

ICE/DRO DETENTION STANDARD

USE OF FORCE AND RESTRAINTS

I. PURPOSE AND SCOPE. This Detention Standard authorizes staff to use necessary force after all reasonable efforts to otherwise resolve a situation have failed, for protection of all persons; to minimize injury to self, detainees, staff, and others; to prevent escape or serious property damage; or to maintain the security and orderly operation of the facility.

Staff shall use only the degree of force necessary to gain control of detainees and may use physical restraints to gain control of a dangerous detainee, under specified conditions.

This Detention Standard does not specifically address the use of restraints for medical or mental health purposes, which is addressed by the Detention Standard on **Medical Care**.

Canine units (in facilities that have them) may be used for contraband detection, but their use for force, control, or intimidation of detainees is prohibited.

This Detention Standard applies to the following types of facilities housing ICE/DRO detainees:

- Service Processing Centers (SPCs);
- Contract Detention Facilities (CDFs); and
- State or local government facilities used by DRO through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours.

Procedures in italics are specifically required for SPCs and CDFs. IGSAs must conform to these procedures or adopt, adapt or establish alternatives, provided they meet or exceed the intent represented by these procedures.

Some terms used in this document may be defined in the separate **Definitions** Standard.

II. EXPECTED OUTCOMES. The expected outcomes of this Detention Standard are:

1. Physical force will be used only as a last resort and is restricted to instances of justifiable self-defense, protection of others, protection of property, and prevention of escapes.
2. Facilities will endorse the concept that confrontation avoidance is the recommended method for resolving situations and should always be attempted prior to any calculated use of force.
3. Physical force or restraint devices will not be used as punishment.
4. In circumstances when prior supervisory approval is required, restraints will not be applied without that approval.
5. Four/five-point restraints will be applied only in extreme circumstances and only where other types of restraints have proven ineffective. Advance approval is required, as is prompt notification of and examination by the medical staff. These restraints will be continued only in accordance with required procedures and

documentation.

6. Intermediate force devices will be used only in circumstances prescribed herein, with required prior approvals.
7. In each facility, all weapons and related equipment will be stored securely in designated areas to which only authorized persons have access.
8. In each facility, chemical agents and related security equipment will be inventoried at least monthly to determine their condition and expiration dates.
9. In each facility, a written record of routine and emergency distribution of security equipment will be maintained.
10. An employee will submit a written report no later than the end of his or her shift when force was used on any detainee for any reason, or if any detainee remains in any type of restraints at the end of that shift. This includes discharge of a firearm and use of less lethal devices to control detainees.
11. Telephonic notification to the FOD shall occur as soon as practicable. The Field Office Director will be notified of any use-of-force incident involving an ICE detainee within two business days via an ICE-approved form or IGSA equivalent.
12. Canines will not be used for force, control or intimidation of detainees.
13. Facilities will adhere to DHS' Use of Deadly Force Policy.
14. The applicable content and procedures in this Standard will be communicated to the detainee in a language or manner which the detainee can understand.

III. DIRECTIVES AFFECTED

This Detention Standard replaces **Use of Force** dated 9/20/2000.

This Detention Standard incorporates the restrictions on the use of canines originally communicated via a memorandum dated 11/18/2004 from the Acting Director of ICE-DRO.

IV. REFERENCES

American Correctional Association Standards for Adult Local Detention Facilities, 4th Edition: 4-ALDF-2B-01, 2B-02, 2B-03, 2B-04, 2B-05, 2B-06, 2B-07, 2B-08, 2C-01, 2C-02, 2C-06, 7B-15, 7B-16.

ICE Interim Use of Force Policy (7/7/2004), as amended or updated.

National Enforcement Standard, "Use of Intermediate Force"

DHS Use of Deadly Force Policy (06/25/2004).

V. EXPECTED PRACTICES

A. Overview

- Use of force in detention facilities is never used as punishment, is minimized by staff attempts to first gain a detainee's cooperation, is executed only through

approved techniques and devices, and involves only the degree necessary and reasonable to gain control of a detainee.

- Various levels of force may be necessary and reasonable, depending on the totality of the circumstances.
- Generally, use of force is either **immediate** or **calculated**, the latter being preferable in most cases as the most likely to minimize harm to detainees or staff.
- Use of force may involve physical control and placement of a detainee in secure housing and/or the application of various types and degrees of restraint devices.
- Follow-up (medical attention, for example), documentation (including audiovisual taping for calculated use of force), reporting, and After-Action Review are required for each incident involving a use of force.

B. Principles Governing the Use of Force and Application of Restraints

1. Instruments of restraint shall be used only as a precaution against escape during transfer; for medical reasons, when directed of the medical officer; or to prevent self-injury, injury to others, or property damage. Restraints should be applied for the least amount of time necessary to achieve the desired behavioral objectives.
2. Under no circumstances shall staff use force to punish a detainee.
3. Staff shall attempt to gain a detainee's willing cooperation before using force.
4. Staff shall use only that amount of force necessary and reasonable to gain control of a detainee.
5. Staff may immediately use restraints, if warranted, to prevent a detainee from harming self or others or from causing serious property damage.
6. Detainees subjected to use of force shall be seen by medical staff as soon as possible.
7. Facility administrator approval is required for continued use of restraints, if they are considered necessary, after a detainee is under control.
8. Staff may apply additional restraints to a detainee who continues to resist after staff achieves physical control. If a restrained detainee refuses to move or cannot move because of the restraints, staff may lift and carry the detainee to the appropriate destination. Staff may not use the restraints to lift or carry the detainee. If feasible, an assisted device (e.g., ambulatory chair, gurney) will be used to help move the restrained detainee.
9. Staff may not remove restraints until the detainee is no longer a danger to himself or others.
10. Staff may not use restraint equipment or devices (for example, handcuffs):
 - On a detainee's neck or face, or in any manner that restricts blood circulation or obstructs the detainee's airways (e.g. mouth, nose, neck, esophagus). See Section V.E. for more information;
 - To cause physical pain or extreme discomfort. While some discomfort may be

unavoidable even when restraints are applied properly, examples of prohibited applications include: improperly applied restraints, unnecessarily tight restraints, “hog-tying,” and fetal restraints (cuffed in front with connecting restraint drawn-up to create the fetal position).

11. Staff will comply with their defensive tactics training and the proper application of those techniques. Staff shall monitor all detainees placed in restraints.
12. During a use of force, hard restraints (for example, steel handcuffs and leg irons) shall be used only after soft restraints prove (or have previously proven) ineffective with a particular detainee. Attempts to use soft restraints prior to hard restraints shall be documented in the use-of-force reports.
13. Documenting, reporting, and investigating use-of-force incidents helps prevent unwarranted use of force and protects staff from unfounded allegations of improper or excessive use of force.
14. Calculated use of force requires supervisor pre-authorization and consultation with medical staff to determine if the detainee has medical issues requiring specific precautions.
15. Deadly force may be used only when the officer has a reasonable suspicion that the detainee poses an imminent danger of death or serious physical injury to the officer or to another person. Deadly force may not be used solely to prevent the escape of a fleeing suspect.

C. Use-of-Force Continuum

The Use-of-Force Continuum is a five-level model used to illustrate the levels of force staff may use to gain control of a detainee. The levels are:

- Staff presence without action.
- Verbal commands.
- Soft techniques. Techniques from which there is minimal chance of injury (for example, grasping, empty-hand, “come-along” holds, using impact weapons for holds, pressure to pressure points, chemical agents).
- Hard techniques. Techniques where there is a greater possibility of injury (for example, strikes, throws, “take-downs,” striking using impact weapons (such as deploying chemical agents, expandable batons, straight batons, authorized less-lethal devices, specialty impact weapons).
- Deadly force is the use of any force that is reasonably likely to cause death or serious physical injury. Deadly force does not include force that is not reasonably likely to cause death or serious physical injury, but unexpectedly results in such death or injury.

While staff are trained and required to use only a level of force that is necessary and reasonable to gain control of a detainee, a higher level may be appropriate, depending on the totality of the circumstances. Staff may have to escalate or de-escalate through the Use-of-Force Continuum.

D. Training

1. General Training

All new officers shall be sufficiently trained during their first year of employment. Through ongoing (at least annual) training, all detention facility staff must be made aware of their responsibilities to effectively handle situations involving aggressive detainees.

At a minimum, training shall include:

1. The requirements of this Detention Standard;
2. The Use-of-Force Continuum to include use of deadly force;
3. Communication techniques;
4. Cultural diversity;
5. Dealing with detainees with mental health conditions;
6. Confrontation-avoidance techniques;
7. Approved methods of self-defense, defensive tactics;
8. Forced cell move techniques;
9. Communicable diseases, particularly precautions to be taken when using force;
10. Application of restraints (progressive and hard);
11. Reporting procedures; and
12. Forced medication procedures.

Staff shall also be advised of the ***Prohibited Intermediate Force Acts and Techniques*** listed below. Staff shall receive defensive tactics training before being placed in a detainee contact position.

2. Specialized Training

Any officer who is authorized to use specialized intermediate force devices shall be specifically trained and certified to use that device. Training in the use of chemical agents also shall include treatment of individuals exposed to them.

Training shall also cover use of force in special circumstances (detailed below).

All employees who participate in a calculated use-of-force move shall have received prior training.

The employee will receive training on an annual basis, and documentation of that training will be maintained in the employee's training record for as long as he or she is employed by the facility. The employee must also maintain certification.

E. Prohibited Force Acts and Techniques

The following acts and techniques are specifically prohibited:

1. Choke holds, carotid control holds, and other neck restraints;

2. Using a baton to apply choke or “come-along” holds to the neck area;
3. Intentional baton strikes to the head, face, groin, solar plexus, neck, kidneys, or spinal column;
4. Striking a detainee for failing to obey an order;
5. Striking a detainee when grasping or pushing him/her would achieve the desired result;
6. Using force against a detainee offering no resistance.
7. Restraining detainees to fixed objects not designed for restraint

F. Use of Force in Special Circumstances

Occasionally, after the failure of confrontation avoidance techniques, staff must make a judgment whether to use higher levels of force with detainees with special circumstances. Staff shall consult with medical staff in certain cases set forth below before deciding the situation is grave enough to warrant the use of physical force. Situations in which consultation with medical staff is required include:

1. Pregnant Detainees

Medical staff shall determine precautions required to protect the fetus, including:

- Safest method of restraint
- Presence of a medical professional
- Medical necessity of restraining the detainee

2. Detainees with Wounds or Cuts

Staff shall wear protective gear when restraining aggressive detainees with open cuts or wounds. If force is necessary, this gear shall include a full-body shield.

Aggressive detainees in restraints shall be placed in administrative detention, segregated from all other detainees. Such detainees generally remain in a Special Management Unit (SMU) until cleared to return to the general population by the Chief Immigration Enforcement Agent and the Clinical Director, with the facility administrator's approval.

3. Detainees with Special Medical or Mental Health Needs

If a situation arises involving a special needs detainee, the appropriate medical or mental health staff will be consulted prior to the use of force. This includes physically disabled detainees and detainees with a mental health condition that would impair them from understanding the situation. Medical staff shall be consulted in these circumstances.

G. Intermediate Force Weapons

In this Detention Standard “Intermediate Force Weapons” refers to weapons otherwise known as “non-deadly force weapons,” “non-lethal weapons,” or “less-than-lethal weapons.”

1. Storage

Ordinarily, when not actually in use, intermediate force weapons and related equipment are permitted only in designated areas:

- Where access is limited to authorized personnel, and
- To which detainees and non-authorized personnel have no access.

If such equipment is kept in an SMU, staff shall store and maintain it under the same conditions as Class "A" tools. If an SMU lacks appropriate secure space, the equipment must be kept in a secure location elsewhere in the facility.

2. Recordkeeping and Maintenance

Each facility shall maintain a written record of routine and emergency distribution of security equipment and shall specifically designate and incorporate, in one or more post orders, responsibility for staff to inventory chemical agents and related security equipment at least monthly to determine their condition and expiration dates.

3. Use

The facility administrator may authorize the use of intermediate force weapons if a detainee:

- Is armed and/or barricaded; or
- Cannot be approached without danger to self or others; and
- A delay in controlling the situation would seriously endanger the detainee or others, or would result in a major disturbance or serious property damage.

Staff shall consult medical staff before using pepper spray or other intermediate force weapons unless escalating tension makes such action unavoidable. When possible, medical staff shall review the detainee's medical file for a disease or condition that an intermediate force weapon could seriously exacerbate, including, but not limited to, asthma, emphysema, bronchitis, tuberculosis, obstructive pulmonary disease, angina pectoris, cardiac myopathy, or congestive heart failure.

In the Use-of-Force Continuum, the collapsible steel baton authorized below is an "impact weapon" that is considered:

- A "soft" technique when used during "come-alongs" or to apply gradual pressure for compliance, or
- A "hard" technique when used for striking.

As with any use of force, staff using an impact weapon shall choose the appropriate level as required by the totality of circumstances, and its use must be discontinued when adequate control of a detainee has been achieved.

4. Authorized Intermediate Force Devices. The following devices are authorized:

- Oleoresin capsicum (OC) spray ("pepper spray");
- Collapsible steel baton;
- 36" straight, or riot, baton

- ICE authorized chemical and impact munitions

5. Unauthorized Force Devices. The following devices are not authorized:

- Saps, blackjacks, and sap gloves;
- Mace, CN, tear gas, or other chemical agents, except OC spray;
- Homemade devices or tools; and
- Any other device or tool not issued or approved by ICE/DRO.

H. Immediate Use of Force

An "immediate-use-of-force" situation is created when a detainee's behavior constitutes a serious and immediate threat to self, staff, another detainee, property, or the security and orderly operation of the facility. In that situation, staff may respond without a supervisor's direction or presence.

Upon gaining control of the detainee, staff shall seek the assistance of qualified health personnel to immediately:

1. Determine if the detainee requires continuing care and, if so, make the necessary arrangements. Continuing care may involve such measures as admission to the facility hospital, restraining a pregnant detainee in a way that does not include face-down, four/five-point restraints, etc.
2. Examine the detainee and immediately treat any injuries. The medical services provided shall be documented.
3. Examine any involved staff member who reports an injury and, if necessary, provide initial emergency care. The examination shall be documented.
4. A written report shall be provided to the shift supervisor by each officer involved in the use of force by the end of the officer's shift.

The shift supervisor shall provide a written report to the facility administrator or designee no later than the end of a tour of duty when force was used on any detainee, or if any detainee remains in restraints at the end of that shift.

I. Calculated Use of Force and/or Application of Restraints

If a detainee is in a location where there is no immediate threat to the detainee or others (for example, a locked cell or range), staff shall take the time to assess the possibility of resolving the situation without resorting to force.

A calculated use of force needs to be authorized in advance by the facility administrator (or designee).

Calculated use of force is feasible and preferred in most cases and is appropriate when the detainee is in a location where the detainee poses no immediate threat of harm, even if the detainee is verbalizing threats or brandishing a weapon, provided staff sees no immediate danger of the detainee's causing harm to himself or others. Calculated use of force affords staff time to strategize and resolve situations in the least confrontational manner and assist to de-escalate the situation.

1. Confrontation Avoidance

Before authorizing the calculated use of force, the ranking detention official, a designated health professional, and others as appropriate shall assess the situation. Taking into account the detainee's history and the circumstances of the immediate situation, they shall determine the appropriateness of using force.

The conferring staff may consider in their assessment the detainee's medical/mental history, recent incident reports involving the detainee, if any, and emotional shocks or traumas that may be contributing to the detainee's state of mind (for example, a pending criminal prosecution or sentencing, divorce, illness, death, etc.).

Interviewing staff familiar with the detainee might yield insight into the detainee's current agitation or even pinpoint the immediate cause. Such interviews may also help identify those who have established rapport with the detainee or whose personalities suggest they might be able to reason with the detainee.

2. Documentation and Audiovisual Recording

While ICE/DRO requires that **all** use-of-force incidents be documented and forwarded to ICE/DRO for review, for **calculated use of force**, it is required that the **entire incident be audio visually recorded**. The facility administrator or designee is responsible to insure that use of force incidents are audio visually recorded. Staff will be trained in the operation of audiovisual recording equipment. There will be a sufficient number of cameras appropriately located and maintained in the facility. The audiovisual record and accompanying documentation shall be included in the investigation package for the After-Action Review described below. *In SPCs/CDFs, written documentation shall include a "Use of Force" form (sample attached) and memorandum reporting staff actions, reactions, and responses during the confrontation-avoidance process.*

Calculated use-of-force incidents shall be audiovisually-recorded in the following order:

1. Introduction by Team Leader stating facility name, location, time, date, etc., describing the incident that led to the calculated use of force, and naming the audiovisual camera operator and other staff present.
2. Faces of all team members should briefly appear (with helmets removed and heads uncovered), one at a time, identified by name and title.
3. Team Leader offers the detainee a last chance to cooperate before team action, outlines the use-of-force procedures, engages in confrontation avoidance, and issues use-of-force order.
4. Record entire use-of-force team operation, unedited, until the detainee is in restraints.
5. Take close-ups of the detainee's body during a medical exam, focusing on the presence/absence of injuries. Staff injuries, if any, are to be described but not shown.
6. Debrief the incident with a full discussion/analysis/assessment of the incident.

3. Use-of-Force Team Technique

When a detainee must be forcibly moved and/or restrained during a calculated use

of force, staff shall use the use-of-force team technique to prevent or diminish injury to staff and detainees and exposure to communicable disease. The technique usually involves five or more trained staff members clothed in protective gear, including helmet with face shield, jumpsuit, stab-resistant vest, gloves, and forearm protectors. Team members enter the detainee's area together and have coordinated responsibility for achieving immediate control of the detainee.

- a. Staff shall be trained in the use-of-force team technique in sufficient numbers for teams to be quickly convened on all shifts in different locations throughout the facility. To use staff resources most effectively, the facility administrator shall provide use-of-force team technique training for all staff members who could potentially participate in a calculated use of force.
- b. The use-of-force team technique training shall include the technique, its application, confrontation-avoidance, professionalism, and debriefing.
- c. Training shall also address the use of protective clothing and handling of spilled blood and body fluids.
 - Use-of-force team members and others participating in a calculated use of force shall wear protective gear, with particular precautions when entering a cell or area where blood or other body fluids could be present.
 - Staff members with a skin disease or skin injury shall not participate in a calculated use-of-force action.
- d. The shift supervisor or another supervisor on duty:
 - Must be on the scene prior to any calculated use of force to direct the operation and continuously monitor staff compliance with policy and procedure;
 - Shall not participate except to prevent impending staff injury;
 - Shall seek the advance guidance of qualified health personnel (based on a review of the detainee's medical record) to identify physical or mental problems and, whenever feasible, arrange for a health services professional to be present to observe and immediately treat any injuries;
 - Shall exclude from the use-of-force team any staff member involved in the incident precipitating the need for force;
 - May expand the use-of-force team to include staff with specific skills (those who handle chemical agents, etc.).
- e. When restraints are necessary, the team shall choose ambulatory or progressive models (described later in this document) and may resort to four/five-point restraints only if the less restrictive devices prove ineffective.
- f. The supervisor shall provide a written report to the facility administrator or designee, no later than the end of a tour of duty when force was used on any detainee, or if any detainee remains in restraints at the end of that shift.

J. Evidence Protection and Sanitation

The supervisor shall inspect areas of blood or other body-fluid spillage after a use-of-force incident. Unless the supervisor determines that the spillage must be preserved as evidence, staff or properly trained detainees shall immediately sanitize those areas, based on medical department guidance on appropriate cleaning solutions and their use.

The Detention Standard on **Environmental Health and Safety** provides detailed guidance for cleaning areas with blood and other body fluid spills.

Standard sanitation procedures shall be followed in areas with blood or other body fluid spillage. Wearing the appropriate protective gear, staff and/or detainees shall immediately apply disinfectant to sanitize surfaces such as walls and floors, furniture, etc. Articles of clothing and use-of-force equipment contaminated with body fluids shall likewise be disinfected or destroyed as needed and appropriate.

K. Maintaining Audiovisual Recording Equipment and Records

Staff shall store and maintain audiovisual recording equipment under the same conditions as “restricted”: tools. The equipment must be kept in a secure location elsewhere in the facility.

Since audiovisual recording equipment must often be readily available, each facility administrator shall designate and incorporate in one or more post orders responsibility for:

- Maintaining cameras and other audiovisual equipment;
- Regularly scheduled and documented testing to ensure all parts, including batteries, are in working order; and
- Keeping back-up supplies on hand (batteries, tapes or other recording media, lens cleaners, etc.).

Each audiovisual record shall be catalogued and preserved until no longer needed, but shall be kept no less than 30 months after its last documented use. In the event of litigation, the facility shall retain the relevant audiovisual record a minimum of six months after the litigation has concluded or been resolved.

The audiovisual records may be catalogued electronically or on 3" x 5" index cards, provided that the data can be searched by date and detainee name. A log shall document audiovisual record usage.

Use-of-force audiovisual records shall be available for supervisory, Field Office and Headquarters incident reviews and may also be used for training.

Release of use-of-force audiovisual recordings to the news media may occur only if authorized by the Director of Detention and Removal Operations, in accordance with ICE/DRO procedures and rules of accountability.

L. Approved Restraint Equipment

The following restraint equipment is authorized:

- Handcuffs: Stainless steel, 10 oz.;

- Leg Irons: Stainless steel and must meet National Institute of Justice standard;
- Martin chain;
- Waist or Belly Chain: Case-hardened chains with a minimum breaking strength of approximately 800 pounds;
- Handcuff Cover: Cases for the security of handcuffs used on high security detainees;
- Soft Restraints: Nylon/leather type with soft arm and leg cuffs containing soft belts with key locks;
- Plastic Cuffs: Disposable; and
- Any other ICE/DRO-approved restraint device.

Deviations from this list of restraint equipment are strictly prohibited.

M. Ambulatory and Progressive Restraints

When sufficient for protection and control of a detainee, staff shall apply **ambulatory restraints**, which are soft and hard equipment that provides freedom of movement sufficient for eating, drinking, and other basic needs without staff assistance or intervention;

If ambulatory restraints are insufficient to protect and control a detainee, staff may apply **progressive restraints**, which are more secure or restrictive. The facility administrator shall decide on the appropriate restraint method, i.e., hard restraints with/without waist chain or belt; four/five-point soft restraints with hard restraints to secure the detainee to a bed; four/five-point hard restraints, etc.

In situations involving a highly assaultive and aggressive detainee, progressive restraints may be needed as an intermediate measure while placing a detainee in, or removing a detainee from, four/five-point restraints.

Once a detainee has been placed on ambulatory restraints, the shift supervisor is required to conduct a physical check of the detainee once every two hours to determine if the detainee has stopped the behavior which required the restraints and thus restraints are no longer necessary. Once a positive behavioral change has been achieved, a decision to remove the restraints or place the detainee in less restrictive restraints shall be made. If this has not been achieved, the shift supervisor shall document the reason for continuance of the ambulatory restraints.

The supervisor shall provide a written report to the facility administrator no later than the end of the tour of duty when any detainee remains in restraints at the end that shift.

N. Four/Five-Point Restraints

1. General Requirements. When four/five-point restraints are necessary, staff shall:

- Use soft restraints (for example, vinyl), unless they:
 - Were previously ineffective with this detainee, or

- Proved ineffective in the current instance.
- Provide the detainee with temperature-appropriate clothing and a bed, mattress, sheet and/or blanket. Under no circumstance shall a detainee remain naked or without cover (sheet or blanket) unless deemed necessary by qualified health personnel.
- Check and record the detainee's condition at least every 15 minutes to ensure that the restraints are not hampering circulation and to monitor the general welfare of the detainee. If the detainee is confined by bed restraints, staff shall periodically rotate the detainee's position to prevent soreness or stiffness.
- All facilities shall document all checks of detainees in four/five point restraints every 15 minutes.

Staff shall use the SMU logbook to record each 15-minute check of detainees in four/five-point restraints. Documentation shall continue until restraints are removed. The shift supervisor shall be immediately notified if the detainee is calm, to permit re-evaluation of the use of restraints.

2. Medical Staff

A health professional shall test the detainee's breathing, other vital signs, and physical and verbal responses. If the detainee is bed-restrained, the health professional shall determine how the detainee should be placed. Qualified health personnel are required to visit the detainee at least twice per eight-hour shift. When qualified health personnel are not immediately available, staff shall place the detainee in a "face-up" position until the medical evaluation can be completed. Medical checks shall be documented.

3. Shift Supervisor

The shift supervisor shall be responsible for the following:

- The shift supervisor shall review a detainee in four/five-point restraints every two hours. If the detainee has calmed down and restraints are no longer necessary, they may be removed and, if appropriate, replaced by a less restrictive device.
- At every two-hour review, the detainee shall be afforded the opportunity to use the toilet, unless the detainee actively resists or becomes combative when released from restraints for this purpose.
- The decision to release the detainee or apply less restrictive restraints shall not be delegated below the shift supervisor's level. The shift supervisor may seek advice from mental or medical health professionals about when to remove the restraints.

The shift supervisor shall document each two-hour review in the SMU logbook.

4. Facility Administrator

- When any detainee is restrained for more than eight hours, the facility

administrator shall telephonically notify the Assistant Field Office Director and provide updates every eight hours until the restraints are removed.

- The facility administrator shall provide the Field Office Director with written documentation of the reason(s) for placing the detainee in four/five-point restraints, regardless of duration, on the following workday.

O. Documentation of Use of Force and Application of Restraints

Staff shall prepare detailed documentation of all incidents involving use of force, including chemical agents, or intermediate force weapons. Staff shall also document the use of restraints on a detainee who becomes violent or displays signs of imminent violence. A copy of the report shall be placed in the detainee's detention file.

1. Report of Incident

All facilities shall have an **ICE/DRO-approved** form to document all uses of force.

Within two working days, copies of the report shall be placed in the detainee's A-File and sent to the Field Office Director.

A report is not necessary for the general use of restraints (for example, the routine movement or transfer of detainees).

In SPCs and CDFs, staff shall prepare a "Use of Force" form (sample attached) for each incident involving use of force, including chemical agents, pepper spray, or other intermediate force weapons or application of progressive restraints (regardless of level of detainee cooperation). The report shall identify the detainee(s), staff, and others involved and describe the incident. If intermediate force weapons are used (e.g. collapsible steel baton or 36-inch straight (riot) baton), the location of the strikes must be reported on the Use of Force form. Each staff member shall complete a memorandum for the record to be attached to the original Use of Force form. The report, accompanied by the corresponding medical report(s), must be submitted to the facility administrator by the end of the shift during which the incident occurred.

2. Audiovisual Recording Use-of-Force Incidents

Staff shall immediately obtain an audiovisual camera to record any use-of-force incident, unless such a delay in bringing the situation under control would constitute a serious hazard to the detainee, staff, or others, or would result in a major disturbance or serious property damage.

The facility administrator shall review the audiovisual recording within four working days of the incident and shall then send the Field Office Director a copy for review. The Field Office Director shall forward audiovisual recordings of questionable or inappropriate cases to the Deputy Assistant Director, Detention Management Division, for further review.

When an immediate threat to the safety of the detainee, other persons, or property makes a delayed response impracticable, staff shall activate a video camera and start recording the incident as quickly as possible. After regaining control of the situation, staff shall follow the procedures applicable to calculated use-of-force incidents.

3. Recordkeeping

All facilities shall assign a designated individual to maintain all use-of-force documentation.

The Chief Immigration Enforcement Agent shall maintain all use-of-force documentation, including the audiovisual record and the original After-Action Review form for a minimum of 6 years. A separate file shall be established on each use-of-force incident.

P. After-Action Review of Use of Force and Application of Restraints

1. Written Procedures Required

All facilities shall have ICE/DRO-approved written procedures for After-Action Review of use-of-force incidents (immediate or calculated) and applications of restraints. The primary purpose of an After-Action Review is to assess the reasonableness of the actions taken and determine whether the force used was proportional to the detainee's actions.

IGSAs shall model their incident review process after ICE/DRO's process and submit it to ICE/DRO for DRO review and approval. The process must meet or exceed the requirements of ICE/DRO's process.

2. Composition of an After-Action Review Team

The facility administrator, the assistant facility administrator, the Field Office Director's designee, and the Health Services Administrator shall conduct the After-Action Review. This four-member After-Action Review team shall convene on the workday after the incident. The After-Action Review team shall gather relevant information, determine whether policy and procedures were followed, make recommendations for improvement, if any, and complete an After-Action Report to record the nature of its review and findings. The After-Action Report is due within two working days of the detainee's removal from restraints.

3. Review of Audiovisual Recording

The After-Action Review team shall also review the audiovisual recording of any use-of-force incidents for compliance with all provisions of this standard, with particular attention paid to:

- Whether the use-of-force team technique was exercised properly;
- The professionalism of the shift supervisor;
- Adherence to the requirement of wearing prescribed protective gear;
- Ensuring that unauthorized items, equipment or devices (for example, towels, tape, surgical masks, hosiery) were not used;
- Whether team members applied only as much force as necessary to subdue the detainee, including whether team members responded appropriately to a subdued or cooperative detainee or a detainee who discontinued his/her violent behavior;
- Whether the shift supervisor was clearly in charge of team and situation. This

includes intervention at the first sign of one or more team members applying more force than necessary;

- Whether the detainee received and rejected the opportunity to submit to restraints voluntarily before the team entered the cell/area. If he or she submitted, team action should not have been necessary;
- Whether team members exerted more pressure than necessary to the detainee's thorax (chest and back), throat, head and extremities when applying restraints;
- The amount of time needed to restrain the detainee. Any non-resisting detainee restrained for longer than necessary could indicate training problems/inadequacies;
- Whether team members wore protective gear inside the cell/area until the operation was completed;
- Whether there was continuous audiovisual coverage from the time the camera started recording until the incident concluded. The review team shall investigate any breaks or sequences missing from the audiovisual record;
- Whether a medical professional promptly examined the detainee, with the findings reported on the audiovisual record;
- Whether use of chemical agents, pepper spray, etc., was appropriate and in accordance with written procedures;
- Whether team member(s) addressed derogatory, demeaning, taunting, or otherwise inappropriate/inflammatory remarks made to detainee or person(s) outside the cell or area.
- *If the incident review reveals a violation of ICE/DRO policy or procedures, the After-Action Review team shall then determine whether the situation called for improvised action and, if so, whether the action taken was reasonable and appropriate under the circumstances.*

The After-Action Review Team shall complete and submit its After-Action Review report to the facility administrator within two working days of the detainee's release from restraints. The facility administrator shall review and sign the report, acknowledging its finding that the use of force was appropriate or inappropriate.

4. Report of Findings to Field Office Director

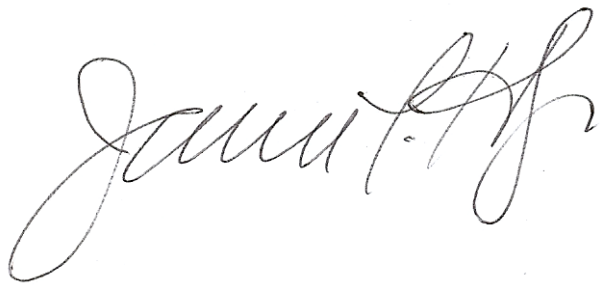
Within two working days of the After-Action Review Team's submission of its determination, the facility administrator shall report with the details and findings of appropriate or inappropriate use of force, by memorandum, to the Field Office Director and whether he or she concurs with the finding. Included in the report will be consideration of the following: Whether proper reporting procedures were followed; in the event of five point restraints, whether checks were made and logged at the appropriate times; whether appropriate medical care was provided once the situation was under control.

5. Further Investigation

The review team shall determine whether the incident requires further investigation and

whether the incident should be referred to the Office of Professional Responsibility, the Department of Homeland Security Office of the Inspector General, or the Federal Bureau of Investigation.

Standard Approved:



James T. Hayes, Jr
Acting Director
Office of Detention and Removal Operations

September 12, 2008

Date