



**Department of Corrections and Rehabilitation**  
**NOTICE OF CHANGE**  
**TO DEPARTMENT OPERATIONS MANUAL**

**Chapter 5, Article 2, Use of Force**

Transmittal Letter Number:

16-02

Revision Date:

**January 12, 2016**

The purpose of this document is to provide information regarding revisions to Department Operations Manual (DOM), Chapter 5, Article 2, Use of Force.

Changes to Article 2, Chapter 5 provide revisions to existing language and also provide additional language to expand upon the current Use of Force policy.

These DOM revisions are being made to conform with recent changes to the Department's regulations (Title 15) regarding Use of Force. The temporary emergency regulation changes were first announced in Notice of Change to Regulations 15-06. Those temporary regulations have now been certified for permanent adoption.

These revisions further the efforts of the Department to comply with the *Madrid* court rulings regarding the Statewide Use of Force Plan, and also provide further compliance with the *Coleman* court rulings for mental health considerations. These revisions to the Use of Force policy establish clearer standards and parameters for the manner in which force is applied, while also providing further direction and clearer understanding to staff regarding the Use of Force policy.

Please inform all persons concerned of the contents of this Notice, which shall remain in effect until incorporated into the next edition of the DOM. Inquiries regarding the subject matter may be directed to J. Stewart, Division of Adult Institutions, at (916) 294-3037.

*Original signed by:*

KELLY HARRINGTON  
Director  
Division of Adult Institutions

## CHAPTER 5 – ADULT CUSTODY AND SECURITY OPERATIONS

### ARTICLE 2 – USE OF FORCE

*Revised January 12, 2016*

**[Sections 51020.1 through 51020.3 are unchanged]**

#### **51020.4 Definitions**

The following shall define language usage in this Article:

##### **Reasonable Force**

Reasonable force is the force that an objective, trained, and competent correctional employee faced with similar facts and circumstances, would consider necessary and reasonable to subdue an attacker, overcome resistance, effect custody, or gain compliance with a lawful order.

##### **Unnecessary Force**

Unnecessary force is the use of force when none is required or appropriate.

##### **Excessive Force**

Excessive force is the use of more force than is objectively reasonable to accomplish a lawful purpose.

##### **Immediate Use of Force**

Immediate use of force is the force used to respond without delay to a situation or circumstance that constitutes an imminent threat to institution/facility security or the safety of persons. Employees may use immediate force without prior authorization from a higher official. Immediate force may be necessary to subdue an attacker, overcome resistance or effect custody. If it is necessary to use force solely to gain compliance with a lawful order, controlled force shall be used.

##### **Imminent Threat**

An imminent threat is any situation or circumstance that jeopardizes the safety of persons or compromises the security of the institution, requiring immediate action to stop the threat. Some examples include, but are not limited to: an attempt to escape, on-going physical harm or active physical resistance.

##### **Controlled Use of Force**

A controlled use of force is the force used in an institution/facility setting, when an inmate's presence or conduct poses a threat to safety or security and the inmate is located in an area that can be controlled or isolated. These situations do not normally involve the imminent threat to loss of life or imminent threat to institution security. All controlled use of force situations requires the authorization and the presence of a First or Second Level Manager during business hours. During non-business hours, the on-site manager shall be the Administrative Officer of the Day (AOD) who is responsible for the authorization of any controlled use of force and whose presence is required during any controlled use of force. Staff shall make every effort to identify disabilities, to include mental health issues, and note any accommodations that may need to be considered.

##### **Non-conventional Force**

Non-conventional Force is force that utilizes techniques or instruments that are not specifically authorized in policy, procedures, or training. Depending on the circumstances, non-conventional force can be necessary and reasonable; it can also be unnecessary or excessive.

##### **Non-deadly Force**

Non-deadly force is any use of force that is not likely to result in death.

##### **Deadly Force**

Deadly force is any use of force that is likely to result in death. Any discharge of a firearm other than the lawful discharge during weapons qualifications, firearms training, or other legal recreational use of a firearm, is deadly force.

### **Great Bodily Injury (GBI)**

Great bodily injury is any bodily injury that creates a substantial risk of death.

### **Serious Bodily Injury**

Serious bodily injury means a serious impairment of physical condition, including, but not limited to the following:

- Loss of consciousness;
- Concussion;
- Bone fracture;
- Protracted loss or impairment of function of any bodily member or organ;
- A wound requiring extensive suturing; and
- Serious disfigurement.

### **Response Supervisor**

The Response Supervisor is the first line supervisor in an institution/facility responsible for the area where an incident occurs. When responding to or observing an incident involving the use of force, the response supervisor shall assume control of the responders and direct the tactics used to stop the threat. Additionally, the response supervisor shall assess the appropriateness/effectiveness of the force options being deployed, ensuring compliance with policy and training.

### **Responding Supervisor**

The Responding Supervisor is the first line supervisor responsible for the employee involved in an incident.

### **Incident Commander**

The Incident Commander is the second line supervisor in an institution/facility responsible for the area where an incident occurs or an allegation of excessive or unnecessary force is received.

### **First Level Manager**

A First Level Manager in an institution/facility is a Captain, or the AOD.

### **First Line Manager**

A First Line Manager is a Parole Administrator, District Administrator, Special Agent-In-Charge, or a Senior Special Agent.

### **Second Level Manager**

A Second Level Manager in an institution/facility is an Associate Warden.

### **Second Line Manager**

A Second Line Manager is a Deputy Regional Parole Administrator or Chief.

### **Institution Head**

The Institution Head is a Warden or designee.

### **Institutional Executive Review Committee (IERC)**

The IERC is a committee of institution staff chaired by the respective Institution Head tasked with reviewing all uses of force and every allegation of excessive or unnecessary force. The IERC is the final institutional level of review.

### **Department Executive Review Committee (DERC)**

The DERC is a committee of staff selected by, and including, the Associate Director who oversees the respective institution/facility Mission-based group. The DERC has oversight responsibility and final review authority over the IERC. The DERC shall review every use of deadly force and every serious bodily injury, great bodily injury or death that could have been caused by a staff use of force. The DERC shall also review those incidents referred to the DERC by the IERC Chairperson or otherwise requested by the DERC.

### **Deadly Force Investigation Teams (DFIT)**

DFIT is a team of trained department investigators that shall conduct criminal and administrative investigations into every use of deadly force and every death or great bodily injury that could have been caused by a staff use of force, except the lawful discharge of a firearm during weapons qualifications or firearms training, or other legal recreational uses of a firearm. Based on certain local Memoranda of Understanding, criminal investigations may instead be conducted by an outside police department or sheriff's office. Although defined as deadly force DFIT need not investigate the discharge of a warning shot inside an institution/facility if an Investigative Services Unit Sergeant or above, or an uninvolved Correctional Lieutenant, confirms that the discharge of deadly force was a warning shot and that no injuries were caused by the shot. All warning shots shall be reported to the Office of Internal Affairs/DFIT and the Office of the Inspector General (OIG).

#### **Deadly Force Review Board (DFRB)**

The DFRB conducts a full and complete review of all incidents involving a use of deadly force (except warning shots) and every death or great bodily injury that could have been caused by a staff use of force, regardless of whether the incident occurs in an institutional or community setting.

#### **Joint Use Committee (JUC)**

The JUC is a committee of field staff from the DAI tasked with reviewing and evaluating recommended revisions to the Division's Use of Force Policy and Procedures.

#### **Holding Cells**

All holding cells shall be located within buildings or sheltered areas. A holding cell shall not be used as a means of punishment, housing or long-term placement. If clothing is taken from an inmate when he/she is placed in a holding cell, alternate clothing shall immediately be provided unless security concerns preclude issuance.

### **51020.5 Use of Force Options**

It is the expectation that staff evaluate the totality of circumstances involved in any given situation, to include consideration of an inmate's demeanor, bizarre behavior, mental health status if known, medical concerns, as well as ability to understand and/or comply with orders, in an effort to determine the best course of action and tactics to resolve the situation. Whenever possible, verbal persuasion should be attempted in an effort to mitigate the need for force. The type of verbal persuasion will vary dependent upon the inmate's ability to understand. If time permits, verbal orders should be issued prior to resorting to force and are required to be provided before controlled force is used. The unresisted searching or escorting of an inmate/parolee and the unresisted application of authorized restraint equipment is not a use of force. Use of Force options do not have to be utilized in any particular sequence, but should be the force option staff reasonably believes is sufficient. Each force option has specific qualities that should be considered when choosing which option to deploy, including but not limited to: range of effectiveness, level of potential injury, staff safety, deployment methodology, level of threat presented, distance between staff and inmate, number of staff and inmates involved and the inmate's ability to understand. When responding to or observing an incident involving the use of force, the response supervisor shall assume control of the responders and direct the tactics used to stop the threat. Additionally, the response supervisor shall assess the appropriateness/effectiveness of the force options being deployed ensuring compliance with policy and training. Use of force options include but are not limited to:

- Chemical agents: Provides staff the ability to use force while maintaining distance.
- Hand-held batons: The baton is normally issued to custodial staff assigned to positions with direct inmate contact. The baton should not be carried in the extended position unless it is

being utilized for the protection of the inmate and/or staff. In controlled use of force, the baton is intended for the defense of staff and to assist in gaining control of the inmate.

- Physical strength and holds: Any deliberate physical contact, using any part of the body to overcome conscious resistance, is considered physical force. A choke hold or any other physical restraint which prevents the person from swallowing or breathing shall not be used unless the use of deadly force would be authorized.
- Less-lethal weapons: A less lethal weapon is any weapon that is not likely to cause death. A 37mm or 40mm launcher and any other weapon used to fire less-lethal projectiles is a less lethal weapon.
- Lethal weapons: A firearm is a lethal weapon because it is used to fire lethal projectiles. A lethal weapon is any weapon that is likely to result in death.

## **51020.6 Use of Restraints**

The unresisted application of authorized restraint equipment is not a use of force. When mechanical restraint is required, handcuffs, alone or attached to a waist chain, will be the means of restraint normally used. However, additional mechanical restraints, including leg restraints, additional chains, leather cuffs, or other specialized restraint equipment may be used when the circumstances indicate the need for the level of control that such devices will provide. Restrained inmates shall never be left unsupervised.

Use of mechanical restraints on persons confirmed, or suspected by health care staff to be pregnant shall be subject to the following requirements found in California Code of Regulations (CCR) Title 15 section 3268.2 (d) and (e):

- No leg restraints or waist chains shall be applied.
- If handcuffs are applied, the person's arms shall be brought to the front of her body for application.

Mechanical restraints shall not be placed on an inmate during labor, including during transport to a hospital, during delivery, and while in recovery after giving birth, unless circumstances exist that require the immediate application of mechanical restraints to avoid the imminent threat of death, escape, or great bodily injury. In this case, mechanical restraints may be used only for the period during which such threat exists.

The following state-issued restraints and equipment are authorized for use at the discretion of on-duty staff:

- Handcuffs
- Waist Chain
- Leg Restraints
- Escort Chains
- Padlocks
- Security Chain
- Spit Hood
- Martin Chain

The following restraints may be used as specified below:

- Safety Triangle: This device is a handcuff retention device, used to prevent inmates from pulling restraint equipment into their cell and may be used at the discretion of on duty staff. Some reasons for using the safety triangle include, but are not limited to: rehousing an irate inmate who has threatened violence or an inmate who was just involved in a use of force incident. The safety triangle may remain attached to the handcuffs if the inmate is being relocated in the housing unit and if attaching and detaching the safety triangle to and from the handcuffs presents a safety concern. The safety triangle is not intended to control the inmate outside of the cell. The officer controlling the safety triangle must be vigilant and efforts

should be directed to prevent the inmate from pulling their hands inside the cell while the door is being closed.

- In the event that an inmate who is attached to a triangle refuses to place their hands in the food/security port to allow the handcuffs to be removed, it may be necessary to pull the safety triangle to retrieve the handcuffs. When it is necessary to pull the safety triangle, a single staff member shall slowly move away from the door while holding onto the safety triangle, in order to bring the inmate's hands through the port. This will be conducted with extreme caution in order to minimize the risk of injury to the inmate. Additional staff may be needed to assist with the safety triangle in the event that the one staff member is insufficient to get the inmate's hands through the food port. Once the inmate's hands, wrists, and forearms are through the port, staff will grasp the inmate's forearms, the tension on the safety triangle shall be released, and the handcuffs removed.

Prior to using a safety triangle on an inmate confirmed or suspected by health care staff to be pregnant, a physician must be consulted and any potential risks fully discussed.

The final decision to place the device on the pregnant inmate will rest with the Warden or Chief Deputy Warden (CDW) and the reviewing physician. The consultation and its outcome must be documented for inclusion in the inmate's health record and central file.

- **Leather Restraints:** Leather restraints are used for four/five point restraint in a Correctional Treatment Center, General Acute Care Hospital, or community hospital. Authorization for application of four/five point restraints shall only be given by health care staff in accordance with California Code of Regulations, Title 22, Section 79801 Clinical Restraint, Treatment Restraint, and Clinical Seclusion, and the Mental Health Program Services Delivery System Program Guide, Chapter 10, Suicide Prevention and Response. Use of restraint equipment at the direction of medical staff shall be fully documented in the inmate's health record.
- **Hand Isolation Devices (HID):** These devices (e.g., hand restraint mitts/mittens, etc.) are used as an additional measure to restrict an inmate's ability to use his/her hands. HIDs may be used upon initial placement on Contraband Surveillance Watch (CSW) at an institution when requested and authorized as specified in DOM Section 52050.23.4, Mechanical Restraints. Only HIDs purchased from an approved vendor shall be used. Inmates in HIDs must have constant and direct visual supervision at all times. When it is deemed necessary by on duty staff to implement the use of a HID subsequent to the initial placement on CSW, a CDC Form 128-B, General Chrono, will be completed stating a specific safety and security concern associated with the individual inmate, and included with the CSW documentation. The subsequent approval shall be at the level of Lieutenant or above, and approved at the level of Captain or above during business hours, or by the institution AOD during nonbusiness hours. The CDC Form 128-B will include: the date of implementation, reason or justification for implementation of the device, and staff requesting and approving the HID implementation. Prior to placing a HID on an inmate confirmed or suspected by health care staff to be pregnant, a physician must be consulted and any potential risks fully discussed. The final decision to place the device on the pregnant inmate will rest with the Warden or CDW and the reviewing physician. The consultation and its outcome must be documented for inclusion in the inmate's health record and central file. Equipment Hygiene - HIDs must be maintained per the manufacturer's specifications, and only clean HIDs are to be used. Should a HID become contaminated or soiled, a clean HID will be provided as soon as it is safe to do so.

Mechanical restraint equipment shall not be used in any manner described in CCR, Title 15, Section 3268.2(c), Use of Restraints. The use of restraint equipment not identified in this section must be preapproved at the level of Associate Director or higher. As part of the mechanical restraint maintenance process, restraints shall be routinely cleaned and sanitized to adhere to an acceptable equipment hygiene standard.

Inmates who have a disability that prevents standard search methods or application of restraint equipment in the prescribed manner shall be afforded reasonable accommodation under the direction of the Response Supervisor. Mechanical restraints shall be applied to ensure effective application while reasonably accommodating the inmate's disability.

### **51020.7 Deadly Force**

The CDCR recognizes the sanctity of human life. Therefore, deadly force will only be used when it is reasonably necessary to:

- Defend the employee or other persons from an imminent threat of death or great bodily injury.
- Prevent an escape from custody.
- Stop acts such as riots or arson that constitute an immediate jeopardy to institutional security and, because of their magnitude, are likely to result in escapes, great bodily injury, or the death of other persons.
- Dispose of seriously injured or dangerous animals when no other disposition is practical. (CDCR operates facilities that maintain livestock or are situated in remote areas, therefore CDCR recognizes this need.)

A firearm shall not be discharged if there is a reason to believe that persons other than the intended target will be injured.

In facilities contracted to house CDCR inmates outside of California, the use of deadly force shall only be applied in accordance with applicable law in the state where the facility is located.

**[Section 51020.7.1 is unchanged]**

### **51020.8 Non-deadly Force**

Non-deadly force will only be used when reasonably necessary to:

- Subdue an attacker.
- Overcome resistance.
- Effect custody.
- Gain compliance with a lawful order.

**[Sections 51020.9 through 51020.10 are unchanged]**

### **51020.11 Immediate Use of Force**

When time and circumstances do not permit advanced planning, staffing and organization, and an imminent threat exists to institution/facility security or safety of persons, immediate force may be used.

If time and resources allow, an immediate use of force should be video recorded. If an immediate use of force is recorded, the recording shall be submitted into evidence.

If an immediate use of force is captured on security cameras (i.e. yard or visiting cameras), those recordings shall be placed into evidence.

#### **51020.11.1 Immediate Use of Force in Cells**

When immediate force is necessary due to an imminent threat, for inmates confined in their cells, Oleoresin Capsicum (OC) is the preferred option for carrying out the immediate use of force. Whenever possible, a verbal warning shall be given before force is used.

**[Sections 51020.11.2 through 51020.12.1 are unchanged]**

## **51020.12.2 Extractions**

An extraction is the involuntary removal of an inmate from an area and usually occurs when the inmate is in a confined area such as a cell, holding cell, shower, or small exercise yard.

Extractions can be conducted as a controlled or immediate use of force. Except in the case of an imminent threat, extractions shall take place in a controlled manner.

- Controlled extractions occur when no imminent threat exists but an inmate's refusal to comply with orders and presence in a cell, yard, or other previously identified location poses a threat to safety and security, or disrupts the normal operation of the housing unit, facility, or institution.
- Immediate extractions occur when an imminent threat exists. Some examples of when an immediate extraction may be necessary are: to prevent or stop, great bodily injury and/or serious bodily injury, attempted suicide, self-harm, in-cell assault, or for medical concerns such as an inmate who is non-responsive, convulsing, or seizing.

The presence of supervisors, managers or health care staff is not required to conduct an immediate extraction.

If a controlled extraction becomes necessary, extraction team members shall be issued extraction equipment:

- Riot helmet, with protective face shield, protective vest, respirator, elbow and shin protectors, gloves, Kevlar neck protector, and blood borne pathogen protective suit.
- Protective shield, approximately 22" wide and 48" long.
- Hand-held baton(s), handcuffs, and leg restraints.
- Video camera(s) with a backup videotape or media and back up batteries.

If an immediate extraction in a Security Housing Unit/Administrative Segregation Unit becomes necessary, extraction team members shall be issued extraction equipment:

- Riot helmet, with protective face shield, and protective vest.
- Protective shield, approximately 22" wide and 48" long.
- Hand-held baton(s) and handcuffs.

The blood borne pathogens protective suit can be used in an immediate extraction if needed. The suit is not required if bodily fluids are not present in sufficient quantities which present a threat to staff.

The blood borne pathogens protective suits, riot helmets, and protective shields are to be stored in locations that are readily accessible to the staff responding to conduct an immediate cell extraction so as not to delay entry/response.

Prior to a controlled extraction, the Response Supervisor or Incident Commander shall ensure that the members of the extraction team do not include any staff member who was directly involved in the incident precipitating the need for extracting the inmate.

The Incident Commander will ensure the Response Supervisor and extraction team members clearly understand their role, appropriate signals, and are familiar with the departmental use of force policy.

A briefing, including possible tactics to be used, shall be given to the extraction team by the Response Supervisor and/or Incident Commander. This briefing shall not be video recorded and should be completed away from the presence of any inmates.

If time permits prior to the actual extraction, a mock extraction may be conducted in a vacated area with participating staff in order to ensure that custodial staff are familiar with their roles during the extraction. Several simulated operations will ensure smoothness and timing during the actual extraction.

Prior to the extraction, the Incident Commander will communicate with the officer responsible/assigned to open/close cell doors and establish verbal/non-verbal signals specific to the controlled use of force.

The Incident Commander shall ensure the control officer understands that only the Incident Commander shall authorize the opening and closing of affected doors.

For the safety of staff, prior to being removed from a cell, it is preferred that the inmate submit to a visual search. The inmate should remove all clothing, except his/her underwear, and move back far enough from the cell door to allow a visual inspection. The inmate shall be visually inspected from head to toe, front and back. The inmate will run his/her fingers around the inside waistband of his/her underwear. The inmate shall be allowed to retain his/her underwear while being restrained and removed from the cell.

If the inmate refuses to cooperate with the visual search, but is willing to submit to restraints, the inmate shall be placed in restraints and removed from the cell. The application of restraints shall not be delayed due to the inmate's refusal to submit to being searched, or to have the inmate remove any clothing. Upon removal from the cell, the inmate should be subjected to search for staff safety.

Placement of an inmate on the stomach for a short period of time to restrain an inmate is authorized; however once the inmate is exposed to chemical agents and/or if a spit hood/mask is placed on the inmate, staff shall not place the inmate on his/her stomach, or in a position that allows the inmate to end up on his/her stomach, for any period longer than necessary to gain or maintain control.

The procedure for cell extractions where two inmates are in the cell remains the same as for a single celled inmate with the following additions:

- Additional team members shall be assigned as determined by the Incident Commander.
- In the event one of the inmates is compliant with staff's instructions, and if in the judgment of the Incident Commander it is safe to open the cell door, the inmate shall be removed. If it is unsafe to remove the compliant inmate, they shall be required to remain in the cell and appropriate instructions shall be issued for the duration of the incident.

The procedures for an extraction from a holding cell, shower, small exercise yard, etc., whether in a segregated housing unit or general population remain the same as cell extractions except as follows:

- Additional extraction team members or an additional extraction team may be assigned as determined by the Incident Commander.
- In the event two or more inmates are to be extracted from the same area, at least one additional supervisor shall be assigned.

**[Sections 51020.12.3 through 51020.12.4 are unchanged]**

### **51020.12.5 Food Trays**

Accountability for food trays is an operational concern for the safety and security of institutions. It is important that the staff who issue food trays to inmates in cells account for all trays after the meal is concluded.

If the inmate refuses to return a food tray, the supervisor and the First or Second Level Managers shall be notified. Staff shall document the inmate's refusal to return the food tray on a CDC-115, Rules Violation Report.

The inmate will be advised that he shall not receive another meal until the first scheduled mealtime after the tray is returned.

Additionally, the inmate – and all other inmates in the pod/section – will be placed on escort/restraint status to prevent passing of contraband items. Inmates may exit their cells to

acquire various services. If the cell is vacated, staff will use that opportunity to retrieve the food tray.

Notice shall be provided to staff members working subsequent shifts to ensure their awareness of the circumstances. Institution/facility staff shall implement security measures to deter and prevent the movement of the retained food tray from one cell to another.

If the inmate retains control of the food tray for a period of 24 hours, the Manager shall determine if controlled force will be used to retrieve the tray. This does not preclude the Manager from making a determination, based on safety and security concerns, to retrieve the tray using force prior to the 24-hour time frame.

If the goal of the controlled use of force is only to retrieve the tray, all staff shall be informed of this in advance. If the inmate has retreated to the back of the cell and the tray can be safely retrieved without the application of force, then staff shall retrieve the tray and exit the cell.

**[Sections 51020.13 through 51020.15 are unchanged]**

**51020.15.1 Chemical Agent Use During Controlled Use of Force – Small Space**

During a controlled use of force in a cell, single person holding cell, shower, or other small space, only the chemical agent products listed in 51020.15.1 may be deployed. Any additional products authorized by the Office of Correctional Safety, Emergency Operations Unit, and approved by the Director, Division of Adult Institutions must be specifically authorized for controlled use of force in a cell or other small space in order to be utilized for this purpose.

- MK-9 OC Vapor - limited to a single burst of 1-3 seconds in duration per application with a maximum of two applications.
- MK-9 OC Fogger – limited to a single burst of 1-5 seconds in duration per application with a maximum of four applications.
- MK-9 OC Foam – limited to a single burst of 1-5 seconds in duration per application with a maximum of four applications.
- OC Vapor Grenade – limited to 2 devices
- OC Flameless Expulsion Grenade – limited to 2 devices
- X-10 Barricade Removal Device – limited to a single burst of 1-5 seconds in duration per application with a maximum of four applications. Chemical agents may only be deployed from the X-10 during the removal of a barricade. The X-10 is not to be used solely as a delivery device for chemical agents.

Regardless of which chemical agents are deployed, or in what combination, no more than a total of four chemical agent applications shall be administered. In unusual circumstances or when circumstances call for extreme measures to protect staff or inmates, it may be necessary to exceed the four allowed applications. In this event, the Incident Commander shall consult with the on-site manager, who can authorize additional chemical agent applications. For each *additional* chemical agent application authorized, the on-site Manager shall verbalize to the camera, the chemical agent application being authorized and the rationale for the decision.

The amount of time needed for the chemical agents to become effective will vary based upon the delivery method, individual tolerance levels, and environment. A minimum of three minutes shall lapse between each application of chemical agents before additional chemical agents may be applied.

It is recommended a Response Supervisor be assigned the duties of administering chemical agents during controlled use of force in a cell or other small space. Prior to each use of a chemical agent, the staff member applying it shall display the device in view of the camera and state out loud for the camera the time of application and the type of device being applied.

After each application of a chemical agent, the Incident Commander and Response Supervisor shall assess the effectiveness or lack thereof. In the event chemical agents have not proven

effective, the Incident Commander and Response Supervisor should carefully weigh the continued use of chemical agents versus use of physical force to complete the extraction. If a decision is made to apply additional chemical agents, the Incident Commander shall verbalize to the camera the rationale for the decision. For example: "A vapor grenade was deployed. It has been three minutes. The inmate is not showing any visible reaction, is using a personal barrier, and is shouting. We will now attempt to strike the personal barrier with a fogger product." Staff shall make every reasonable effort to maintain visual contact with an inmate when administering chemical agents and until the inmate is decontaminated.

**[Sections 51020.15.2 through 51020.15.5 are unchanged]**

#### **51020.15.6 In-Cell Decontamination from Oleoresin Capsicum**

In-cell decontamination may be used for inmates housed in an institution/facility when the Incident Commander or Response Supervisor determines that removing the inmate would result in the need for additional use of force or give rise to an imminent threat.

The circumstances leading to the order for in-cell decontamination shall be clearly explained in the Response Supervisor's/Incident Commander's report.

When an inmate is going to be decontaminated in his/her cell, a licensed nursing staff shall advise the inmate how to self-decontaminate and the importance of decontamination. Licensed nursing staff shall explain to the inmate that he/she should remove contaminated clothing and use water from the sink to flush the affected area(s). The licensed nursing staff shall also explain to the inmate that he/she should pat or air dry and avoid rubbing the exposed areas.

When an inmate is not removed from the cell, a licensed nursing staff shall monitor the inmate approximately every 15 minutes for a period of not less than 45 minutes starting from the last application of chemical agent. During the monitoring, if the licensed nursing staff determines there is a need for additional medical assessment/treatment outside the cell, the licensed nursing staff shall advise a custody supervisor of the need to remove the inmate from the cell. The custody supervisor shall coordinate the removal of the inmate.

A licensed nursing staff shall document the fact the inmate was given instructions and the approximate times of the 15 minute observations on a CDCR 7219, Medical Report of Injury or Unusual Occurrence.

**[Sections 51020.16 through 51020.17.2 are unchanged]**

#### **51020.17.3 Video Records Made After Uses of Force That Cause Serious Bodily Injury, Great Bodily Injury, or Result in Allegations of Unnecessary or Excessive Force**

A video recorded interview of an inmate shall be conducted in accordance with the Inmate Interview for GBI and SBI Worksheet, CDCR Form 3013-1, or Inmate Interview for Allegation Worksheet CDCR Form 3013-2, and documented on the CDCR Form 3014, Report of Findings-Inmate Interview, under the following circumstances:

- The inmate has sustained a serious bodily injury or great bodily injury that could have been caused by a staff use of force (CDCR Form 3013-1).
- The inmate has made an allegation of an unnecessary or excessive use of force (CDCR Form 3013-2).

Any visible or alleged injuries shall be video recorded. The video recording shall be conducted by custodial supervisors (sergeants or lieutenants) who did not use, or observe the force used, in the incident.

The video recording should be made as soon as possible, but no later than 48 hours from discovery of the injury or allegation.

The video recording shall also include a request of the inmate to be interviewed regarding the circumstances of the incident. If the inmate refuses to be video recorded, such refusal shall be recorded.

The custody supervisor shall not inhibit the inmate being interviewed from providing relevant information.

**[Section 51020.17.4 is unchanged]**

### **51020.17.5 Response Supervisor-Additional Reporting Requirements for Deadly Force**

When there has been a use of deadly force, the on-duty/Response Supervisor shall ensure that the chain of command is notified and all necessary health and safety, medical, and security measures are initiated. The on-duty/Response Supervisor shall go to the location and ensure that the scene is protected.

For incidents occurring in an institutional setting, the Watch Commander shall contact the institution's ISU.

For incidents occurring in a community setting, the on-duty supervisor or Watch Commander shall ensure local law enforcement is contacted.

The on-duty/Response Supervisor shall ask the employee who used deadly force to provide a public safety statement immediately after the incident. This is the employee's oral statement. This statement helps determine the general circumstances of the incident, assess the need for resources, set the perimeter, locate injured persons, and determine the nature of the evidence to be sought. It shall provide basic information such as the number of persons involved in the incident, the number not yet in custody and number and direction of shots fired. The statement shall not include, and the employee should not be asked to provide, a step-by-step narrative of the incident or a motive for his/her actions. Providing a public safety statement does not relieve the staff of the responsibility to submit a written report in accordance with CCR, Title 15, Section 3268.1(a), or within 24 hours after the incident.

The on-duty/Response Supervisor shall capture the essence of the oral statement in writing and submit it to the Incident Commander.

In circumstances where the use of deadly force results in death or GBI, the staff using the force will be placed on administrative time off (ATO) for 72 hours in order to facilitate department interviews and staff wellness. These 72 hours will be paid contiguous time off, unless they are scheduled regular days off (RDO). RDOs will count toward the contiguous 72 hours but will not be paid unless the employee is called to work. If the 72 hours ATO overlap with a period of pre-scheduled time off (i.e. vacation, holiday, sick leave, etc.) the ATO will be used in lieu of, not in addition to the affected employee's leave credits.

As soon after the incident as is practical, the on-duty/Response Supervisor or Incident Commander must also initiate Peer Support Program (PSP) protocols as delineated in DOM Section 31040.3.2. The Incident Commander shall notify the Office of Internal Affairs (OIA) and the Office of the Inspector General (OIG) as soon as possible, but no later than one hour from the time the incident is discovered, of any use of deadly force and every death or GBI that could have been caused by a staff use of force.

**[Sections 51020.17.6 through 51020.19.1 are unchanged]**

### **51020.19.2 First Level Manager Review**

The First Level Manager of the area where the incident or allegation occurs shall reach a judgment whether the force used was in compliance with policy, procedure, and training.

The manager shall:

- Review all documentation in the incident package, including, the Report of Findings-Inmate Interview (CDCR 3014).
- Review the quality of all reports to ensure the use of force was properly documented and reviewed. This includes a review of the Incident Commander's conclusions.
- Determine if any corrective action taken by his/her subordinates in relation to the incident was adequate/proper.
- Conduct an in depth analysis to determine if the use of force described in the incident package was within the guidelines of the Use of Force policy, as well as other policies, procedures and training. This analysis should address any non-compliance not identified earlier.
- Complete a review of the incident on the Manager's Review – First Level Use of Force Incidents (CDCR 3011).

In the event the First Level Manager believes an investigation may be necessary, they shall suspend the review and recommend that the case be referred for investigation.

### **51020.19.3 Second Level Manager Review**

The Second Level Manager is the final level of review prior to the completed incident package being sent to the Use of Force Coordinator for review by the (IERC). The Second Level Manager shall reach a judgment whether the force used was in compliance with policy, procedure, and training.

The Second level manager shall:

- Review all documentation in the incident package, including, the Report of Findings-Inmate Interview (CDCR 3014).
- Review the quality of all reports to ensure the use of force was properly documented and reviewed. This includes a review of the Incident Commander's conclusions and the First Level Manager's conclusions.
- Determine if any corrective action taken by his/her subordinates in relation to the incident was adequate/proper.
- Conduct an in depth analysis to determine if the use of force described in the incident package was within the guidelines of the Use of Force policy, as well as other policies, procedures and training. This analysis should address any non-compliance not identified earlier.
- Complete a review of the incident on the Manager's Review – Second Level Use of Force Incidents (CDCR 3012).
- In the event the Second Level Manager believes an investigation may be necessary, they shall suspend review and recommend that the case be referred for investigation.

**[Sections 51020.19.4 through 51020.19.5 are unchanged]**

### **51020.19.6 Department Executive Review Committee Monitoring Responsibility**

The Department Executive Review Committee is a committee of staff selected by, and including, the Associate Director who oversees the respective Mission-based group. The DERC shall review all incidents involving deadly force, serious bodily injury, great bodily injury, or death. The DERC shall also review those incidents referred to the DERC by the IERC Chairperson or otherwise requested by the DERC.

The DERC shall conduct a review of the incident and document its findings. The DERC shall also review the actions of the IERC and in the event the DERC has questions or concerns with actions taken by the IERC, the DERC shall take appropriate action.

The Director of DAI may choose to provide final review for any incident reviewed by the DERC.

**[Sections 51020.20 through 51020.24 are unchanged]**