



Arkansas Community Correction

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ADMINISTRATIVE DIRECTIVE: 16-23 Use of Force

TO: Arkansas Community Correction Employees

FROM: Sheila Sharp, Director

SUPERSEDES: AD 12-05

APPROVED: _____ Signature on File

EFFECTIVE: December 31, 2016

- I. **APPLICABILITY.** This directive applies to Arkansas Community Correction (ACC) employees.
- II. **POLICY.** Based on the facts and circumstances perceived at the time, an employee may use the amount of force reasonable to effectively bring a situation under control and protect the lives of the employee and others. (4-APPFS-3G-01; 4-APPFS-3B-02(M) Arkansas law sections 5-2-607 through 5-2-613)
- III. **GUIDANCE.**
 - A. **Application of Force in General.** Based on the facts and circumstances perceived at the time, an employee may use the amount of force reasonable to effectively bring a situation under control and protect the lives of the employee and others. In no event is physical force justifiable as punishment. A goal in every encounter is to minimize injury to everyone involved. However, nothing in this policy requires an employee to actually sustain injury before applying reasonable force.
 - B. **Resistance Control Continuum.** The resistance control continuum, which is taught in use of force classes, is to be used as a guide along with judgment, discretion and the concept of “ability, opportunity and jeopardy.”

C. Ability, Opportunity and Jeopardy Concept. In this concept, ability, opportunity and jeopardy are factors to be considered when determining the amount of force reasonable under the circumstances.

1. Ability. This refers to the perceived ability of the aggressor to do harm.
2. Opportunity. This is the distance relationship between the aggressor and the defender. For opportunity to be present, the defender must be within usable range of the aggressor's ability. Opportunity expands as the aggressor's ability increases. The presence of weapons may extend the opportunity range.
3. Jeopardy. This is the defender's perception of the aggressor's intent. When the defender reasonably believes that the aggressor, by word or action, intends to use his ability, the defender is in jeopardy.

D. Physical Force. Physical force is any bodily impact, restraint, or physical confinement, or the threat thereof.

E. Non-deadly Physical Force.

1. Non-deadly physical force is physical force that, under the circumstances in which it is used, is not intended and not reasonably likely to cause death or serious physical injury.
2. An employee may use non-deadly or the threatened use of non-deadly physical force as follows:
 - a. when it is reasonably believed to be necessary to prevent escape from custody
 - b. in the defense of self or others from what is reasonably believed to be the use or imminent use of unlawful physical force by that other person
 - c. to prevent another person from committing suicide or self-inflicting serious physical injury
 - d. to the extent reasonable to maintain order and discipline
 - e. when it necessary to effect a lawful arrest
 - f. to prevent the destruction of property
 - g. when in lawful possession of a vehicle or property, to prevent or end an actual or attempted criminal trespass in or on a vehicle or property
 - h. when aiding a law enforcement officer in effecting an arrest of someone reasonably believed to be committing or to have committed a felony; or in preventing the escape of someone reasonably believed to have committed a felony, or
 - i. in carrying out a law enforcement officer's direction.

3. A law enforcement officer is justified in using non-deadly physical force or threatening to use deadly physical force if the law enforcement officer reasonably believes the use of non-deadly physical force or the threat of use of deadly physical force is necessary to
 - a. effect an arrest or to prevent the escape from custody of an arrested person unless the law enforcement officer knows that the arrest is unlawful; or
 - b. defend himself or herself or a third person from what the law enforcement officer reasonably believes to be the use or imminent use of physical force while effecting or attempting to effect an arrest or while preventing or attempting to prevent an escape.

F. Deadly Physical Force.

1. Deadly physical force is physical force that, under the circumstances in which it is used, is readily capable of causing death or serious physical injury.
2. An employee is justified in using deadly physical force when the employee reasonably believes:
 - a. the other person is committing or about to commit a felony involving force or violence; or
 - b. the other person is using or about to use unlawful deadly physical force; or
 - c. the other person is imminently endangering someone's life; or
 - d. it is necessary to protect himself/herself from the use or threatened use of a chemical agent when he/she reasonably believes that deadly physical force will be used against him/her if he/she becomes incapacitated by a chemical agent.
3. An employee is justified in using deadly physical force when directed by a law enforcement officer to assist in effecting an arrest or in preventing an escape if the employee reasonably believes the use of deadly physical force is necessary to defend himself or herself or a third person from what the employee reasonably believes to be the use or imminent use of deadly physical force.
4. In addition to other circumstances that may warrant use of force, a law enforcement officer is justified in using deadly physical force if the law enforcement officer reasonably believes that the use of deadly physical force is necessary to
 - a. effect an arrest or to prevent the escape from custody of an arrested person whom the law enforcement officer reasonably believes has committed or attempted to commit a felony and is armed or dangerous; or
 - b. defend himself or herself or a third person from what the law enforcement officer reasonably believes to be the use or imminent use of deadly physical force.
5. Warning shots must not be fired.

G. Forced Entry.

1. Forced entry by SRT officers:

a. Before forcing entry, SRT officers must:

- ensure there is an active warrant for arrest of a parolee or probationer who is reasonably believed to be in the building and
- conduct a verbal operations briefing.
- Document the briefing in eOMIS Supervision Contacts when time permits.

Exceptions are permitted only when an officer has reasonable cause to believe a person is in imminent danger of death or serious bodily harm.

b. After forcing entry, SRT officers must:

- if an arrest is made, complete the form “SRT Arrest Report”
- when required complete an incident report

2. Forced entry by a Parole/Probation supervision officer:

a. When forced entry is appropriate to apprehend a parolee or probationer, Parole/Probation supervision officers should ask the SRT to handle the situation or get local law enforcement support unless there are extenuating circumstances.

b. Before forcing entry a Parole/Probation supervision officer must:

- ensure there is an active warrant for arrest of a parolee or probationer who is reasonably believed to be in the building
- obtain supervisor approval
- do a pre-arrest briefing
- document the briefing in eOMIS Supervision Contacts when time permits.

Exceptions are permitted only when an officer has reasonable cause to believe a person is in imminent danger of death or serious bodily harm.

H. Training. The Resistance Control Continuum used in training and any subsequent revisions must be pre-approved by the Chief Deputy Director and Director.

I. When Force has been Used.

1. When use of force results in injury, ensure first aid is rendered and refer to medical personnel as needed. Injured residents must receive an immediate medical exam and treatment. (4-ACRS-2B-02)
2. When applicable, comply with the checklist entitled “Checklist for Serious Injury or Death Resulting from Use of Force or Accidental Firearms Discharge.”
3. Comply with applicable policies to include required testing pursuant to the “Drug Free Workplace” policy.
4. As soon as possible, report the incident pursuant to applicable policy, to include the Reporting and Investigating Incidents, Hazards and Maltreatment” policy.

IV. FORMS.

AD 16-23 Form 1, “Checklist for Serious Injury or Death Resulting from Use of Force or Accidental Firearms Discharge”

V. REFERENCE. Arkansas law beginning at section 5-2-601

**Checklist for Serious Injury or Death Resulting from Use of Force or
Accidental Firearms Discharge**

	Involved Employee(s):	
1	Call 911, request necessary medical and law enforcement support	
2	Ensure aid is given to any injured person	
3	Call your Area Manager or Center Supervisor, give the location and a brief description of the situation	
4	Secure the scene, assume control and detain/separate witnesses until you can turn the situation over to a supervisor, the ACC Internal Affairs Administrator (IAA) or local/State Police	
5	Remain at the incident scene until released by the IAA unless medical care or other circumstances warrant leaving	
6	Submit to a drug screen as required by the Drug-Free Workplace administrative directive.	
7	You may seek legal counsel before making any formal statements, but you must answer the "Public Safety Questions" when asked.	
8	Do NOT make any written reports or formal statements until you have completed a minimum of two sleep cycles or a minimum of 48 hours has passed. Then, when asked by the IAA, Arkansas State Police investigator, or Federal investigator, answer questions and provide any requested statements. During this process you will be asked to complete the written incident report as described in policy.	
9	Prior to completion of the investigation, do NOT discuss the incident with anyone except others involved in the incident, the investigating agencies, your attorney, or spiritual or mental health advisor, until given permission by the agency. As another exception, you may discuss the incident in general terms with your immediate family.	
	Area Manager/Center Supervisor or designee:	
10	Call the IAA, provide a brief incident description and location	
11	Follow guidance in the Reporting and Investigating Incidents, Hazards and Maltreatment administrative directive	
12	Go to the scene or send an Assistant Area Manager / Assistant Center Supervisor	
13	When on scene <input type="checkbox"/> Assess the scene, ensure safety and ensure medical aid is given to any injured person. <input type="checkbox"/> Ensure all non-employee witnesses are detained and separated so they do not discuss the events, and are instructed to write, sign and date a statement. <input type="checkbox"/> Assume command when appropriate <input type="checkbox"/> Limit questions of involved employees to public safety questions necessary for apprehending offenders, ensuring safety and providing medical aid; the IAA and/or State Police will ask investigative questions. Examples of public safety questions are: <ul style="list-style-type: none"> • number of suspects and last known location • description of suspect(s) and vehicle • last known direction of travel, and • location of incident. 	
14	Protect evidence and secure witnesses until this responsibility can be turned over to local law enforcement, the IAA or Arkansas State Police or the scene is 'cleared'	
15	Coordinate with the IAA to ensure involved employees are available to answer public safety questions.	

**Checklist for Serious Injury or Death Resulting from Use of Force or
Accidental Firearms Discharge**

16	Ensure employees who intentionally or accidentally discharged a firearm during an incident are tested for drugs and alcohol within 2 hours, as described in greater detail in the Drug-Free Workplace policy. Use discretion in determining whether other employees at the scene require drug/alcohol testing or medical treatment.	
17	Allow the involved employees to contact immediate family or arrange for notification of involved employee's immediate family	
18	Work with ACC Human Resources to ensure affected employees attend at least one session with an appropriate mental health professional other than the State's Employee Assistance Program (EAP).	
19	Refer the employee for a psychological fitness for duty evaluation whenever there is an objective and reasonable basis for believing that the employee may be unable to safely and/or effectively perform his or her duties due to a psychological condition or impairment. An objective basis is one that is not merely speculative but derives from direct observation, credible third-party report, or other reliable evidence. When a firearm is seized, promptly issue another firearm unless a decision is made to suspend, revoke or restrict firearm privileges pursuant to the Weapons and Security Equipment policy.	
20	Provide involved employees with contact information for the State Employee Assistance Program in case additional individual counseling services are needed. Use of force incidents can also affect employees who were not directly involved. As appropriate, arrange for EAP group counseling services for your employees including those not directly involved.	
Internal Affairs Administrator (IAA):		
21	<ul style="list-style-type: none"> • Follow guidance in the policy "Reporting and Investigating Incidents, Hazards and Maltreatment," pertaining to "Serious Incident and Unusual Occurrences Notification Procedures" and • Direct the involved employee(s) to get drug tested, a medical exam, and to be available on scene to answer public safety questions • respond to the scene as appropriate. 	
22	Coordinate with outside law enforcement as necessary.	
23	Conduct a preliminary investigation as appropriate to assist ASP, local law enforcement or a federal investigative agency.	
24	After the affected employee(s) have completed a minimum of two sleep cycles or at least 48 hours have passed since the incident: <ul style="list-style-type: none"> • Give the employee(s) the opportunity to view any video of the incident/scene and to listen to any audio recordings of the event • Complete a critical incident walkthrough with the affected employee(s) • After the above items are completed, ask the employee(s) to make any necessary formal statements and to complete a written report. 	