary to gain and maintain control of the situation with a minimum of harm to both staff and inmate.

2. Staff will only utilize authorized equipment when engaging in a situation requiring use of force.
3. Firearms are only permitted inside the prison with authorization from the Warden or designee.

B. Levels of Force

1. A Planned Use of Force can be used at any level in the use of force continuum. Prior to a planned use of force, a QMHP not involved in the conflict with the inmate, or another staff member trained in crisis intervention will attempt to de-escalate the conflict and eliminate the need to use force, particularly against an SMI inmate. However, a planned use of force may be implemented without the involvement of a QMHP or a person trained in crisis intervention if such person is not available onsite and circumstances dictate the emergent implementation of a planned use of force. Planned use of force incidents will be videotaped. In the event circumstances prevent video documentation, the shift supervisor will provide the reason video documentation was not used in the submitted *Attachment B: Department of Corrections Use of Force Information Sheet*. Staff involved in incidents requiring the planned use of physical force will utilize protective equipment. An example of planned use of force is a cell extraction.
2. Immediate Use of Force may be used by a staff member to respond to an emergency when there is no time to formulate a plan or notify an immediate supervisor, and the situation constitutes a serious threat to the safety of staff, public, inmates, or prison security.

C. The Continuum of Force

1. Staff are expected to know and be able to apply the proper level and type of force needed to maintain the safety and security of the facility. Force will not be used to punish, harass, coerce, or abuse inmates (*see Attachment A: Levels of Force*).
2. Passive Counter Measures are techniques used by staff to gain compliance/control of an inmate without forcible physical contact, such as:
 - a. communications;
 - b. involvement of a different staff member;
 - c. videotaping of the inmate(s); and
 - d. show of force.
3. Active Counter Measures:
 - a. Staff are justified to use active counter measures to:
 - 1) prevent escalation of unruly inmates;
 - 2) separate participants in a fight;
 - 3) defend staff, inmates, volunteers, contractors, visitors, civilians, or oneself;
 - 4) prevent crime;
 - 5) prevent escape;
 - 6) prevent damage to property that could result in loss of facility order or escape;
 - 7) maintain security;
 - 8) prevent or intercede in self-harm behavior; and
 - 9) move inmates who fail to comply with lawful orders where there is an immediate health or safety risk.
 - b. Staff are authorized to use the following active counter measures in an immediate use of force situation without prior approval:
 - 1) physical force;
 - 2) self-defense techniques;
 - 3) restraints;
 - 4) oleoresin capsicum (OC);
 - 5) conductive energy devices; and
 - 6) expandable batons

- c. The following active counter measures may be used in an immediate or calculated use of force situation (only with the prior approval from the Shift Commander) or by a trained tactical group:
- 1) chemical agents, and pepper ball:
 - a) the Warden or designee may authorize the use of chemical and/or inflammatory agents to control an inmate or group of inmates who cannot be controlled with a lesser means of force;
 - b) the provisions of *MSP 3.1.8a Use of Chemical Agents and Oleoresin Capsicum (OC)* will apply in such circumstances; and
 - c) in a planned use of force situation, medical information should be considered prior to using inflammatory or chemical agents if possible. This is done to determine whether the inmate has a disease or condition that would be seriously aggravated if the agent were used. This is not required if circumstances are such that immediate use is necessary.
 - 2) Kinetic stunning devices (SIMS):
 - a) less lethal munitions, such as rubber or wooden projectiles or beanbags, are an additional option for controlling violent situations when approved by the Warden or designee;
 - b) while these munitions do not expose the inmates involved to as great a risk of death or serious injury, they must be used in accordance with manufacturer's recommendations and must not be directed at the head; and
 - 3) only staff who have received proper training in the use of less lethal munitions may be authorized to use them. Kinetic stunning devices will be used in accordance with *MSP 3.1.31 Firearms*. water hoses:
 - a) the use of water hoses may be authorized when lesser degrees of force have failed to bring an incident under control; and
 - b) the decision to employ water hoses will be made only with the approval of the Warden or designee.
4. Deadly Use of Force
- a. Staff are justified in the use of deadly force in accordance with 45-3-102, MCA, 45-3-104, MCA and 45-3-106, MCA if they reasonably believe that the force is necessary to prevent the commission of a forcible felony such as:
 - 1) to prevent death or serious injury of any person when no other means of resolving the situation is evident.
 - 2) to prevent escape, if the escape is actually in progress and cannot be reasonably prevented with a lesser degree of force.
 - 3) to protect property only when its damage or loss would facilitate escape, loss of life, or serious bodily injury.
 - 4) to suppress a riot when there is reason to believe that an inmate(s) poses an imminent threat of escape, death, or serious bodily injury.
 - 5) to prevent unauthorized persons or vehicles from attempting to breach the perimeter fence of the facility.
 - 6) to prevent an escape, the loss of life, or serious bodily injury to hostage(s) (civilians, staff or inmates) in hostage situations.
 - b. The following four conditions or elements are part of the decision-making process to determine whether the inmate's actions constitute the threat of imminent danger of death or serious bodily injury:
 - 1) **Ability or Apparent Ability** - Does the inmate possess the ability or the apparent ability to cause serious injury or death to you or a third party? Disparity in size, age, strength, gender, numbers, and the level of aggressiveness of the involved parties are all important factors when considering the element of ability.

- 2) **Opportunity** - The staff member must reasonably believe that the inmate(s) is within effective range and in a position to cause serious bodily injury or death to the staff member or a third party.
 - 3) **Imminent Jeopardy** - The inmate must be acting in such a manner that a reasonable person would conclude that serious bodily injury or death is imminent.
 - 4) **Exhaust all Reasonable Options** - The staff member should employ deadly force as a last resort when there is no reasonable alternative.
- c. Firearms are as follows:
- 1) staff must successfully complete the approved training curriculum to carry and/or use firearms in the course of their duties:
 - a) MSP Certified Firearms Instructors will ensure applicable state regulations are applied in all training on all approved weapons; and
 - b) MSP Training Staff will maintain an up-to-date listing of all staff qualified to use weapons.
 - 2) if time and circumstances permit, staff must issue an audible warning before discharging a firearm.
 - 3) if aimed fire at an inmate is necessary, the intention is to stop;
 - 4) staff members who are fired upon by an inmate or non-offender may return fire but must take into account the safety of others who may be in the vicinity; staff using firearms should be aware of their surroundings.
 - 5) requirements for reporting when weapons have been discharged, as well as necessary training for all types of authorized weapons are outlined in *DOC 3.1.31 Firearms* and *MSP 3.1.31 Firearms*.

D. Follow-up

1. The following procedures will be utilized to ensure that inmates subjected to use of force techniques are not unduly injured, and to provide necessary treatment after inadvertent injuries:
 - a. after any use of force, the inmate will be offered medical services;
 - b. decontamination will be provided for those exposed to specific chemicals or inflammatory agents. in adequate means, that follow industry standards;
 - c. medical staff will offer treatment to injured staff and file a full report on the nature and extent of those injuries with the Warden; and
 - d. staff will have the option of seeing their personal medical provider.

E. Reporting Requirements

1. Failure to report as outlined below will be treated as a possible criminal offense and regarded as willful, unprofessional conduct that will result in disciplinary action up to possible dismissal.
2. The Shift Commander will immediately notify the Warden or designee when active counter measures or deadly force is used, including an accidental weapon discharge.
3. Involved staff will submit initial incident reports to the Shift Commander by end of the shift in which the incident occurred. The information surrounding the incident in the report must include, but is not limited to, the following:
 - a. an account of the event(s) leading to the use of force;
 - b. an accurate and precise description of the incident and reasons for employing force;
 - c. a description of the weapons or devices used, if any, and the manner in which they were employed;
 - d. a description of steps that were taken to de-escalate the situation prior to the decision to use force; see III.C.3.a.9) above.
 - e. a description of injuries suffered, if any, and the treatment given or received; and
 - f. a list of all participants and witnesses to the incident.

4. If significant details were not provided in the initial report, the involved staff will submit any and all supplemental information and final reports to the Shift Commander within 72 hours of the incident.
5. Attending medical staff will submit a medical report to the Shift Commander for inclusion in the *Attachment B: Use of Force Information Sheet*.
6. The Shift Commander will prepare an *Attachment B: Use of Force Information Sheet* that includes a full description of incident details and supporting evidence including, but not limited to:
 - a. a copy of all incident reports compiled as a result of the incident;
 - b. a copy of all medical reports where active counter measures or deadly force was used, even when there are no apparent injuries;
 - c. any videotape or photographs relating to the incident; and
 - d. a copy of any related inmate disciplinary infraction reports.
7. The Warden and/or designee(s) will evaluate the incident, materials, and reports on the next working day by preparing an *Attachment C: Use of Force Evaluation Report*. The Warden will provide the information to the Department's Director as requested.
8. The Associate Warden of Security will document all use of force incidents on the Security Program Monthly Report submitted to the Warden.
9. After completion of administrative review and investigation, the Associate Warden of Security or designee will forward copies of all use of force incident information to:
 - a. when appropriate, the Department Investigation Bureau Chief for review and filing; and
 - b. if needed, the facility training bureau for review and potential training revisions as requested by the subject matter experts.
10. Reports of all injuries are to be filed in the inmate's medical file and the employee's personnel record.

F. Allegations Against Staff

1. The Warden or designee will investigate all allegations of improper use of force and will process them pursuant to *DOC 1.3.12 Staff Association and Conduct with Offenders* and *DOC 3.1.19 Investigations*. In incidents where possible criminal acts are involved, the Investigation Bureau will be notified.

G. Restraints and Their Use

1. Staff must successfully complete the approved training curriculum to carry and/or use the following restraints and other nonlethal means of restraint in the course of their duties. Restraints are as follows:
 - a. handcuffs;
 - b. flex cuffs
 - c. leg irons;
 - d. belly chains;
 - e. black box security devices for handcuffs;
 - f. soft restraints;
 - g. lead rope; and
 - h. restraint chair;
2. Restraint equipment is used to:
 - a. prevent threats to security, escape, assault, suicide, or other circumstances approved by the Warden or designee;

- b. secure inmates exhibiting severe mental health symptoms when their actions pose a danger to themselves and/or others; and
 - c. control violent or disruptive inmates.
3. Staff will handcuff inmates behind their back unless a belly chain is applied or there is a valid Health Status Report (HSR).
 4. For inmates in general population units, the use of restraints to control behavior is authorized when there is a safety risk to the inmate or others.
 5. The use of restraints for inmates under escort outside the facility is outlined in *MSP 3.1.12 Inmate Escort and Transport*.

H. Clinical Restraints and Therapeutic Seclusion

1. Clinical restraints will be used only when an inmate is in imminent risk of significant violence or self-destructive behavior and no other less restrictive intervention is possible, or has failed; clinical Restraints will be used in accordance with *MSP Health Services Operational Procedure G-01.0 Mental Health Observation and Clinical Restraints*.

I. Training

1. MSP Training staff will provide training in the proper use, and necessary techniques, for each of the restraint devices employed at MSP, including the appropriate controls on the handling of handcuff keys.

IV. CLOSING

Questions about this operational procedure should be directed to the Associate Warden of Security

V. REFERENCES

MCA 45-3-102; 45-3-101; 45-3-106
Performance-Based Standards and Expected Practices for Adult Correctional Institutions, 5th Edition;
5-ACI-3A-16, 5-3A-4204, 5-3A-4206, 5-3D-4281

VI. ATTACHMENTS

Attachment A: Department of Corrections Levels of Response
Attachment B: Department of Corrections Use of Force Information Sheet
Attachment C: Department of Corrections Use of Force Evaluation Report



ATTACHMENT A: DEPARTMENT OF CORRECTIONS LEVELS OF RESPONSE

Officer Presence: The identification of authority by officers such as:

- Clean, well-kept uniform, badge, and other official markings
- Show of force by numerous officers or special response units
- Videotaping
- Movement of appropriate staff, equipment, and/or weapons to an incident site

Verbal Direction: Commands of direction toward an offender by a staff member.

- Verbal commands include any verbal direction given to an offender by an officer or other DOC staff member

Soft Empty-Hand Techniques: Techniques designed to control low levels of resistance, which include:

- Pressure point control techniques
- Joint Locks
- Pain Compliance techniques
- Distractionary striking techniques

Hard Empty-Hand Techniques: Techniques designed to control less lethal aggression/assaults against an officer/staff (e.g., advancing, challenging, punching, kicking, grabbing, etc.). They include:

- Defensive Counterstrikes
- Shoulder Pin Restraint
- Takedowns

Intermediate Weapons: The application of any weapon/object that is not part of the human body to control resistance or an assault and may include:

- Restraints
- Inflammatory Agents such as OC.
- Pepper ball
- Chemical Agents to include but not limited to streamers, foggers and blast dispersions.
- SIMS - includes bean bags, foam batons, neoprene stinger balls, etc. that can be fired from shotguns, 37mm or 40mm launchers, or hand delivered in grenade form.
- Impact weapons such as collapsible batons, riot batons, riot shields, etc.
- Conductive Energy Devices (Tasers/stun guns/stun shields)
- May also include emergency/improvised weapons such as flashlight, radio, etc.

Lethal Force: Any force used that is likely to result in serious bodily harm or the loss of human life. This may include:

- Use of a firearm
- Use of edged weapons
- Use of impact weapons to the head or neck
- May also include emergency/improvised weapons/techniques likely to cause serious bodily harm or the loss of human life

NOTE: Staff may enter the continuum at any level that represents a reasonable response to the perceived threat posed by the subject.



ATTACHMENT B: DEPARTMENT OF CORRECTIONS USE OF FORCE INFORMATION SHEET

OFFENDER INFORMATION

Offender Name: _____ ID#: _____ Unit: _____ Custody: _____
 Race Code: American Indian Asian Black White Hispanic Other (specify): _____

INCIDENT INFORMATION

Date of Incident: ____ / ____ / ____ Time of Incident: _____ hrs. Place of Incident: _____

Name & Title of On-Scene Supervisor: _____

Type of Force Used Immediate Planned

Photographed? Yes No Videotaped? Yes No Processed as Evidence? Yes No

Administrator Notified? Yes No Name: _____ Date: ____ / ____ / ____ Time: _____ hrs.

Was OC use medically cleared? Yes No By? _____ Date: ____ / ____ / ____ Time: _____ hrs.

Was Energy Device use medically cleared? By? _____ Date: ____ / ____ / ____ Time: _____ hrs.

Was a medical staff person on-scene? Yes No Name: _____ Time: _____ hrs.

Was a post incident medical evaluation of offender completed? Yes No By? _____

Reporting Shift Supervisor: _____

Level of Force Applied	Reason for Force
<p><u>Active Counter Measure:</u></p> <input type="checkbox"/> Physical Force/Self Defense <input type="checkbox"/> Restraint Device <input type="checkbox"/> OC <input type="checkbox"/> Pepper ball <input type="checkbox"/> Chemical Agent <input type="checkbox"/> Baton <input type="checkbox"/> Distraction Device <input type="checkbox"/> Kinetic Device <input type="checkbox"/> Conductive Energy Device (Taser/stun shield) <input type="checkbox"/> SIMS	<p><u>Deadly:</u></p> <input type="checkbox"/> Firearm <input type="checkbox"/> Other (specify): _____
	<input type="checkbox"/> Self-defense/defense of another <input type="checkbox"/> Maintenance of security <input type="checkbox"/> Prevention of a crime <input type="checkbox"/> Prevention of self-harm activity <input type="checkbox"/> Prevention of escape <input type="checkbox"/> Prevention of property destruction <input type="checkbox"/> Refusal of an order

Names & Titles of All Staff Involved or Present	Did they file a report?	Is their report attached?
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Name(s) and ID#(s) of Other Offenders Involved	Did they file a statement?	Is their statement attached?
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Name(s) of Victim(s) Involved	Did they file a statement?	Is their statement attached?
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No



ATTACHMENT C: DEPARTMENT OF CORRECTIONS USE OF FORCE EVALUATION REPORT

OFFENDER INFORMATION

Offender Name: _____ **DOC ID#:** _____ **Unit:** _____ **Custody:** _____
Race Code: American Indian Asian Black White Hispanic Other:

INCIDENT EVALUATION

Administrative Evaluation Committee:	Date Reviewed	Time Reviewed
_____	/ /	hrs.
_____	/ /	hrs.
_____	/ /	hrs.
_____	/ /	hrs.

Was the level and type of force properly identified and needed? If "No" comment: Yes No

Was the application of the control method used appropriate? If "No" comment: Yes No

Was there an opportunity for voluntary compliance? If "No" comment: Yes No

Was there proper use of protective gear? If "No" comment: Yes No

Was there proper and continuous use of the video camera in a planned use of force? If "No" comment: Yes No

Did the staff use appropriate language? Yes No

Documentation Reviewed:

- Video Tape
- Photographs
- On-Scene Supervisor's Report
- Shift Supervisor's Report
- Medical Report
- Staff Incident Reports

This Evaluation Committee has determined:

- The action taken with respect to this use of force incident was reasonable and necessary.
- This situation needs further investigation and has been referred to the Department Investigations unit.
- A copy of this packet was sent to the Department Investigations Bureau Chief for further review.

Reviewer Name: _____ **Date:** / /