

103 CMR 505.00: USE OF FORCE

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505.01: Purpose

The purpose of 103 CMR 505.00 is to establish principles and rules governing the use of force by Department of Correction (Department or DOC) employees.

505.02: 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 505.00.

505.03: Applicability

103 CMR 505.00 is applicable to all employees of the Department, and all Department institutions; however, 103 CMR 505.00 shall not apply to the Bridgewater State Hospital (BSH) or the Massachusetts Alcohol and Substance Abuse Center (MASAC).

505.04: Access to Regulation

103 CMR 505.00 shall be maintained within the Central Policy File of the Department and shall be accessible to all Department employees. A copy of 103 CMR 505.00 shall also be maintained in each Superintendent's Central Policy File and at each inmate library and shall be accessible to all inmates.

505.05: Responsible Staff for Implementing and Monitoring Regulation

The staff responsible for monitoring and implementing 103 CMR 505.00 are:

- (a) Commissioner;
- (b) Deputy Commissioners;
- (c) Assistant Deputy Commissioners;
- (d) Superintendents;
- (e) Division Heads.

505.07: Definitions

Administrative Review. Review of use of force matters submitted to the Director of Operational Services, or another designated individual, as determined by the Commissioner.

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

Business Hours. Monday through Friday, 9:00 A.M. to 5:00 P.M., excluding holidays.

Cell/Area Extraction. A pre-planned, organized process for gaining cell/area entry to remove disruptive or non-compliant inmate(s) utilizing physical force.

Cell/Area Extraction Team. A team of staff members who have been trained in Cell/Area Extractions. If necessitated by the number of inmates in a cell or area, the Shift Commander may increase the number of staff members necessary for the team.

Chemical Agent. A chemical compound designed to secure inmate compliance with orders, that may cause tearing of the eyes, and involuntary eye closure.

Chief of the Office of Investigative Services. A senior level manager who reports to the Assistant Deputy Commissioner of Field Services, and whose duties include, but are not limited to the management of the Office of Investigative Services.

Chief of the Professional Standards Unit. A senior level manager under the direction of the Commissioner whose duties include, but are not limited to, the management of the Professional Standards Unit.

Chlorobenzylidene Malononitrile (CS). A chemical agent commonly referred to as “tear gas” which is designed to be an irritant agent that can be deployed in several forms, including but not limited to canisters and aerosols.

Commissioner. The Commissioner of the Massachusetts Department of Correction.

Contraindication. A documented medical condition which may present an unreasonable hazard to the health or safety of an inmate if chemical agents are used.

Debriefing. A discussion facilitated by the Shift Commander after a use of force focused on gaining understanding and insight regarding specific actions taken during the use of force.

De-escalation. Use of proactive tactics, communication skills, and other interventions with the goals of achieving voluntary compliance and the reduction or elimination of the need to use force. De-escalation techniques may include verbal persuasion, warnings, slowing down the pace of an incident, waiting out a person, creating distance between a correction officer and a threat, and requesting additional resources to resolve a situation.

Department. The Massachusetts Department of Correction.

Deputy Commissioner of the Prison Division. The executive staff person who reports to the Commissioner, and whose duties include, but are not limited to, the management of Assistant Deputy Commissioner(s) of the Prison and Field Services Divisions.

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Director of Operational Services. The Department staff person responsible for the daily operations of the Special Operations Division and Inmate Transportation/Vehicle Maintenance Unit.

Division Head. The administrative head of each of the following units:

- (a) The Office of Investigative Services;
- (b) The Division of Staff Development;
- (c) The Inmate Transportation/Vehicle Maintenance Unit;
- (d) The Special Operations Division;
- (e) The Central Inmate Disciplinary Unit; and
- (f) The Community Work Crew Division.

Division of Staff Development. The office, under the Deputy Commissioner of Career and Professional Development, responsible for employee training.

Duty to Intervene. An employee's responsibility to intervene to the extent possible when they reasonably believe they are observing another staff member using excessive force. Employees shall intervene to the extent possible, based upon the totality of circumstances, to stop the use of excessive force.

Electronic Control Devices (ECD). A device that uses electricity to override voluntary motor responses or applies pain in order to gain compliance or overcome resistance. ECDs are designed to incapacitate without causing serious physical injury or death.

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.

Employee. An employee/staff member 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 objectively reasonable force, or force which was reasonable and/or proportionate at the time its use began but was then used beyond the need for its application.

Exigent Circumstances. Circumstances that create an unacceptable risk to the safety of any person.

Firearm. A pistol, revolver, or other weapon of any description, loaded or unloaded, from which ammunition can be fired. Electronic Controlled Devices, Pepper Ball and Specialty Impact Munitions are explicitly excluded from this definition.

Force. The imposition of one's physical will upon another person to compel, restrain, protect, impede or otherwise subdue a person.

Joint Triage Committee (JTC). A Committee consisting of the following individuals or their designee: Chief of Staff, Chief of the PSU, Director of the Policy Development and Compliance Unit (PDCU), Director of the Division of Staff Development (DSD), Director of Operational Services, and the responsible Assistant Deputy Commissioner (for the purpose of the JTC, only an ADC or higher may be considered as an ADC's designee).

Impartial Staff Member. Preferably a staff member trained in crisis intervention and de-escalation techniques; however, may be any staff member who is not immediately involved in the use of force who engages an inmate in de-escalation/dialogue in an attempt to gain voluntary compliance and avoid the use of force.

Inmate. For the purposes of 103 CMR 505.00 only, an individual confined at or committed to a correctional institution, excluding patients admitted to the Bridgewater State Hospital and the Massachusetts Alcohol and Substance Abuse Center.

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Institution Duty Officer. A rotating staff person assigned specific duties as institution duty officer by the Superintendent, usually assigned for a two-week period.

Instruments of Restraint. Equipment authorized for use to prevent escape, during the transportation of inmates, 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.

K-9 Unit. A unit consisting of canines and a K-9 Handler. Canines as used in this CMR, does not include any canine that is used for programming and/or therapy purposes.

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

Objectively Reasonable. For the purpose of 103 CMR 505.00, objectively reasonable is the review standard applied to each use of force. This means that, the force is reasonable and proportionate given the totality of the circumstances. In determining the necessity for and appropriate level of force, reviewers shall evaluate each situation in light of the known circumstances to the staff member using force, including, but not limited to, the seriousness of the infraction, the level of threat or resistance presented by the inmate, and the danger to staff members, inmate and/or community. The reasonableness of a particular use of force must be judged from the perspective of a reasonable staff member on scene. Determining reasonableness of force must allow for the fact that staff members are forced to make split second judgments in circumstances that are tense, uncertain, and rapidly evolving.

Office of Investigative Services (OIS). The office, under the Office of the Deputy Commissioner of Field Services Division, which provides centralized investigative support and services throughout the Department.

Officer in Charge. Ranking staff member who assumes control and supervisory responsibilities of all staff at a scene. If no supervisor is present, the correction officer with the most seniority shall be designated as the Officer in Charge.

Oleoresin Capsicum (OC). OC is a natural, oily resin derived from capsicums and designed to be an inflammatory agent that can be deployed in several forms, including but not limited to canisters, aerosols, and projectiles. OC is designed to cause tearing of the eyes, and involuntary eye closure

Planned Use of Force. A planned use of force is the extraction of an inmate from a cell, exercise yard, or other area where the inmate presents no immediate threat to staff.

Professional Standards Unit. The investigative unit under the direction of the Commissioner which is responsible for investigating allegations of staff misconduct.

Qualified Mental Health Professional. Treatment providers who are psychiatrists, psychologists, psychiatric social workers, psychiatric nurses, and others who by virtue of their education, credentials and experience are permitted by law to evaluate and care for the mental health needs of inmates.

Qualified Healthcare Professional. Professionals include physicians, advanced practitioners, nurses, dentists, and others who by virtue of their education, credentials, and experience are permitted by law to evaluate and care for inmates.

Reasonable Force. The amount of force that is proportionate to subdue an attacker, protect another person, overcome resistance, effect custody, or gain compliance with a lawful order, given the totality of the circumstances as experienced by an objective, trained, and competent correctional employee, faced with particular facts and circumstances.

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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 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 to gain voluntary compliance, mental distraction, or temporary incapacitation.

Spontaneous Use of Force. A spontaneous use of force occurs when there is an immediate need to control or restrain a person for the protection and safety of all concerned.

Superintendent. The chief executive officer of a Department of Correction institution.

Team Leader. A staff member, preferably of supervisory rank, assigned to supervise a Cell/Area Extraction team and is responsible for giving all verbal commands to the team and inmate, briefing the team, and deployment of lachrymatory agents.

Use of Force Pyramid. A visual training tool used to assist staff in assessing situations to determine perceived circumstances, perceived subject actions, and reasonable officer response(s). The Department shall maintain a Use of Force Pyramid consistent with that used by the Massachusetts Municipal Police Training Committee.

Video Operator. A staff member trained in the operation of video recording equipment who is responsible for recording all aspects of a Cell/Area Extraction.

505.08: Philosophy

(1) De-escalation Requirement. It is the Department's philosophy and practice to train staff to attempt to de-escalate any situation involving conflict where the need for use of force may arise. Staff shall attempt to employ de-escalation techniques prior to any use of force. Staff shall only use the amount of reasonable and proportionate force, given the totality of the circumstances, necessary to gain control of an inmate; protect and ensure the safety of all inmates, staff, and others; prevent significant property damage; and ensure institution safety, security, and good order. Force shall never be used as a form of punishment. Staff shall be trained in methods of de-escalation, and instructed that force may only be used as a last resort. By using de-escalation techniques, the Department recognizes that safer alternatives to force may be available, which in turn may prevent injuries to staff and inmates.

(2) Scope. The application of Oleoresin Capsicum (OC) and chemical agents, and use of firearms, electronic control devices, instruments of restraint equipment (when force is used to apply restraints), and canines (when used to physically apprehend, impede, or subdue an inmate) shall constitute a use of force and are therefore subject to 103 CMR 505.00. The Department shall develop internal policies and requirements consistent with 103 CMR 505.00 for the purpose of internal management, establishing administrative procedures, and providing more detailed guidance for employees. The policies are available to the public upon request.

505.09: Use of Force

(1) Staff shall attempt to use De-Escalation tactics prior to any use of force. Where De-Escalation tactics are unsuccessful or are not possible, an employee may use reasonable and proportionate force in the manner stated in the Use of Force Pyramid, and given the totality of the circumstances, when it is necessary to do the following:

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

(2) Whenever possible, any staff member involved in a use of force that results in injury to that staff member, should be removed from the situation as soon as possible, either voluntarily or by the Officer-in-Charge (OIC), Team Leader, or any other supervisory personnel.

(3) Where feasible, any spontaneous Use of Force will be videotaped.

505.10: Duty to Intervene

Any staff person who reasonably believes they are observing another staff member using excessive force has a duty to intervene to the extent possible to stop the use of excessive force. The level of such intervention shall be dependent on the totality of the circumstances known to the staff member observing excessive force.

505.11: Planned Use of Force

(1) Prior to a Planned Use of Force, staff shall use all available means to find an alternative to a use of force in order to gain the inmate's voluntary compliance to a lawful order.

(2) Prior to a Planned Use of Force, the Superintendent/designee shall ensure that an Impartial Staff Member speaks with the inmate in an attempt to achieve voluntary compliance and avoid the use of force. Whenever possible, this staff member shall be someone who was not involved in the situation with the inmate with the goal of de-escalating the situation without using force.

(3) A Planned Use of Force should only be conducted when the Shift Commander has assembled and outfitted the designated Cell/Area Extraction Team and developed and communicated a strategy for the Cell/Area Extraction, assigned a Team Leader, and ensured that a Qualified Health Care Professional is present.

(4) The Team Leader shall communicate the appropriate course of action for the Cell/Area Extraction to the Team. Procedures shall be developed to ensure that the briefing of all team members is video recorded.

(5) All planned Cell/Area Extractions shall be video recorded.

505.12: Use of Force Involving Inmates on Therapeutic Supervision or in Certain Specialized Housing Units

In a Planned Use of Force situation involving an inmate who is on Therapeutic Supervision, or who is in a specialized unit for inmates with mental health needs, such as the Secure Treatment Program or Behavioral Management Unit, the Superintendent/designee shall ensure that a Qualified Mental Health Professional (QMHP) or an Impartial Staff Member if a QMHP is not available, and it is deemed safe to do so, speaks with the inmate prior to a Cell/Area Extraction in an attempt to achieve voluntary compliance and avoid the use of force. The goal is de-escalation of the situation without using force.

505.13: Prohibitions on the Use of Excessive Force

- (1) A staff person shall not use or permit the use of excessive force.
- (2) A staff person shall not use or permit the use of force as inmate punishment or discipline.
- (3) Any staff person who observes excessive force shall submit a comprehensive incident report which sets forth their observations and the nature of their intervention to the supervisor or Shift Commander using the fastest means available. Such report shall be consistent with the requirements of 103 CMR 505.17.
- (4) A failure to comply with the following requirements shall be considered excessive force:
 - (a) Staff members shall not use their body weight for longer than necessary to gain control of and/or restrain the inmate in situations involving an unrestrained inmate who is resisting efforts of staff members to gain control.
 - (b) Staff members shall never sit or put their body weight on an inmate's back, chest, or abdomen once an inmate is secured in restraints.
 - (c) Staff members shall never connect handcuffs to leg restraints.
 - (d) Staff members shall not intentionally sit, kneel, or stand on an inmate's chest or spine, and shall not force an inmate to lie on their stomach except when necessary to gain, regain, or maintain control of an inmate and apply restraints. Staff members shall not intentionally sit, kneel, or stand on an inmate's neck or head.
- (5) Lethal Force shall never be used except to prevent imminent death or serious bodily injury to any person.

505.14: Requirements Governing the Use of OC, Chemical Agents, Specialty Impact Munitions/Distracton Devices, Batons, and Electronic Control Devices

- (1) The Department shall maintain a public policy, consistent with 103 CMR 505.00, containing the requirements governing the use of OC, Chemical Agents, Specialty Impact Devices, Distracton Devices, Batons, and ECDs, titled 103 DOC 509, *Chemical Agents, Specialty Impact Munitions/Distracton Devices, Batons, and ECDs*.
- (2) The successful application of OC, Chemical Agents, Specialty Impact Munitions, Batons, or ECDs shall be considered a use of force and the reporting requirements of 103 CMR 505.18 shall be followed. Only OC, Chemical Agents, Specialty Impact Munitions, Distracton Devices, Batons, and ECDs approved by the Commissioner and issued by the Department shall be used.
- (3) Specialty Impact Munitions, Distracton Devices, Batons, and ECDs shall not be used as a prod; to rouse an unconscious, impaired, or intoxicated inmate; against any inmate using passive resistance when there is no immediate threat of bodily harm; or to enforce an order after an inmate has been immobilized or a threat has been neutralized.

505.15: Requirements Governing the Use of Instruments of Restraint

- (1) The Department shall maintain a public policy, consistent with 103 CMR 505.00, containing the requirements governing the use of Instruments of Restraint, titled 103 DOC 520, *Instruments of Restraint*.
- (2) The use of Instruments of Restraint shall only be considered a use of force when force is required by an employee to apply said restraints, in which case the reporting requirements of 103 CMR 505.18 shall apply.
- (3) The use of instruments of restraint may only be used to control an inmate who presents an immediate risk of self-injury or injury to others, to prevent serious property damage, or when necessary, as a security precaution, or during transfer or transport.
- (4) The use of Instruments of Restraint shall not be used as a form of punishment or retaliation and an inmate should not be restrained in any manner that causes unnecessary physical pain or extreme discomfort, or that restricts the inmate's blood circulation or obstructs the inmate's breathing or airways. Inmates should not be hog-tied or restrained in a fetal or prone position.
- (5) The manner and method of restraint shall take account of the known special needs of inmates who have physical or mental disabilities, and of inmates who are under the age of eighteen or are geriatric, as well as the limitations of pregnant inmates or those who have recently given birth, consistent with M.G.L. c. 127, § 118.
- (6) Only Instruments of Restraint approved by the Commissioner and issued by the Department shall be used.

505.16: Requirements Governing the Use of Firearms

- (1) The Department shall maintain a public policy, consistent with 103 CMR 505.00, containing the requirements governing the use of Firearms, titled 103 DOC 508, *Firearms*.
- (2) The use of a Firearm shall be considered a use of Lethal Force and the reporting requirements of 103 CMR 505.17 shall be followed. Only Firearms approved by the Commissioner and issued by the Department shall be used.
- (3) An employee qualified to use a Firearm may use a Firearm only when all other means have been attempted or it is reasonable to believe that they would be ineffective, and only under the limited circumstances specified in the Department's policy governing use of Firearms.
- (4) Firearms shall not be used without the prior authorization of the Commissioner, or a designee; the Superintendent, or a designee; the Division Head, or a designee; unless an emergency exists requiring the immediate use of Firearms.
- (5) Anyone who is injured because of the discharge of a Firearm shall receive immediate medical care. Such care shall be documented.

505.17: Requirements Governing the Use of K-9 Units

- (1) The Department shall maintain a public policy, consistent with 103 CMR 505.00, containing the requirements governing the use of K-9 Units, titled 103 DOC 558, *K-9 Units*.
- (2) The Department utilizes specially trained canines, working with trained K-9 officers who are subject to the supervision of the K-9 Unit Commander. There are several K-9 Units and, with the exception of the K-9 Patrol Unit, they are used for contraband detection. The use of canines is governed by the Department's K-9 policy.

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(3) Canines, when used to physically apprehend, impede, or subdue an inmate, shall constitute a use of force.

(4) The K-9 Patrol Unit shall not enter a correctional institution without prior permission from the Commissioner and may only be used in order to regain control during a major disorder. The Commissioner's permission shall not preclude an inmate from filing a complaint alleging excessive force, which shall be investigated by the Professional Standards Unit under 505.21(3).

(5) Only K-9 Units approved by the Commissioner shall be used within any correctional institution.

505.18: Reporting Requirements for the Use of Force

(1) After an employee uses force, the Superintendent/designee, or the Division Head/designee shall be notified immediately. In addition, the employee and any witnesses shall submit a comprehensive written report to the Superintendent or the Division Head, as soon as possible, and in no event later than the end of the employee's tour of duty, unless otherwise authorized by the Superintendent/designee or Division Head/designee. Such authorization shall be documented in the Superintendent's/Division Head's Cover Letter. The report shall include the following:

- (a) An accounting of the events leading up to the use of force;
- (b) The threat perceived by the reporting officer and the need for force as the appropriate response to the perceived threat;
- (c) A precise description of the type of force used, amount of force used, and how force was used;
- (d) A precise description of any de-escalation technique(s) utilized, and efforts made to temper the severity of the forceful response;
- (e) A description of the injuries suffered, if any, and the treatment given, if known, along with attached photographs, if any;
- (f) An assessment of the severity of the security problem at issue when force was used;
- (g) A description of the inmate's actions that are interpreted by the staff member as resistance; and
- (h) A list of all participants and witnesses involved in the incident known to the reporting officer.

The designee for the Superintendent for the purposes of 103 CMR 505.17 shall be either a Deputy Superintendent or the Director of Security. The designee for the Division Head shall be a Deputy Director or Captain.

(2) Once all use/assisted/witness use of force reports have been reviewed and signed-off on by the Shift Commander, which shall be within five business days of the incident, staff shall have the opportunity to review available video recording(s) associated with the use of force. The reports authored before video recording review shall never be re-opened under any circumstances. Staff who wish to clarify or provide additional information shall do so *via* an addendum to their original incident report.

(3) All reports relating to a use of force, including witness reports, as well as any corresponding audio and video recording(s), shall be reviewed by the Superintendent/designee or Division Head/designee within five business days following receipt, absent exigent circumstances. Any exigent circumstances shall be documented in the Superintendent's/Division Head's Cover Letter. The designee for the Superintendent for the purposes of 103 CMR 505.17 shall be either a Deputy Superintendent or Director of Security. The designee for the Division Head shall be a Deputy Director or Captain. The Superintendent may utilize an additional ten days to obtain further information and to review any other materials which have been completed after the submission of the reports by the Shift Commander to the Superintendent.

505.19: Use of Force Package

(1) The Use of Force Package, which shall be compiled by the Superintendent or designee, must be completed and forwarded to the Special Operations Division (SOD) within 20 business days of the date of the incident. In addition, an electronic notification shall be sent to the Professional Standards Unit. The Use of Force Package shall include:

- (a) A Cover Letter authored by the Shift Commander;
- (b) A Cover Letter authored by the Superintendent or Division Head, or in their absence a designee (designee for the purpose of 103 CMR 505.18 shall be a Deputy Superintendent or Deputy Director);
- (c) The completed Electronic Summary Reporting Form from the Use of Force Database;
- (d) All relevant employee incident reports reviewed by the Shift Commander;
- (e) Video recording(s) (if available), necessary to assist with determining the reasonableness of a use of force, which may include video recording(s) before, and/or during a use of force;
- (f) Photographs (if available); and
- (g) Any additional documentation the Superintendent or Division Head determines is necessary for a complete review of the incident.

(2) The Shift Commander's Cover Letter shall include the following:

- (a) The date, time, location, inmate(s), and employee(s) involved (using or witnessing) in the use of force;
- (b) A brief synopsis of the incident, as summarized through employee written reports, video recording(s) (when available), and photographs (when available);
- (c) Injuries to inmates (if any) and treatment provided/refused;
- (d) Injuries to employees (if any) and treatment provided/refused;
- (e) Decontamination protocols for Chemical Agents/OC (if applicable);
- (f) Documentation pertaining to a debriefing with employees, to include any corrective action discussed;
- (g) A statement regarding what the Shift Commander reviewed relative to the use of force incident; and
- (h) Identification of any discrepancies the Shift Commander believes should be reviewed further by the Superintendent or Division Head.

(3) The Superintendent's or Division Head's Cover Letter shall include the following:

- (a) The date, time, location, inmate(s), and employee(s) involved in the use of force;
- (b) A statement regarding what the Superintendent or Division Head reviewed relative to the use of force incident;
- (c) Documentation regarding any corrective action taken as a result of the use of force incident;
- (d) Documentation regarding whether the inmate filed a complaint, the outcome of an inquiry and/or whether the use of force incident has been submitted for further investigation *via* intake (including intake number); and
- (e) Identification of any discrepancies the Superintendent or Division Head believes should be reviewed further by the Director of Operational Services.

(4) Upon receipt of a Use of Force package, the Director of Operational Services shall complete a substantive review of the Use of Force Package within 90 business days of receipt which will determine if the Use of Force was:

- (a) Reasonable with No Further Action, where the force used is objectively reasonable and proportionate considering the totality of the circumstances.
- (b) Reasonable with Further Action, where force used is objectively reasonable and proportionate considering the totality of the circumstances, but there are components that require additional attention, *e.g.*, the UOF package was submitted one day late without an approved extension request. Where the Director of Operational Services has determined that the Use of Force Package is Reasonable with Further Action, the Director shall further specify the further action to be taken.
- (c) Excessive, where force used is not objectively reasonable or proportionate considering the totality of the circumstances; or

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(d) Administratively Closed, where any of the above findings cannot be made due to missing information affecting a final determination of reasonableness (*e.g.*, witness unavailability).

(5) In the event the Director of Operational Services requires more than 90 business days, they shall submit a Request for Extension Form to the Deputy Commissioner of the Prison Division. The request shall state the reason(s) for the request and the expected time of completion. All approvals/denials shall be included with the Use of Force Package.

505.20: Death and Serious Bodily Injury

(1) Whenever a use of force results in serious bodily injury or the death of an inmate, the Superintendent or Division Head shall immediately notify the Chief of the Office of Investigative Services and the Commissioner by the fastest means available. The Chief of the Office of Investigative Services or designee shall notify the applicable District Attorney's Office by the fastest means available.

(2) Whenever a use of force results in a serious bodily injury or death, the Use of Force package shall be submitted to the Joint Triage Committee (JTC) for review to determine whether the Use of Force should be Cleared, Closed, and Filed, or referred to as "Reasonable with Further Action", or referred to the Professional Standards Unit for a full investigation.

505.21: Staff Misconduct and Inmate Allegations or Complaints

(1) Staff misconduct discovered during the review of a use of force incident shall be documented and reported immediately to the responsible Assistant Deputy Commissioner or supervisor, and the Professional Standards Unit. In the case of a Division Head, the matter shall be referred to their supervisor. An intake for a formal investigation shall be submitted to the Professional Standards Unit.

(2) Any retaliation against persons who report an incident of excessive force shall be governed by Department policies, including not but limited to 103 DOC 522, Professional Standards Unit, and 103 DOC 239, Prevention and Elimination of Workplace Violence.

(3) Any allegations or complaints filed by an inmate or on behalf of an inmate regarding a use of force shall be investigated in accordance with the Professional Standards Unit's procedures. Such investigation shall include interviews with participants, and witnesses, including inmates.

(4) The Professional Standards Unit shall have access to the Use of Force database.

505.22: Debriefing

(1) The Shift Commander and the Team Leader/OIC, including any Impartial Staff Member used, shall hold a debriefing for all staff members involved in a use of force by the end of the shift. The debriefing shall be documented in the Shift Commander's Cover Letter. In exigent circumstances, if a debriefing cannot be held before the end of the shift, the Superintendent/designee or Division Head/designee may authorize the debriefing to take place at a later date, provided that the debriefing take place before the submission of the Use of Force Package (designee for the purpose of 103 CMR 505.21 shall be a Deputy Superintendent or Deputy Director). Such circumstances and authorization shall be documented in the Shift Commander's and Superintendent's/Division Head's Cover Letters.

(2) Staff members involved in a use of force (use/assisted/witness) shall have the opportunity to review the video recording(s) with the Shift Commander and Team Leader/Officer in Charge to evaluate their performance in accordance with 103 CMR 505.18(2).

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(3) A summary of the debriefing, with any corresponding recommendations of corrective action (if applicable), including training, shall be submitted to the Superintendent/Division Head by the Shift Commander *via* the Shift Commander's Cover Letter. Any immediate concerns shall be reported to the Superintendent/Division Head or designee by the Shift Commander via the fastest means available and later documented in the Shift Commander's Cover Letter. The designee for the Superintendent for the purposes of 103 CMR 505.21 shall be either a Deputy Superintendent or Director of Security. The designee for the Division Head shall be a Deputy Director or the Shift Commander's immediate supervisor.

505.23: Medical Treatment

(1) Qualified Healthcare Professionals shall examine any inmate involved in a use of force as soon as possible and, if feasible, outside the presence of any correctional officer involved in the use of force. Where the inmate has sustained an injury, such examination shall include, photographs of such injury. This examination, treatment performed, or refusal shall be communicated directly to a Qualified Healthcare Professional and shall be documented in an inmate's medical file as well as in an incident report. Medical examinations that take place more than 30 minutes from the time force was last utilized will require an explanation in the Shift Commander's and Superintendent's Cover Letters to determine if such a delay was reasonable.

(2) In the case of a use of force involving an inmate who is on Therapeutic Supervision, or who is in a specialized unit for inmates with mental health needs, such as the Secure Treatment Program or Behavioral Management Unit, a Qualified Mental Health Professional (QMHP) shall examine the inmate as soon as practicable.

(3) Any employee injured during a use of force shall be examined as soon as possible by a Qualified Healthcare Professional. Such care, treatment or refusal shall be made directly to a Qualified Healthcare Professional and shall be documented in an incident report by the Qualified Healthcare Professional. These reports shall be marked as confidential and may only be disseminated in accordance with state or federal laws.

505.24: Sanctions for Violation of 103 CMR 505.00

Any employee who violates the provisions of 103 CMR 505.00 and/or any of the policies referenced in this regulation shall be subject to disciplinary action up to and including termination.

505.25: Training in the Use of Force

The Department shall provide all employees with standardized training in approved methods of using physical force, and de-escalation techniques. The Department shall utilize training materials consistent with those used by the Massachusetts Municipal Police Training Committee. The Department shall also provide all employees charged with the care and custody of inmates with standardized training in the use of Instruments of Restraint, OC or Chemical Agents, and firearms, to control inmates where necessary. In addition, each Superintendent/ Division Head shall identify staff members from each shift who shall also receive standardized training in video recording. Any of the above-mentioned training received shall be documented in each employee's permanent training file as maintained by the Division of Staff Development.

505.26: Data Collection and Tracking

(1) All uses of force occurring throughout the Department of Correction shall be entered into a Use of Force Database. The information shall be tracked to promote compliance with 103 CMR 505.00 and consistency in the reporting of these incidents.

(2) The Director of Operational Services and Professional Standards Unit shall conduct an analysis of all uses of force which occur within the Department when requested by the Commissioner and generate reports to measure the Department's performance against benchmarks as determined by the Commissioner.

505.27: 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 a memorandum to the Commissioner with a copy to the Central Policy File indicating revisions, additions or deletions which shall be included for the Commissioner's written approval and shall become effective pursuant to applicable law.

505.28: Severability Clause

If any article, section, subsection, sentence, clause or phrase of 103 CMR 505.00 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 505.00.

REGULATORY AUTHORITY

103 CMR 505.00: M.G.L. c. 123, M.G.L. c. 124, §§ 1(b), (c) and (q); M.G.L. c. 127, §§ 33 and 118; M.G.L. c. 140, § 131J; M.G.L. c. 268; and St. 2018, c. 69.