

COMMONWEALTH OF MASSACHUSETTS
~~103 CMR:~~ DEPARTMENT OF CORRECTION

103 CMR 505

~~.00:~~ USE OF FORCE

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505.01: Purpose

—The purpose of 103 CMR 505.~~00~~ is to establish rules and procedures; governing the use of force by Department of Correction (Department or DOC) employees.

505.02: References

M.G.L. c. 124, §§ 1(b), (c) and (q); M.G.L. c. 127, § 33; M.G.L. c. 140, § 131J.

505.03: Cancellation

—103 CMR 505.~~00~~ cancels all previous Department policy statements, bulletins, directives, orders, notices, or regulations on the use of force; to the extent they are inconsistent with 103 CMR 505.5.00.

~~505.0403:~~ Applicability

—103 CMR 505.~~00~~ is applicable to all employees of the Department, provided, however, that 103 CMR 505.11 shall not apply when instruments of restraint, as defined in 103 DOC 651, Use of Seclusion and Restraint for Bridgewater State Hospital, are applied to patients who inmates that have been admitted or committed to the Bridgewater State Hospital (BSH) under the provisions of M.G.L. c. 123. It shall apply when instruments of restraint are applied to those inmates who have either been placed at the ~~BSHBridgewater State Hospital~~ via the classification process for the purpose of assignment to the permanent inmate workforce, placed in the BSH infirmary, or to inmates located within the confines of the BSH for other purposes. —Provided, further, that 103 CMR 505.~~00~~ shall not apply to employees of the Department when restraints are applied to inmates housed at the Lemuel Shattuck Hospital.

~~505.05: Public 04:~~ ~~Access~~ ~~to Regulations~~

This regulation shall be accessible by the public.

505.06: Location

—Copies of 103 CMR 505.~~00~~ shall be posted and maintained in prominent places accessible to all employees and inmates. A copy shall be given to each employee at the time of initial orientation. A copy shall be kept on file in the institution's central policy file, inmate law library, and in the Central Office policy file.

505.07: Responsible Staff For Implementing And Monitoring Regulation

Commissioner
Director of the Special Operations Division
Superintendents
Special Unit Directors

505.08: Effective Date

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This regulation shall be effective upon publication in the Massachusetts Register.

505.09: Severability Clause

If any article, section, subsection, sentence, clause or phrase of these regulations is for any reason held to be unconstitutional, contrary to statute, in excess of the authority of the Commissioner, or otherwise inoperative, such decision shall not affect the validity of any other article, section, subsection, sentence, clause or phrase of 103 CMR 505.

505.1005: Definitions

Administrative Review: Review of use of force matters submitted to the Director of Special Operations or the Chief of OIS by appropriate subject matter expert(s) as determined by the Commissioner.

Ammunition:- The projectile(s), along with the casing and primer that can be fired from a firearm.

Assistant Deputy Commissioner, Clinical Services: The staff person charged with the administration of the Health Services Division of the Department of Correction.

~~505.05:—Continued~~

Business Hours:- Monday through Friday, 9:00 a.m. to 5:00 p.m.,- excluding holidays.

Chemical Agent: Agents: Device or instrument that contains or emits a liquid, powder, or ~~any~~ other substance designed to incapacitate. This includes, but is not limited to, tear gas cartridges and self-contained sprays.

Commissioner:- The Commissioner of the Department of Correction.

Department:- The Department of Correction.

Department Duty Officer Station:- Designated site that assists the processing of information for the Duty Officer System.

Deputy Commissioner of the Prison Division: A Deputy CommissionerAdministrative Services. One of thethree Department of CorrectionDeputy Commissioners whose duties include, but are not limited to, the management of the Special Operations Division. For the purposes of 103 CMR 505.000, the Deputy Commissioner of the Prison Division acts as the Tactical Operations Commander and is in the chain of command during the review process of all tactical uses of force.

~~Deputy Commissioner of the Prison Division. One of three Deputy Commissioners of the Department of Correction. The Deputy Commissioner is in charge of all facility operations as well as the Central Transportation Unit, Inmate Disciplinary Unit, Office of Investigative Services and Prison Rape Elimination Act (PREA).~~

Director, Special Operations Division:- The Department staff person responsible for the daily operations of the Special Operations Division of the Department of Correction.

~~Director, Health Services. The staff person charged with the administration of the Health Services Division of the Department of Correction.~~

Emergency:- Any situation where the failure of an individual to take immediate action would place that individual or another at imminent risk of death or serious bodily injury.

Emergency Entrance into a Cell: Entry into a cell when time is of the essence due to a medical or other emergency. These emergencies include, but are not limited to, an inmate who appears to be in distress within a cell, an inmate who is physically harming himself/herself or another, and/or an inmate who is engaging in life threatening behavior.

Employee:- An employee of the Department of Correction. For the purposes of 103 CMR 505-00 only,

employee shall also refer to individuals paid for services performed within a correctional institution for or through a contracted service or agency.

Excessive Force: - Force applied that exceeds reasonable or required force, or force which was reasonable at the time its use began, but was then used beyond the need for its application.

Firearm: - A pistol, revolver, or other weapon of any description, loaded or unloaded, from which ammunition can be fired.

Force: - The use of physical power, including, but not limited to, the ~~use of~~ bodily strength, a weapon, a chemical agent, specialty impact device, or instrument of restraint, to compel, restrain, or otherwise subdue a person.

Four- Point Restraint: - Any combination of instruments of restraint such that the four limbs of an individual~~inmate~~ are restrained at any one time, in any manner, to a fixed object.

Inmate: For the purposes of this regulation, an individual confined at or committed to a correctional institution, including patients admitted to the Bridgewater State Hospital, residents admitted to the Massachusetts Treatment Center, and individuals housed at the Lemuel Shattuck Correctional Unit.

Institution Duty Officer: A rotating~~The~~ staff person assigned specific~~the~~ duties as institution duty officer by the Superintendent. The institution duty officer is usually assigned for a period of two weeks at a time~~superintendent~~.

Instruments of Restraint: - Equipment authorized for use to prevent escape during the transportation of inmates ~~to prevent escape~~, or to prevent injury to self, others, or property. Instruments of restraint shall include, but not be limited to: handcuffs, waist chains, leg restraints, soft restraints, flexible restraints, or any other device or equipment authorized by the Commissioner.

Medical Director: - Physician designated by the Contractual Medical Provider with supervisory authority~~as responsible~~ for health services and medical judgments at each Department institution.

~~505.05: continued~~

Office of Investigative Services (OIS) ~~Apprehension Unit~~: The office, under the Office~~unit of the Department of Correction that conducts investigations at the direction~~ of the Deputy Commissioner, of the Prison Division, that is comprised of the following units: Central Intelligence Unit (CIU), Fugitive Apprehension Unit (FAU), and the Criminal Prosecution Unit (CPU). ~~is responsible for the apprehension of escaped inmates.~~

Reasonable Force: - The use of physical power, a weapon, a chemical agent, specialty impact device, or instrument of restraint applying the least amount of force that an objective, trained and competent correctional employee, faced with particular facts and circumstances, might consider necessary and reasonable in a manner to subdue an attacker, overcome resistance, effect custody, or gain compliance with a lawful order~~carry out the actions listed in 505.07(2) (a) through (j).~~

Serious Bodily Injury: - Any injury which creates a substantial risk of death or any injury which is likely to cause serious permanent disfigurement, or the loss or extended impairment of any limb, organ or other part of the body.

Shift Commander: - The staff member responsible for the supervision of all security staff during a given tour of duty, ensuring that ~~said~~ staff maintain the safety and security of the institution, and provide for the care and custody of all inmates housed within the institution, in accordance with all Department policy statements, bulletins, directives, orders, notices, rules, and/or regulations. The shift commander may also be responsible for institutional operations during the absence of higher ranking staff.

Specialty Impact Device: - Any device or munitions authorized by the Commissioner designed to deliver enough energy to cause sufficient discomfort in order to gain voluntary compliance, mental distraction, or temporary incapacitation.

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Special Unit Director: - The administrative head of each of the the following units:

- (a) The Office of Investigative Services;
- (b) The Department Staff Development Division;
- (c) The Department Central Transportation Unit; and
- (d) ~~The Special Operations Division~~;

Superintendent: - The chief ~~executive~~administrative officer of a Department of Correction institution.

Visitor (Inmate): - Any person requesting entrance into a correctional institution's visiting room or other approved visiting area for the sole purpose of conducting a social or family visit with an inmate incarcerated within any state correctional institution.

Visitor (Institutional): - Any person requesting entrance into a correctional institution to conduct specific, official business, ~~including such as~~, but not limited to: contractors, vendors, ~~repair staff~~, ~~repairmen~~, facility tours, media, volunteers, and persons wishing to provide services to an inmate~~inmates~~ or to examine or report on an inmate's condition~~inmates' conditions~~.

Visitor (Legal): Any attorney, law student, paralegal, or private investigator requesting entrance into a correctional institution to meet with an inmate for litigation purposes or for a potential legal matter.

505.11:06

Philosophy

_____ It is the Department's philosophy to train staff to use reasonable ~~only the amount of~~ force ~~necessary~~ to: gain control of an inmate; ~~to~~ protect and ensure the safety of all inmates, staff, and others; ~~to~~ prevent significant property damage; and, ~~to~~ ensure institution safety, security, and good order. Force ~~should~~shall never be used as a form of punishment. Staff shall also be trained in methods of de-escalating a conflict, which should be considered first, time permitting, whenever feasible, and instructed that force shall only be used as a last resort in resolving any conflict. By using de-escalation techniques the Department recognizes that safer alternatives to force may be ~~sometimes~~ available, which in turn may~~shall~~ prevent injuries to staff and inmates. Moreover, the Department recognizes that de-escalation does not compromise staff's~~staffs'~~ authority over inmates; rather, it allows staff to deal with the disruption on their terms.

505.12:07

Use of Force

(1) A use of force occurs whenever staff physically imposes his/her~~their~~ will on an inmate. If an inmate voluntarily complies with an order to be restrained, including placement in four point restraints, a use of force has not occurred and should not be reported as such.

505.07: continued

(2) An employee may use reasonable force, and then only as a last resort, when it is necessary to do the following:

- (a) prevent the commission of a felony, including escape;
- (b) prevent an act which could result in death or serious bodily injury to himself/herself or another person;
- (c) ~~defend himself/herself or another against a physical assault;~~
- (d) prevent significant damage to property;
- (e) prevent or control a riot or disturbance;
- (f) move an inmate who has refused ana proper order to move by an employee;
- (g) prevent an escape or apprehend an escaped inmate;
- (h) conduct a ~~the~~ search of an inmate who has refused ana proper order by an employee to submit to said search;
- (i) preserve the overall order and security of the institution; and
- (j) ~~preserve the safety of any employee, inmate, or visitor.~~

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(3) There are two types of use of force situations, spontaneous and planned:

(a) —A spontaneous use of force occurs ~~when~~ whenever there is an immediate need to control or restrain a person for the protection and safety of all concerned ~~(—e.g. to protect an~~ when the inmate ~~fromis participating in self-injury, to defend oneself harm, for self defense or the protection of~~ another who is at risk of imminent harm, to prevent an escape, or to prevent property damage which compromises institution safety).
— When a spontaneous use of force occurs, staff may defend themselves using a number of techniques illustrated by a Pyramid of Force (Standard Operating Procedure available at <http://www.mass.gov/doc/policy>, and at each inmate library attached to 103 CMR 505-00: Use of Force).

(b) A planned use of force occurs when the level of threat by the inmate is not immediate ~~(—e.g., refusal to be put in restraints and exit a cell, threatening behavior, possession of a weapon, and property damage). A planned use of force allows.—There is~~ time to activate a team, suit up in full extraction gear, and brief team members on the strategy to be used. ~~Efforts~~ Every attempt should be made to de-escalate ~~diffuse~~ the situation ~~before~~ prior to a planned use of force.

(c) Whenever possible, any staff member involved in a spontaneous or planned use of force that results in injury to ~~that~~ the staff member shall remove himself/herself from the situation as soon as possible. It is the responsibility of the team leader, or any supervisory personnel, to remove a staff member from continued involvement in a use of force when that staff member has been injured, whenever possible.

(4) ~~To~~ Prior to using force, to the extent that it is practicable, staff shall attempt to de-escalate the situation with the intent ~~in hopes~~ of eliminating the need for force.

(5) Whenever a disruptive inmate's inability to communicate in English hinders attempts to de-escalate the conflict, ~~if at all possible,~~ a staff person fluent in the language of the inmate should be utilized if possible.

505.13:08 Prohibitions on the Use of Force

(1) An employee shall not use or permit the use of excessive force. It is the responsibility of an employee who witnesses an excessive use of force to report any such force to a supervisor as soon as possible.

(2) An employee shall not use or permit the use of force as inmate punishment or discipline.

505.14:09 Emergency Entry ~~Into~~ Cell Procedure

The following procedures are to be utilized for an emergency entrance ~~into~~ of a cell ~~within a special management unit, or any other unit as deemed appropriate by a superintendent,~~ when time is of the essence, due to a medical or other emergency. These emergencies consist of an inmate who appears to be in distress within a cell and/or when an inmate is physically harming himself/herself:

(1) An Emergency Response shall be initiated.

~~505.09:~~ continued

(2) ~~The~~ Evaluate the cell and the condition of the inmate shall be evaluated.

(3) If the window of the cell door is covered, ~~make~~ an effort shall be made to see ~~into~~ the cell, using any technology available.

(4) In order to determine whether it is safe to enter the cell, staff on site shall report to supervisory staff their observations of all available information, including, but not limited to, the presence of a visible weapon. The

shift commander shall make the final decision to conduct an emergency entry into the cell.

(5) ~~If~~When the decision to enter a cell has been made by the shift commander, there shall be at least three staff members present when the door opens. One of these staff members shall be ~~a supervisor of supervising rank~~, if possible.

(6) Each institution shall place intervention carts throughout the facility. The ~~Superintendents~~superintendent or designee shall determine the location of the intervention carts, taking into consideration where uses of force are most likely to occur. Each intervention cart shall include a minimum amount of extraction equipment, including a poly captor shield, three vests, three ~~pairs~~pair of gloves, and three helmets. During an emergency entrance ~~into a~~cell procedure, if staff members are unable to suit up in extraction equipment, they may utilize any equipment contained in the intervention cart. A shield shall be utilized during an emergency entrance ~~into a~~cell procedure, if possible.

(7) In an effort to maintain safety, staff shall proceed with extreme caution when conducting an emergency entry ~~into a~~cell, especially when there is a visible weapon.

~~505.15:10~~ Requirements Governing the Use of Chemical Agents

(1) Only those chemical agents approved in writing by the Commissioner are authorized for use.

(2) Chemical agents shall not be used in state institutions without the prior authorization of the ~~Superintendents~~superintendent, or, in the absence of the ~~Superintendents~~superintendent, a designee, ~~unless an emergency exists requiring—Where the immediate~~timely authorization of the ~~superintendent or designee cannot be obtained and the failure of an employee to act would constitute a risk to the employee, inmates or others; the shift commander shall have the authorization to approve the~~ use of chemical ~~agent~~agents. All authorizations noted in 103 CMR 505.~~15~~(10)(2) shall be documented in writing after the incident and ~~pursuant to and~~ within the time limits of 103 CMR 505.~~18~~13(1).

(3) When time and circumstances permit, before the use of chemical agents, the Medical Director/~~or~~ designee, shall review the inmate's medical file to determine if any medical contraindications exist in using chemical agents. After the review, the Medical Director/designee shall complete and sign the "Use of Chemical Agents" form (available at <http://www.mass.gov/doc/policy> and at each inmate library attached to 103 CMR 505.~~00~~Use of Force). Inmates in adjacent cells shall also be checked for contraindications. If necessary, the adjacent inmate(s) shall be moved to a non-affected area before chemical agents are used unless an emergency exists requiring the immediate use of chemical agents.

(4) Chemical agents shall not be used as inmate punishment.

(5) Chemical agents shall only be used by employees trained and certified in their proper use, and only after a clear verbal warning has been conveyed to the inmate that he/she needs to comply with the order, unless an emergency exists that requires the immediate application of chemical agents to prevent injury to staff or inmates or property damage which may compromise institutional safety.

(6) Chemical agents shall only be used ~~in accordance with~~following the manufacturer's recommendations and in compliance with the training program plan as approved by the Commissioner/designee.

(7) Decontamination of contaminated areas(s) shall be in accordance with the manufacturer's recommendations and in compliance with the training program plan as approved by the Commissioner/designee.

~~505.10:—continued~~

(8) The use of chemical agents shall be considered a use of force. The reporting requirements of 103 CMR 505.~~19~~13 shall be followed.

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(9) Following the application of chemical agents, the Deputy Commissioner of the Prison Division ~~or a~~ designee shall be notified ~~by normally acceptable means of communication~~ as soon as possible.

505.16:11 Requirements Governing the Use of Instruments of Restraint

(1) Only instruments of restraint approved by the Commissioner and issued by the Department shall be used. Gags are not authorized as instruments of restraint, and their use is a violation of 103 CMR 505.00.

~~(2) Leg irons, four point restraints, and waist chains shall not be used on an inmate who is pregnant or in post-partum recuperation, as determined by a licensed health care professional. During the first, second and third trimester, only handcuffs in the front may be applied. An inmate who is in any stage of labor or delivery as determined by a licensed health care professional shall not be restrained at any time, including during transportation. An inmate in post-delivery recuperation shall not be placed in restraints, except under extraordinary circumstances. The use of restraints on pregnant and post-partum inmates shall be governed by M.G.L., c. 127, §118, 103 DOC 521.09 and 103 DOC 530.11(A)(3).~~

~~(3) Instruments of restraint shall not be used as inmate punishment.~~

~~(4) (2) Instruments of restraint shall not be used as punishment.~~

~~(5)~~ The following uses of instruments of restraint shall not be considered to be a use of force:

 —(a) during the transportation of inmates;

(b) routine movement of inmates from one point to another within a correctional institution;

 (c) ~~and;~~

 application of restraints, including four point restraints, on an inmate who voluntarily complies with being restrained.

~~(6)~~ Although a use of force has not occurred if an inmate voluntarily ~~complies~~ complied with a directive ~~contemplated by 103 CMR 505.16(4)(c) to be restrained,~~ the ~~Superintendent~~ superintendent must document each instance ~~of the use of four point restraint~~ by utilizing the ~~Use of Force~~ Four Point Restraint Checklist, the Four Point Restraint Medical Examination Checklist, and the Observation Check Sheet as well as the Mental Health Review. ~~Each, each~~ is available at <http://www.mass.gov/doc/policy>, and at each inmate library attached to 103 CMR 505: Use of Force. These documents shall be filed as appropriate in the medical, mental health, and/or inmate six-part folder. ~~00: Use of Force.~~

~~(5) (4)~~ Except as described in 103 CMR 505.1644 ~~(43)~~ (a) and (b), instruments of restraint shall only be used when all other reasonable methods of control have been considered and deemed inappropriate. The shift commander may authorize the use of restraint for up to two hours, but must contact the ~~Superintendent~~ superintendent, or in the absence of the ~~Superintendent~~ superintendent, a designee, ~~by normally accepted means of communication~~ as soon as possible to gain documented approval for continued use of instruments of restraint beyond two hours. In all other cases, the ~~Superintendent~~ superintendent, or in the absence of the ~~Superintendent~~ superintendent, a designee, must authorize the use of restraints ~~before~~ prior to their application. This includes inmates who voluntarily comply with orders to be restrained.

~~(6) (5)~~ Instruments of restraint shall only be used by employees trained in their proper use. Such training shall be documented in the employee's personnel file.

~~(7) (6)~~ Instruments of restraint used for purposes other than as described in 103 CMR 505.1644 ~~(43)~~ (a) and (b) shall only be used until the restrained inmate has exhibited through actions or statements that he/she will not resume the conduct which resulted in the decision to use instruments of restraint. This includes inmates who voluntarily comply with being restrained. In no event shall an inmate be restrained beyond an eight-hour period without the documented review by a member of the mental health staff. This also includes inmates who willingly agreed to be restrained. Such a review shall occur at the end of each eight-hour period. The ~~Superintendent~~ superintendent shall notify the appropriate Assistant Deputy Commissioner immediately if an inmate is to be restrained longer than eight hours.

~~(8)~~ ~~7)~~ All restrained inmates, except those restrained under 103 CMR 505.164+ ~~(43)~~ (a) and (b), shall be examined by a member of the ~~institution's~~ ~~Institution's~~ medical staff at regular and frequent intervals. Except in unusual circumstances, intervals shall not be greater than two hours in duration. Any examination pursuant to this section shall be documented in incident report(s) by Department staff, as well as in the inmate's medical file by the medical staff. This does not include inmates restrained at the Lemuel Shattuck Hospital Outpatient Department for medical treatment.

~~(9)~~ To reduce the risk of positional asphyxiation and possible death of ~~(8)~~ ~~At no time shall~~ an inmate, the following shall be adhered to:

~~a.~~ Staff shall always maintain ~~under restraint be out of the constant visual~~ observation of a restrained inmate to recognize

breathing difficulties or loss of consciousness. Staff shall be alert to issues such as obesity, alcohol and drug use, psychotic behavior, asthma, seizures, bronchitis, communication-related disabilities and risk of vomiting.

~~b.~~ Staff members shall never sit or put their weight on an inmate's back, chest or abdomen during the application of restraints.

~~c.~~ In situations involving an unrestrained inmate who is resisting efforts of staff to regain control of him, staff members may use their weight for only such period of time as is necessary to gain control of and/or restrain the inmate.

~~505.~~ ~~d.~~ If, as a result of a use of force it becomes necessary to restrain an inmate to the ground, bed, floor etc., the inmate, once handcuffed, shall, as soon as possible, be placed on his/her side. The inmate shall never be kept face down on his stomach. Staff members shall make all possible efforts to avoid prolonged compression of an inmate's abdomen.

~~e.~~ Staff at no time shall connect handcuffs to leg restraints.

~~f.~~ Inmates shall never be transported face down on their stomach (i.e., while using a stretcher, gurney, backboard or vehicle.)

~~g.~~ Health care staff shall, unless precluded by emergency circumstances, assess an inmate and shall review such inmate's medical record, if available, for any health history concerns such as cardiovascular, pulmonary, or respiratory disease prior to the time that such inmate is mechanically restrained. In the event that emergency circumstances preclude prior assessment and review, such assessment and review shall take place as soon as practicable thereafter.

~~h.~~ Health care staff shall regularly monitor vital signs, breathing and circulation, hydration, mental status, oxygen saturation level, skin integrity, signs and symptoms of blood clots or aspiration, and any physical injury to the inmate in restraints.

~~i.~~ The use of mechanical restraints shall be limited to four points of restraint or fewer.

~~(10)~~ ~~11:~~ ~~continued~~

~~(9)~~ The application of instruments of restraint shall be such that it provides the least amount of physical restraint necessary for the situation. This may include the use of handcuffs, waist ~~chains, chain~~ or leg restraints, separately or in combination.

~~(10) At no time shall handcuffs or waist chains be connected together with leg restraints.~~

(11) If four-point restraints are authorized by the ~~Superintendent~~superintendent, or his/her a designee, or the ~~Shift Commander, shift commander~~ as allowed by 103 CMR 505.16 ~~44~~(44), the appropriate Assistant Deputy Commissioner shall be notified immediately. In those instances where the use of four-point restraints have been ordered as medically necessary by a member of the medical or mental health staff, the ~~Assistant Deputy Commissioner of Clinical~~Director of Mental Health Services, or a designee, shall be notified during business hours. Such notifications shall be made within two hours of an inmate being placed in four-point restraints ~~and shall~~ be documented in incident report(s) by Department staff. Such documentation, and shall include, but not be limited to, the following:

- ~~–~~ (a) the inmate's name and commitment number;
- ~~–~~ (b) the reason(s) for placing the inmate in four-point restraint;
- ~~–~~ (c) the duration of time placed in restraints;
- ~~–~~ (d) ~~what~~ other actions ~~were~~ taken or considered before placing the inmate in four-point restraints; and
- ~~–~~ (e) the expected time of examination by mental health staff in cases where four-point restraints are being used to prevent in cases involving self-mutilation or attempted self-mutilation, ~~the expected time of examination by mental health staff.~~

(12) The use of instruments of restraint, except when used as described in 103 CMR 505.16 ~~44~~(43) (a) ~~(b)~~ and ~~(c)~~, is a use of force, and the reporting requirements of 103 CMR 505.18 ~~43~~ shall be adhered to.

505.17:12

Requirements Governing the Use of Firearms

(1) An employee qualified to use a firearm may use a firearm only as a last resort when all other means have been attempted or it is reasonable to believe that those means~~they~~ would be ineffective, and only in the following situations:

- (a) to prevent an act which is likely to create an imminent risk of death or serious bodily injury to ~~an~~the employee or another person;
- (b) to prevent an escape of an inmate whom the employee reasonably believes to be a convicted felon and ~~where~~ the use of force does not pose a risk of harm to innocent persons;
- ~~(e)~~ to carry out the arrest of an escaped inmate on a charge of escape as defined by M.G.L. c. 268, ~~§§~~ 16, ~~but only if:~~
 - ~~(c)~~ ~~1.~~ the employee holds a valid special state police commission pursuant to M.G.L. 127, ~~§§~~ 127;
 - ~~2.~~(d) when the employee reasonably believes that the use of firearms creates no substantial risk of injury to innocent persons; and;
 - ~~(e)~~ when~~3.~~ the employee reasonably believes that there is substantial risk that the escaped inmate will ~~cause death or serious bodily injury if the apprehension is delayed.~~

(2) Firearms shall not be used without the prior authorization of the Commissioner, or a designee, ~~the Superintendent, superintendent, or a designee, the special unit director, or the Special Unit Director or a designee,~~ unless an emergency exists requiring the immediate use of firearms.

(3) There may be rare situations where an employee will have to use a firearm without prior authorization. In this situation, the employee ~~shall~~should notify the ~~Superintendent, Special Unit Director, superintendent, special unit director,~~ or a designee immediately ~~afterward by~~afterwards using the ~~fastest means~~quickest mode of communication available. The ~~Superintendent, Special Unit Director, superintendent, special unit director,~~ or a designee shall then immediately notify the appropriate Assistant Deputy Commissioner and the Deputy Commissioner of the Prison Division ~~by~~via the fastest means available. Any such use of a firearm shall be

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~~strictly~~ reviewed to determine if:

- (a) ~~it~~ was not possible to get timely authorization; and;
- (b) ~~it~~ was reasonable for the employee to believe that an emergency existed requiring the ~~immediate~~ use of a firearm to prevent death, serious bodily injury, or escape of a convicted ~~felon~~ as described in 103 CMR 505.1742 (1) ~~(b), B)~~.

~~505.12: continued~~

(4) Anyone who is injured as a result of the discharge of a firearm shall receive immediate medical care. Such care shall be documented in incident report(s) by Department staff, as well as by the medical staff.

(5) Except in emergency situations, firearms are prohibited in minimum and pre-release institutions. Firearms shall not be used to prevent escapes from minimum or pre-release institutions, ~~nor~~ ~~Not~~ shall firearms be used to prevent escapes of individuals recognized and known to be a civil commitment to the Bridgewater State Hospital, the Treatment Center at the Bridgewater Complex, the Massachusetts Alcohol and Substance Abuse Center, or detainees committed to MCI-Framingham under pre-trial or civil commitment status, except when necessary to prevent an act which is likely to create an imminent risk of death or serious bodily injury to the employee or another person.

~~505.18:13~~ Reporting Requirements for the Use of Force

(1) After an employee uses force, the ~~Superintendentsuperintendent~~, or a designee, or the ~~Special Unit Directorspecial unit director~~, or a designee shall be notified immediately. In addition, the employee shall submit a written report to the Superintendent or the Special Unit Director, or their designees, as soon as possible, and in no event later than the end of the employee's tour of duty, unless otherwise authorized by the ~~Superintendentsuperintendent~~ or Special Unit Director. ~~The, shall submit a written~~ report ~~shall include~~ the following: ~~superintendent, or the Special Unit Director.~~

~~The report shall include:~~

(a) An accounting of the events leading up to the use of force;

(b) A precise description of the incident and the reasons for employing force;

(c) A precise description of any de-escalation technique(s) utilized;

~~(d)~~ (d) A description of the type of force used, and how it was used;

~~(e)~~ (e) A description of the injuries suffered, if any, and the treatment given, if known, along with attached photographs, if any, and;

~~(f)~~ (f) A list of all participants and witnesses to the incident ~~who are~~ known ~~to~~ by the reporting officer.

(2) Employees shall be provided the opportunity to review video of their use of force to assist in writing their reports.

(3) The Superintendent(2) The superintendent or Special Unit Director shall also require a written report containing matters listed in 505.1813(1) (a) through (f), from any Department employee, vendor or vendor employee, or volunteer, who witnessed the use of force.

(4) All use of force incidents as well as any corresponding videotapes shall be reviewed by the

~~Superintendentsuperintendent~~ or ~~Special Unit Director~~~~special unit director~~ or designee within five business days. The designee for the ~~Superintendent for the purposes of this section~~~~superintendent~~ shall be either a Deputy Superintendent or Director of Security. If there is an injury to staff or inmate during a use of force, any corresponding tape should be reviewed by the ~~Superintendentsuperintendent~~ or designee within two business days. This process shall include a review by the ~~Superintendentsuperintendent~~ or a ~~Special Unit Director~~~~special unit director~~ of all video/audio tapes, and the ~~completed~~ written reports. Any inappropriate behavior discovered during this review shall be reported immediately to the ~~respective~~ Assistant Deputy Commissioner and documented. In the case of a ~~Special Unit Director~~~~special unit director~~, the matter shall be referred to his/her supervisor. An intake for a formal investigation shall be submitted ~~to OIS~~~~through the Office of Investigative Services~~ if this review ~~suggests~~~~documents~~ any serious staff misconduct. In the event of a spontaneous use of force, the ~~Superintendentsuperintendent~~ shall insure that any corresponding video recordings of the event be downloaded by Inner Perimeter Security personnel by the end of the respective shift.

(54) Whenever the death of an inmate occurs as a result of a use of force, the ~~Superintendentsuperintendent~~ or ~~Special Unit Director~~~~special unit director~~ shall immediately notify the Commissioner ~~by~~~~through~~ the ~~fastest means~~~~quickest mode of communication~~ available and the District Attorney's Office responsible for the institution or location where the death occurred.

(6

505.13: Continued

(5) A copy of the report described in 103 CMR 505.1843 (1), and a completed Use of Force Reporting form 505-1 (available at <http://www.mass.gov/doc/policy>, and at each inmate library attached to 103 CMR 505.00: Use of Force) shall be submitted ~~electronically via~~ the ~~Use~~~~Director~~ of ~~Force Database~~~~the Special Operations Division~~, by the ~~Superintendentsuperintendent~~ or ~~Special Unit Director~~~~special unit director~~ within ~~twenty (20)~~ business days from the time of the use of force. ~~In the event additional time is required, the Superintendent or Special Unit Director shall seek written approval from the Deputy Commissioner of the Prison Division, through a respective Assistant Deputy Commissioner. The Time Waiver Request (Attachment D) forwarded to the Deputy Commissioner of the Prison Division shall articulate the reason (s) for the delay and the expected time of completion. All Time Waiver Request forms and the action taken shall be documented in the Use of Force database.~~

~~(a) All planned uses of force shall be sent to the Director of the Special Operations Division, incident. In addition, the Superintendent or Special Unit Director~~~~superintendent~~ shall include a cover letter to the Director of Special Operations Division with a brief description of the use of force, along with any findings and corrective action he/she has taken. In the case where the staff reporting to the Director of Special Operations is involved with ~~reporting~~ a use of force, the ~~use of force~~~~package~~ shall be submitted to the Deputy Commissioner of ~~Administration~~. ~~In the Prison Division, event additional time is required, the superintendent or Special Unit Director shall seek written approval from the Commissioner. The request to the Commissioner for additional time shall state the reason(s) for the delay and the expected time of completion.~~ The Director of the Special Operations Division shall review the reports and may request additional information. ~~The facility or special unit shall have up to twenty (20) additional business days to provide additional use of force information. After a review conducted within one hundred and twenty (120) business days of receipt of the completed package, the Director of Special Operations may clear, close, and file a planned use of force, send the matter to the Deputy Commissioner of the Prison Division for appropriate administrative action, or submit comments for an administrative review. In the event the Director of Special Operations requires more than one hundred and twenty (120) business days, he/she shall submit a~~

written request through the Deputy Commissioner of the Prison Division to the Commissioner, requesting an extension of time. The request shall state the reason(s) for the request and the expected time of completion, or may submit an intake to the Office of Investigative Services for official investigation.

(b) All reports for spontaneous uses of force shall be sent to OIS. In addition, the Superintendent or Special Unit Director shall include a cover letter to OIS with a brief description of the use of force, along with any findings and corrective action he/she has taken. OIS shall review the reports and may request additional information. The facility or special unit shall have up to twenty (20) additional business days to provide additional use of force information. In the case where the OIS staff is involved with reporting a use of force, the use of force shall be submitted to the Deputy Commissioner of the Prison Division. After a review conducted within one hundred and twenty (120) business days of receipt of the completed package, OIS may clear, close and file a planned use of force, send the matter to the Deputy Commissioner of the Prison Division for appropriate administrative action, or submit comments for an administrative review. . In the event OIS requires more than one hundred and twenty (120) business days, OIS shall submit a written request through the Deputy Commissioner of the Prison Division to the Commissioner, requesting an extension of time. The request shall state the reason(s) for the request and the expected time of completion.

(7) (6) The Director of the Special Operations Division shall conduct an analysis of all uses of force, which occur within the Department and, Each quarter the Director of the Special Operations Division shall submit a quarterly report written findings to the Commissioner measuring the agency's, detailing the number of uses of force conducted, as well as a synopsis of established performance against benchmarks determined by the Commissioner measures.

505.19:14

Debriefing

(1) The shift commander and the team leader, including any intervention specialist used, shall hold-should schedule a debriefing for all staff members involved in at the use of force by the end of the shift. The debriefing shall be documented in an incident report on IMS, including the intervention specialist. If debriefing by the end of the shift this is not possible, the Superintendentsuperintendent should make every effort to assemble those involved in the use of force for some method of debriefing as soon as possible.

(2) StaffAfter staff members involved in a planned or spontaneous use of force have written their reports, as part of a debriefing, they shall have the opportunity to review the videotape(s) with the shift commander/ and/or team leader in order to evaluatecritique their performance.

—If videotapes are viewed after the submissions of any reports, and additional information is rememberedlearned from reviewing the videotape that was not included in a report, an addendum to the report shall be written and submitted.

(3) A summary of the debriefing, with any corresponding recommendations of corrective action (if applicable), including training, should be submitted to the Superintendentsuperintendent by the shift commander within 48 hours of the debriefing. This information shall be included in the submission of the Use of Force Reporting form 505-1 (available at <http://www.mass.gov/doc/policy>, and at each inmate library attached to the 103 CMR 505: ~~00~~; Use of Force).

505.20:15

Medical Treatment

(1) Medical staff shall examine any inmate involved in a use of force as soon as possible. This examination, and any treatment performed, shall be documented in the inmate's medical file.

(2) Any person injured during a use of force shall be examined as soon as possible by a medical staff member. Such care or treatment shall be documented in an incident report by the medical staff.

(3) Any inmate refusals of medical examinations or treatment shall be made directly to medical staff and documented by medical staff in the inmate's medical file.

505.21:16

Sanctions for Violation of 103 CMR 505:00

—Any employee who violates or permits the violation of 103 CMR 505:00 or who fails to report any

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violation or suspected violation of 103 CMR 505.00 shall be subject to disciplinary action up to and including termination.

~~505.22:17~~ Training in the Use of Force

—The Department shall provide all employees charged with the care and custody of inmates with standardized training in approved methods of using physical force, de-escalation techniques, instruments of restraint, chemical agents, and firearms, to control inmates where necessary. In addition, each ~~Superintendent~~~~superintendent~~ shall identify staff members from each shift, who shall also receive standardized training in the area of video recording. Any of the above-mentioned training received shall be documented in each employee's permanent training file.

~~505.23:18~~ Data Collection and Tracking

—All uses of force occurring throughout the Department of Correction shall be entered into the Use of Force Database in IMS. The information shall be tracked to ~~promote~~~~ensure~~ compliance with 103 CMR 505.00 and consistency in the reporting of these events. ~~The Special Operations Division shall review use of force packages.~~

~~505.24: 19~~ Emergencies

Whenever in the opinion of the Commissioner or designee, an emergency exists which requires suspension ~~of all or part of~~ the 103 CMR 505.00, he/she may order such suspension.

~~505.25: Administration by 20~~ Responsible Staff

—The Director of the Special Operations Division shall be responsible for implementing 103 CMR 505.00 throughout the Department. Each ~~Superintendent~~~~superintendent~~ and Special Unit Director shall be responsible for implementing and monitoring 103 CMR 505.00 within the institution or unit, and for the development of necessary and appropriate procedures as required, which shall be reviewed and signed-off by the reviewing authority.

~~505.26:21~~ Annual Review

—103 CMR 505.00 shall be reviewed at least annually by the Commissioner or a designee. The party or parties conducting the review shall ~~develop~~~~submit~~ a memorandum ~~to indicating that~~ the Commissioner with a review has been completed. A copy ~~to of this memorandum shall be filed in the Department's~~ Central Policy File indicating ~~Recommendations for~~ revisions, additions, or deletions which shall be included for.

~~505.22~~ Severability Clause

—If any article, section, subsection, sentence, clause or phrase of these regulations is for any reason held to be unconstitutional, contrary to statute, in excess of the Commissioner's written approval and shall become effective pursuant to applicable law.

~~505.27: Regulatory Authority:~~

~~_____ authority of the Commissioner, or otherwise inoperative, such decision shall not affect the validity of any other article, section, subsection, sentence, clause or phrase of 103 CMR 505.00~~

~~REGULATORY AUTHORITY~~

~~103 CMR 505.00~~ M.G.L. c. 124, §§ 1(b), (c), and (q); M.G.L. c. 127, s. 33.