

	DIVISION OF CHILD AND FAMILY SERVICES Juvenile Justice Services Statewide Youth Parole Bureau Policy
SUBJECT:	Safety – Use of Force
POLICY NUMBER:	YP- 400.01
EFFECTIVE DATE:	07/24/2020
APPROVED BY:	Kathryn Roose – Deputy Administrator, Division of Child and Family Services
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SUPERSEDES:	YP 400.01 2/25/16
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DATE:	07/17/2020
REFERENCES:	ACA 3-JTS-3A NRS 62B.510; NRS 171.122; NRS 432B.220; NRS 433.546 Use of Force Review DCFS/JJS 300.04; Child Abuse and Neglect Reporting DCFS/JJS 300.06 DCFS Personnel Policy and Procedure Youth Parole Policy YP-400.11 (Transportation of an Arrested Individual)

I. POLICY

Staff in the Division of Child and Family Services (DCFS) shall utilize force only when it is objectively reasonable, necessary, and proportional to effectively resolve a conflict. Force may only be used if and only if de-escalation has been ineffective, and when it is required to prevent physical harm to youth, staff, or others.

II. PURPOSE

To provide guidelines for prevention of Use of Force, and to provide guidelines for the safe Use of Force when it is necessary.

III. DEFINITIONS

1. Child Welfare Agency: The agency in the relevant jurisdiction to which reports of child abuse and neglect are made: Clark County Department of Family Services, Washoe County Human Services Agency, or DCFS Rural Region.
2. De-escalation: Actions used, when safe, which seek to minimize the likelihood of the need to use for during an incident. De-escalation slows down and/or stabilizes situations so that more time, options, and resources can be made available for incident resolution.

3. Distraction Techniques: Actions that cause a temporary inability of normal reactions or functions. Common distractions include finger pressure, knuckle rubbing, striking, pinching, or slapping.
4. Excessive Force: The amount of force, that when applied, is unreasonable in relation to the incident.
5. Mandated Reporter: DCFS staff are mandated reporters and must report to the appropriate child welfare agency or law enforcement agency when they know of or suspect child abuse or neglect. The report must be made within 24 hours of the suspected or witnessed abuse or neglect (NRS 432B.220).
6. Mechanical Restraint: The use of devices, including wrist restraints, leg restraints, or waist restraints used to limit a youth's movement or hold a youth immobile.
7. Oleoresin Capsicum (OC): A spray derived from compounds found in the plant in the Capsicum genus, such as chili peppers.
8. Physical Restraint: The use of physical control to limit a youth's movement or hold a youth immobile.
9. P.O.S.T Peace Officer Standards and Training: An intensive 9 to 15-week training program developed and conducted by the Nevada Commission on Peace Officer Standards and Training. All Youth Parole Officer/Counselor's in the State of Nevada must attend and pass this training in order to be sworn in as a Peace Officer in the State of Nevada.
10. Reasonable Force: The amount of force that when applied, is not excessive and is appropriate within the facts and circumstances known to the staff at the time and place, in order to defend oneself, or in the defense of others.
11. State Review Team (SRT): A team comprised of facility and non-facility staff, led by non-facility staff, whose function is to complete reviews of all Youth Parole Bureau uses of force and secondary reviews of all facility uses of force.
12. Unit Manager: Includes Unit Managers and/or designee.
13. Use of Force: Physical, mechanical, or chemical restraint or impact weapons (baton) or related behaviors used in instances of justifiable self-defense, protection of others, protection of property, or prevention of escapes. Includes physical contact or the use of equipment to control movement or to gain access to a location.
14. Use of Force Continuum: A five step continuum of increased force used to control an individual as taught in P.O.S.T. certified Use of Force Training:
 - a. Level 1. Presence and approach (Initial contact)
 - b. Level 2. Verbalization (Subject Cooperative)
 - c. Level 3. Physical and mechanical restraint (Subject Resisting)
 - d. Level 4. Temporary Incapacitation - Baton, OC Spray (Assaultive/High Risk)
 - e. Level 5. Deadly Force (Subject is Life-Threatening)

IV. PROCEDURE

1. Preventing Use of Force
 - a. Use of force shall be used as the last resort and only when necessary, after attempts at gaining compliance and/or de-escalation have failed.
 - b. All Youth Parole Counselors will be trained in Use of Force during the P.O.S.T. Academy and then yearly thereafter.
 - c. Staff will use a positive approach to build healthy relationships with youth and young adults, including effective communication.
 - d. Staff may prevent use of force by maintaining a professional presence including:
 - i. Defensive stance
 - ii. Officer movement
 - iii. Constant visual contact
 - e. When maintaining a professional presence is insufficient, additional prevention methods shall be used including:
 - i. Verbal requests for compliance
 - ii. Reminders regarding the positive consequences for compliance
 - iii. Reminders regarding the negative consequences for compliance
 - iv. Using verbal de-escalation techniques aimed at assisting the youth in re-gaining self-control and complying voluntarily with expectations
 - v. Re-directing the youth away from the inappropriate behavior
2. General Guidelines for Use of Force
 - a. Youth Parole Bureau (YPB) staff may only engage in Use of Force tactics that they have been trained on and/or certified on per state policy.
 - b. YPB staff shall utilize P.O.S.T approved training to determine the need for a Use of Force.
 - c. Only the amount of force that is reasonably necessary, and proportional to the situation may be used, while maintaining a position of advantage, to control individuals will be used by Youth Parole Counselors in the course of their duties as sworn Peace Officers.
 - d. Verbal commands and instructions are used whenever feasible with every level of force.
 - e. The amount of force used shall only be as much as is reasonably necessary to regain control of the situation and assure the safety of the youth and others. Staff will consider the age, size, gender, level of physical skill and/or disability, and other significant differences between the staff and the youth that influence the use of force necessary.
 - f. Staff shall recognize that threat levels may escalate and de-escalate suddenly and modify the level of force appropriately for the changing situation.
 - g. The following may not be used as a means of restraining any youth:
 - i. Restricting respiration/breathing in any way. This includes using a chokehold or applying pressure to a youth's back, chest, or throat, or by physically placing any youth in a position that may hinder breathing or reduce intake of air. This includes placing a knee on the youth's back, chest, or neck.
 - ii. Using any method that has the potential to result in a loss of consciousness or cause harm to the neck.
 - iii. Use methods that result in the youth being pinned down with knees and/or ankles to their torso, head and/or neck.
 - iv. Use methods of fastening together the hands and feet (i.e., hog-tie)
 - v. Slap, punch, kick, pinch or hit a youth.
 - vi. Drag or lift a youth by their hair or by any type of mechanical restraint.
 - vii. Enlist the assistance of a youth to help with a restraint.
 - viii. Secure a youth to a fixed object.

- h. Restraint may not be used as a punishment, to inflict pain, or as a disciplinary measure. Neither shall staff use restraints as a means to harass or intimidate youth (NRS 62B.510).
- i. No restraint of any kind shall be allowed on a youth who is pregnant or in labor, delivering a baby or recuperating from delivery. Exceptions to this include:
 - i. If the youth presents a serious and immediate threat of self-harm or harm to staff or others.
 - ii. If the youth is determined to be a serious flight risk and the youth cannot be reasonably confined by other means.
 - iii. If a youth is restrained who is pregnant, in labor, delivering and recuperating from delivery, only the least restrictive restraints such as a transport belt which are necessary for safety and security may be used. At no time should a belly chain or belly restraint be used.
- j. Any staff present and observing another staff using force that is beyond that which is objectively reasonable under the circumstances shall safely intercede to prevent the use of such excessive force.
 - i. If it is unsafe to physically intervene, staff shall notify the Unit Manager immediately.
 - ii. Staff who fail to intervene or notify the Unit Manager in such situations may be subject to disciplinary action.
- k. DCFS staff are mandated reporters responsible for reporting any excessive use of force on a youth under the age of 18 as potential child abuse (NRS 432B.220; Child Abuse and Neglect Reporting [DCFS/JJS 300.06]) to the relevant child welfare agency.
- l. Once the objective of control is achieved, the Youth Parole Counselor must de-escalate to a level sufficient to maintain control.
- m. In compliance with NRS 171.122, an individual must not be subjected to any more restraint than is necessary for their arrest and detention.
- n. Youth Parole Counselors are responsible for maintaining all restraint equipment on their person, law enforcement duty belt, and in their “go bag.”
- o. The Chief of the Youth Parole Bureau shall ensure that each location performs an annual inspection of all equipment for proper functioning.
- p. Equipment no longer functioning properly or effectively shall be replaced during annual inspections or at any other time a problem is identified.
- q. In the event of an objectively life-threatening situation, Youth Parole Bureau staff may use any means necessary to prevent the loss of life. When the incident is reviewed, the severity of the situation shall be taken into consideration in relation to the use of otherwise prohibited use of force techniques.

3. Physical Force

- a. Physical force should follow the Use of Force Continuum and be used only for:
 - i. Effecting an arrest
 - ii. Preventing an escape from custody or recapturing an escapee
 - iii. Protecting the public and their property
 - iv. Self-defense and in defense of others
 - v. Executing authorized law enforcement missions and duties as a Peace Officer
- b. The use of Lateral Vascular Neck Restraint (LVNR) is expressly forbidden.
- c. While a youth/young adult is restrained:
 - i. The head shall be able to rotate freely; the airway must be unobstructed at all times; the lungs must not be restricted by excessive pressure on the back, neck, or chest.
 - ii. Staff shall verbally and visually assess the safety of the youth/young adult being restrained for consciousness and breathing.

- d. The Youth Parole Counselor will maintain the restraint until the youth is no longer detained or custodial status has been transferred.
- e. Youth Parole Counselors will seek medical attention for any individual that has been injured or suspected to be injured during the use of physical force.

4. Mechanical Restraint

- a. Mechanical restraints will be limited to situations when making an arrest or a collateral contact when information, suspicion, or probable cause exists that criminal activity may be occurring. Reference policy YP-400.11 for in custody transportation of youth.
- b. Youth Parole Counselors are only authorized to use the following restraint devices after completion of P.O.S.T. certified training and/or yearly YPB-specific training in their use:
 - i. Handcuffs
 - ii. Waist restraints.
 - iii. Leg irons/shackles
 - iv. Plastic flex cuffs
 - v. Spit hoods
 - vi. Knee lock brace
- c. While mechanical restraints are applied:
 - i. Staff shall check the mechanical restraints for the appropriate fit.
 - ii. Staff shall verbally and visually assess the safety of the youth/young adult being restrained for consciousness and breathing.
- d. The Youth Parole Counselor will maintain the restraint until the youth is no longer detained or custodial status has been transferred.
- e. Youth Parole Counselors will seek medical attention for any individual that has been injured or suspected to be injured during the use of restraints.

5. Chemical Restraint (OC Spray)

- a. The use of OC spray will be considered after less restrictive techniques have been utilized or in events that require its immediate use, such as attacks, fights or riots.
- b. When deploying OC spray, staff shall, if practical, announce a warning to the youth and others in the area of the intent to deploy OC spray if the youth fails to comply with the staff's demand.
 - i. For example: "Do what I am asking you to do, or I will spray you with pepper spray."
 - ii. DCFS staff shall give the youth a reasonable opportunity to voluntarily comply to the demand before deploying OC spray.
- c. Staff may not use OC spray when a youth is already in a physical restraint and/or mechanical restraint.
- d. Only OC spray issued by the Youth Parole Bureau is authorized for use and Youth Parole Counselors are responsible for its proper maintenance and having it replaced when needed, including expired canisters.
- e. All individuals sprayed with OC by a Youth Parole Counselor will be afforded care consistent with OC training as necessary. This includes individuals that have been indirectly contaminated. Medical evaluation and treatment will be provided when:
 - i. Symptoms persist for 45 minutes or longer.
 - ii. Unusual or extreme symptoms are observed, including respiratory distress.
 - iii. Treatment is requested by the contaminated individual.
- f. Once a staff member deploys OC, the staff member shall not carry or use OC again until the incident has been reviewed by the State Review Team.

6. Expandable Baton

- a. The expandable baton will be only considered after less restrictive techniques have been utilized or in events that require its immediate use, such as attacks, fights or riots.
- b. A verbal warning will precede the use of an expandable baton when appropriate.
- c. Only an expandable baton issued by the Youth Parole Bureau is authorized for use and Youth Parole Counselors are responsible for its proper maintenance.
- d. No modifications to the issued expandable baton are to be made without approval by Chief of Parole or authorized representative.
- e. All individuals struck by a Youth Parole Counselor with an expandable baton will be afforded medical evaluation and, if necessary, treatment.
- f. Once a staff member uses an expandable baton against another person, the staff member shall not carry or use an expandable baton again until the State Review Team is complete.

7. Deadly Force

- a. Deadly force is only for use in situations in which the actions by the subject are likely to result in serious bodily harm or possibly in the death of the DCFS staff or another.
- b. DCFS staff shall only use those weapons authorized by the Youth Parole Bureau unless experiencing a life-threatening situation.
- c. Since the use of deadly force is the highest level of force available, DCFS staff must be able to justify deadly force.
- d. The four elements that may indicate justification for deadly force:
 - i. Ability or Apparent Ability – Does the subject possess the ability or apparent ability to kill or cause substantial bodily harm to you or a third party?
 - ii. Opportunity – Does the subject possess the opportunity to kill or cause substantial bodily harm to you or a third party?
 - iii. Imminent Jeopardy – Has the subject placed you or a third party in imminent danger or jeopardy?
 - iv. Preclusion – Is the amount of force chosen reasonable and appropriate under the totality of the circumstances?
- e. Preclusion: Does the situation meet one of the following criteria:
 - i. Levels 1-4 have proven ineffective
 - ii. Levels 1-4 would be clearly ineffective
 - iii. Levels 1-4 would be unsafe
- f. The subject must possess all of the following:
 - i. Intent – Either displayed or indicated sufficient to cause death or serious bodily harm to the officer or others,
 - ii. Weapon – Either conventional or unconventional, mechanical or personal, but nevertheless, capable of inflicting death or substantial bodily harm, and
 - iii. Delivery System – The utilization or the capacity for the utilization of the weapon.

8. Training

- a. Youth Parole Counselors are only authorized to use physical force techniques and guidelines taught in P.O.S.T. certified Use of Force Training.
 - i. Recertification in Use of Force must be done on an annual basis.
- b. Youth Parole Counselors are required to complete P.O.S.T. training and be certified in the use of the expandable baton, a Level 3 or 4 option, before they are authorized to use the device. The following applies to the use of an expandable baton:

- i. Youth Parole Counselors must recertify in the use of the expandable baton on an annual basis.
- c. Youth Parole Counselors are required to complete P.O.S.T. approved training and be certified in the use of Oleoresin Capsicum (OC) spray, a Level 3 or 4 option, which is also known as “pepper spray” before they are authorized to use the substance.
 - i. Youth Parole Counselors must demonstrate proficiency in the use of OC on an annual basis and recertify annually.

9. Reporting and Review

- a. All use of force incidents will be reported to a Unit Manager as soon as possible.
- b. Situations resulting in injuries, significant property damage, or other unusual circumstances require immediate notification of a Unit Manager, the Chief of Parole, or the Deputy Administrator of Community Services and the completion of a Incident Report that details all circumstances and the Use of Force Continuum steps that were taken.
- c. When possible, a Unit Manager or the Chief of Parole will respond to locations where physical injury, property damage, or the use of OC occurred and document the incident through written notes, photographs and witness statements. The Unit Manager/Chief may direct Youth Parole Counselors to document such occurrences on their behalf.
- d. All incidents involving the use of force will be documented in Tyler Supervision and in a Critical Incident Form as soon as possible but no later than by the end of the duty shift.
- e. Documentation shall include, but is not limited to:
 - i. Factual basis for reasonable suspicion and probable cause
 - ii. Quote the subject directly
 - iii. Quotes of staff statements
 - iv. List all officer/subject factors
 - v. List any special circumstances
 - vi. Obtain witness names, addresses, and phone numbers
 - vii. Specify care rendered
 - viii. List names of attending medical personnel
 - ix. Be specific with regard to use of force employed, where it was directed, and why
 - x. Explain the Use of Force option you chose
 - xi. Explanation of prevention and de-escalation efforts used
- f. The Chief of the Youth Parole Bureau shall ensure that an investigation is completed of any Use of Force to be provided to the Deputy Administrator of Community Services. The investigation shall include, but is not limited to:
 - i. Interviews of staff involved
 - ii. Interviews of youth involved
 - iii. Interviews of bystanders or other witnesses
 - iv. Review of video if available
- g. All use of force documentation shall be uploaded into the designed database for use of force documentation.
- h. All use of force incidents shall be reviewed by the State Review Team (DCFS/JJS 300.04)
- i. The Chief of the Youth Parole Bureau or designee shall complete a monthly Youth Parole Use of Force Report to include:
 - i. Total uses of force, broken down by type (physical, mechanical, and chemical)
 - ii. Total uses of force found warranted by the SRT
 - iii. Total uses of force found not excessive by the SRT
 - iv. Total uses of force found to be in compliance with policy by the SRT
 - v. Total uses of force found to be in compliance with training by the SRT

- vi. Consequences for any inappropriate use of force (e.g., remedial training, disciplinary action, procedural changes)
- j. The Youth Parole Bureau Use of Force Report shall be distributed to the Division Administrator, the Deputy Administrator of Community Services, and the Chief of the Juvenile Justice Programs Office.
- k. If excessive force is suspected, the matter will be referred to the Office of the Attorney General of the State of Nevada for investigation and disposition.