
 Corrections and Community Supervision DIRECTIVE	TITLE Use of Physical Force		NO. 4944
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REFERENCES (Include but are not limited to) See Section IX	APPROVING AUTHORITY 		

- I. DESCRIPTION:** This directive sets forth the protocols and procedures for the use of physical force by Department Staff. This directive also delineates the requirements for reporting all such incidents. Further, this directive is written with the Department's recognition of the value of all human life and dignity without prejudice to anyone. The vesting of the Department's peace officers with the authority to use reasonable force and to protect the public welfare requires a careful balancing of all interests.
- II. DEFINITION**
- A. **Chokehold:** A chokehold is any restraint that applies sustained pressure to the throat or windpipe of a person in a manner that may hinder breathing or reduce intake of air. This includes lateral vascular neck restraint (LVNR), which can be difficult to apply during a dynamic violent struggle.
 - B. **Community Supervision:** The supervision of individuals released to the community on temporary release, presumptive release, parole, conditional release, local conditional release, post-release supervision, medical parole, and strict and intensive supervision and treatment (NYS M.H.L. Article 10). This shall also include individuals who are presently under supervision in the community setting while subject to the out of custody parole/post-release supervision violation process.
 - C. **Correction Officer:** Any Department peace officer whose principal duties are related to the care of and custody of incarcerated individuals.
 - D. **De-Escalation:** A technique staff should employ to recognize potential factors that may influence aggressive behavior, including biological, psychological, and environmental factors. Unless there is an immediate threat to safety and security, reasonable actions should be taken to avoid physical confrontation by utilizing both non-verbal calming techniques (i.e., Eye contact, proximity) and verbal (i.e., modeling, active listening) techniques.
 - E. **Deadly Physical Force:** Physical force which, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury.
 - F. **Duty to Intervene:** When a staff member observes another staff member using physical force that they reasonably believe to be clearly excessive or beyond that which is objectively reasonable under the circumstances shall intervene to prevent the use of unreasonable force, when the staff member has a realistic opportunity to prevent harm.
 - G. **Lawful Order:** An order that is issued for a legitimate correctional or community supervision purpose and is in conformity with all applicable federal, state and local laws, as well as Department policies and procedures.

- H. Neck Restraint: A neck restraint is any restraint of a person's neck designed to impede the normal blood flow (e.g., lateral vascular neck restraint, carotid restraint).
- I. High Impact Force: Refers to strikes, kicks, or blows to the head, face, groin, kidneys, and spinal column as well as chokeholds, carotid restraint holds, and other neck restraints.
- J. Objectively Reasonable: An objective standard used to judge a staff member's actions. Under this standard, a particular application of force must be judged through the perspective of a reasonable staff member facing the same set of circumstances, without the benefit of 20/20 hindsight, and be based on the totality of the facts that are known to that staff member at the time that the force was used.
- K. OSI Member: Any Department peace officer who is assigned to the Department's Office of Special Investigations (OSI) and whose principal duties are described in Directive #0700, "Office of Special Investigations (OSI)."
- L. Outside Law Enforcement: Refers to non-Department of Corrections and Community Supervision (DOCCS) law enforcement agencies and their personnel.
- M. Physical Force: An amount of force that under ordinary circumstances would not be expected to result in death or serious physical injury.
- N. Physical Injury: Impairment of physical condition or substantial pain.
- O. Serious Physical Injury: Physical injury which creates a substantial risk of death, or which causes death or serious and protracted disfigurement, protracted impairment of health, or protracted loss or impairment of the function of any bodily organ.
- P. Staff Member: Any New York State peace officer sworn in by the Department, including but not limited to any corrections staff member (any rank), Community Supervision staff member (any rank), OSI investigator (any rank), or Employee Investigation Unit (EIU) investigator (any rank).
- Q. Subject: Person subject to a use of force, to include incarcerated individuals, releasees, absconders, visitors, volunteers, and members of the public who are detained or taken into custody pursuant to a lawful arrest for a violation of the law.
- R. Use of Force: Any instance in which physical action is taken to resolve an incident. Such action includes but is not limited to the use of body holds, a baton, shield, chemical agents, mechanical restraints (where a subject is forcefully subdued or restrained and mechanical restraints are applied), taser, or firearms.

III. POLICY - USE OF PHYSICAL FORCE

- A. Legal Obligations: All Department staff members, while in New York State, must comply with Article 35 of the New York State Penal Law, and all other state and federal laws, and the federal and state constitutions regarding the use of force and deadly physical force. Any staff member whose Departmental duties occur outside of New York State must follow the laws of that state regarding use of force or deadly physical force, as well as the federal and state constitutions.

- B. Use of Force in General: In general terms, force is authorized to be used by a staff member only when a staff member reasonably believes that the physical force to be used is reasonably necessary for self-defense, to prevent injury to person or property, to enforce compliance with a lawful order, to quell a disturbance, to effect a lawful arrest, or to prevent an escape, subject to the limitations further described herein.
- C. Objective Reasonableness Standard: Staff members must reasonably exercise physical force or deadly physical force, as further described below, in the performance of their duties and when exercising powers as a peace officer when it is objectively reasonable under the circumstances, within the bounds of the Penal Law, Criminal Procedure Law, all state and federal laws, and the federal and state constitutions. The standard of "objective reasonableness," as established by the U.S. Supreme Court in *Graham v. Conner*, 490 U.S. 386 (1989), the applicable standard whenever a staff member uses force pursuant to this policy. The "objective reasonableness" standard is intended to provide staff members with guidance whenever considering the use of physical and deadly physical force. Additionally, the greatest caution and conservative judgement shall be applied in determining:
1. Whether physical force is necessary.
 2. The degree of force that is necessary under the circumstances.

Each staff member is personally charged under law and the policies of the Department with the responsibility for acting in good faith, with reasonable care, and upon probable cause. Every effort should be made by staff, whenever practicable, to de-escalate volatile situations before physical force is used.

- D. Limitations on All Uses of Force: Unless in situations where deadly physical force is authorized, Department policy prohibits the use of high impact force, which includes strikes, kicks, or blows to the head, face, groin, kidneys, and spinal column, as well as, chokeholds, carotid restraint holds, and other neck restraints.
- E. Aggravated Strangulation: The crime of Aggravated Strangulation exists when the officer engages in chokeholds or neck restraints using the LVNR, when justification does not exist and when serious physical injury or death results.
- F. Positional Asphyxia Awareness: All staff members must be aware that persons restrained in a prone position on their stomach, with their hands held or mechanically restrained behind the back may be susceptible to positional asphyxia in a relatively short time and a person is particularly vulnerable when any of the aforementioned factors are present. Staff members must ensure that, in the course of restraining a violent individual, the incarcerated individual or releasee be held in the prone position no longer than necessary to gain control and apply appropriate mechanical or controlling body holds. The application of continuous pressure to the individual's back should be avoided if possible, and the individual should be moved to a secure area or positioned in a manner that would minimize the potential for positional asphyxiation (i.e., upright, seated, etc.). Individuals who have been forcibly restrained as previously described must be closely and continuously monitored for color of skin-tone changes, breathing capability, level of consciousness, and sudden changes in behavior. Staff members must seek immediate medical assistance for any person suspected of possible positional asphyxia.

- G. In every incident where force is used, the subject must be examined by medical personnel as soon as possible.
- H. Unless there is an immediate danger to safety, security, or property, a staff member shall notify their immediate superior, or higher, of any situation where the use of physical force has been or may become necessary and shall not attempt to use physical force except in accordance with instructions received from the superintendent, immediate superior or higher-ranking staff member, or person designated by same who is directed to take charge of such situation.
- I. A staff member may use a weapon other than a firearm (e.g., a baton, OC spray, taser, or chemical agent) only when and to the extent that the staff member reasonably believes such use is necessary for self-defense, to prevent a serious assault or gross destruction of property, to quell a disturbance, to make a lawful arrest, or to prevent an escape. Where it is necessary to use such a weapon, the staff member should take due care to avoid, to the best of their ability under the circumstances, the infliction of serious physical injury.
- J. Force shall NOT be used by a staff member for the following reasons:
 - 1. To extract an item from the anus or vagina of a subject without a warrant, or Court Order except where exigent circumstances are present.
 - 2. To coerce a confession from a subject.
 - 3. To obtain blood, saliva, urine, or other bodily fluid or cells, from an individual for the purposes of scientific testing except pursuant to a Court Order where required or the collection is required by law.
 - 4. Against persons who are handcuffed or restrained unless it is used to prevent injury, escape, or otherwise overcome active or passive resistance posed by the subject.

NOTE: In all instances in which a warrant or Court Order is issued authorizing the use of force, a copy of the warrant or Court Order shall first be provided to Counsel's Office for its review and guidance, with a copy to the Deputy Commissioner for Correctional Facilities or Community Supervision. A copy of the warrant or Court Order shall be appended to the Use of Force Reports.

- K. Firearms and deadly physical force shall not be used, except as a last resort, and then **ONLY** in situations where the staff member reasonably believes that deadly physical force is necessary:
 - 1. To defend themselves or a third person from what they reasonably believe to be the use or imminent use of deadly physical force by such individual.
 - 2. To prevent or terminate what they reasonably believe to be the commission or attempted commission of kidnapping, arson of a building, or arson of any other structure or vehicle used for housing or other Departmental programs or operations, escape in the first degree, burglary in the first degree, or any attempt to commit such a crime.
 - 3. A person is guilty of escape in the first degree (Penal Law § 205.15) when:
 - a. Having been charged with or convicted of a felony, they escape from a detention facility, or;

- b. Having been arrested for, charged with, or convicted of a class A or class B felony, they escape from custody.

NOTE: Escape in the first degree is a class D felony.

4. Where the offense committed or attempted by such person was a felony and that, in the course of attempting to escape from custody, such person is armed with a firearm or deadly weapon.
5. Where it is necessary to use a firearm, before firing a firearm at any person, a staff member shall, whenever possible, give due warning that a firearm may be used. Staff members shall fire a firearm consistent with the firearm's training provided by the Department.
 - a. When inside a correctional facility, before firing a firearm at any person, a staff member, whenever reasonably practical, shall first fire a warning shot in a safe direction or in some other readily understandable manner before firing the firearm at the person.
 - b. When in the community (i.e., outside of a correctional facility), a staff member is prohibited from firing a warning shot under any circumstances.

L. Duty to Intervene:

1. Any staff member present and observing another staff member using force that the observer reasonably believes to be clearly beyond what is objectively reasonable under the circumstances shall intervene to prevent the further use of unreasonable force, when the staff member has a realistic opportunity to prevent harm.
2. A staff member who observes another staff member or another law enforcement member use force that exceeds the degree of force permitted by law and/or policy shall promptly report these observations to an immediate supervisor within their chain of command. Any allegations of excessive force by a staff member shall be promptly referred to the OSI, pursuant to Directive #0700.

IV. REPORTS OF USE OF PHYSICAL FORCE

- A. Corrections-Based Use of Force: To include force used by a staff member on all individuals assigned to correctional facilities, where force occurs at the facility or in situations away from the facility, which includes, but are not limited to, outside hospitals, courts, and funeral visits.

All instances where physical force is used will be recorded in the Watch Commander's Logbook and the facility's Use of Force Logbook, and will be reported to the Superintendent using Form #2104, "Use of Force Report," as well as recorded on the electronic (computerized) Use of Force Reporting system.

NOTE: In all instances, staff will immediately report physical force used to their immediate area security supervisor.

1. Use of Force Report, Part I – Report of Incident: In ALL instances where an employee uses physical force, specific details regarding the incident must be reported, in writing, to the Superintendent prior to completion of the individual's tour of duty. In incidents where one employee uses physical force, that employee will accurately complete all fields contained within Form #2104, Part I – "Report of Incident," and submit it to their supervisor.

Any Court Order involved in the use of force should be noted in the report and a copy of the Court Order should be included in the Use of Force Report (i.e., order to produce, warrant, etc.).

When an incident occurs where force is used by more than one employee, each employee will independently and accurately complete all fields contained within Part I of Form #2104A, "Use of Force – Staff Memorandum," and submit it to the Superintendent. A supervisor (Sergeant or above) will be assigned to ensure that all Form #2104As are drafted independently and without collaboration. Any employee identified by the supervisor as having information related to the incident shall fill out Form #2104A.

The Watch Commander will assign a supervisor, not directly involved in the actual use of force, to collect these memoranda and complete Form #2104, Part I, based on information provided by all involved employees. All Form #2104As submitted by involved employees will be attached to completed Form #2104 and retained as part of the permanent record of the incident.

Facility Use of Force Log Numbers will consist of consecutive numbering beginning with the two-digit year and three digits (i.e., 16-001. At the beginning of each new year the numbers will start over again at 001).

The completed Part 1 of Form #2104 will be forwarded to the Watch Commander.

2. Viewing of a video recording by any employee involved in the incident must be approved by the facility Superintendent or Acting Superintendent, who will document the reason for such approval. Initially, this will be indicated electronically in the FUI0 system, in the Use of Force Reporting Subsystem, by the Watch Commander after approval is received from the Superintendent or Acting Superintendent. In the final electronic Use of Force Report, the Superintendent or Acting Superintendent will document the reason for approval in the "Review and Evaluation by Superintendent" section.

When authorized, the video must be reviewed in the presence of the Watch Commander or above, and individually (not as a group), unless exigent circumstances exist. Such determination will be documented and approved by the Superintendent or Acting Superintendent.

Prior to any viewing of a video recording, each involved employee must have first submitted the appropriate Form #2104, Part I, or Form #2104A. The on-scene supervisor can review the video in the presence of the Watch Commander or above, once authorized by the Superintendent or Acting Superintendent, after all staff Use of Force Reports are received.

Involved staff members shall not review video footage of the use of force incident prior to completing their Use of Force Report. If involved staff members review video footage at a later time, they shall not be permitted to change their original Use of Force Report but may submit a supplemental report upon request.

3. Form #2104.1, "Use of Force Report" – Part B – "Physical Examination/Treatment Report": Part B is to be completed by a qualified member of the facility Health Services staff, and will include:
 - a. Date and time of examination.

- b. Description of any injuries.
- c. Description of treatment provided.

In the event that a subject's behavior is such that a routine physical assessment (in undershorts or bra/panties) cannot be completed safely, the Health Services staff shall notify the Watch Commander to discuss their observation of the subject's physical condition and any noted medical needs.

The nurse must document any assessment of the subject that they are able to visualize (e.g., no apparent injury, no acute respiratory distress noted, ambulating without difficulty, etc.) on Part B of Form #2104.1. The nurse's documentation must also include the reason why a complete (stripped down) physical exam was not completed.

The Watch Commander will notify medical staff when a full assessment (in undershorts or bra/panties) can be completed. In the interim, nursing staff must make periodic assessments of the subject as they deem appropriate. Consideration should be given to admit the subject to the infirmary (in accordance with HSPM 7.11) if significant injuries are suspected.

Form #2104.1ADD, Part B Addendum, is also to be completed whenever it is necessary to depict a point of injury or pain, or any other markings or detail, in the medical and use of force records.

- 4. "Use of Force Report" – Part C – "Review and Evaluation by Superintendent," Form #2104.1: Part C is to be completed by the Superintendent or Acting Superintendent. This will include a narrative description of the results of the Superintendent's review of all information provided on the completed Parts A and B of Form #2104.

This statement will include a determination by the Superintendent or Acting Superintendent regarding the appropriateness of the physical force used and if such force was in compliance with Departmental policy. The completed report will be signed by the Superintendent within 10 calendar days of the incident date.

The Superintendent will notify the Deputy Commissioner for Correctional Facilities and the Office of Special Investigations (OSI) if they determine there are questionable facts regarding a use of force or reasonable suspicion that the use of force does not conform to Departmental policy.

- 5. Use of Force Log: Each facility shall maintain a Use of Force Logbook that shall be a chronological listing of each use of force incident that occurs during a given calendar year.

At the end of each year, the log will be turned over to the Deputy Superintendent for Security for proper storage and a new log will be started. Use of force log entries shall include the following:

- a. Use of force log number

NOTE: Each incident will be numbered utilizing a five-digit format: the first two digits will indicate the calendar year of the incident followed by a three-digit number identifying the consecutive order that the incident occurred during that year (i.e., 14-001 would denote the first use of force incident in the year 2014).

- b. Date of incident.
 - c. Time of incident.
 - d. Name and DIN of subject(s) involved.
 - e. Location of occurrence.
 - f. A brief description of the incident.
NOTE: If the use of force incident was also an Unusual Incident (UI), it is sufficient to list only the UI number in this section.
 - g. Names and titles of staff involved.
6. Electronic Use of Force Reporting System: Reports shall be entered by staff designated by the Superintendent. The Use of Force Facility User Manual shall be consulted as technical reference for data entry, terminal usage, and report printing. The report will include the following information:
- a. Incident date, location, and time.
 - b. Subject(s) involved.
 - c. Staff involved.
 - d. Description of events leading up to the application of the use of force.
 - e. Type of force used (code).
 - f. Description of force used.
 - g. Physical examination/treatment.
 - h. Review and evaluation by the Superintendent, which will include a narrative description of the results of the review, to be electronically signed off by the Superintendent within 10 calendar days of the incident date.
7. Distribution
- a. Use of Force Report: Original is maintained in the facility use of force file, and a copy is placed in the subject's guidance folder.
 - b. Monthly Use of Force Summary: Use of Force Monthly Reports will be automatically printed at each facility and Central Office on the tenth day of each month. The Unusual Incident Reporting System allows facility users to request summaries of Use of Force Reports.
The facility Unusual Incident Reporting System will automatically print a weekly list of overdue Use of Force Reports at each facility and Central Office.
- NOTE: All blood and body fluid clean up and decontamination in relation to an incident shall be accomplished in accordance with Section VIII, "Decontamination Procedures" of the General Housekeeping Manual, which is established by Directive #3090, "General Housekeeping Manual." This process includes the completion, by supervising staff, of Form #3090A, "Blood and Body Fluid Spills – Decontamination Form," for inclusion into the incident packet.
- B. Community-Based Use of Force: to include force used by a staff member on a person in the community, which includes force used on all releasees, absconders, and members of the general public. In all instances where physical force is used by a staff member, the incident must be promptly and accurately reported.

Use of force incidents shall be reported, reviewed, and evaluated in accordance with the following requirements:

1. Form #4944A, "Use of Force Report," and Form #4944B, "Use of Force – Supplemental Report."
 - a. All sections of the relevant forms (Form #4944A and Form #4944B, if applicable) must be filled out completely, prior to the end of the employee's workday. If a section or question does not apply, indicate such with a "N/A," or if the requested information is unknown, indicate such with "UNK."
 - b. Any Court Order involved in the use of force should be noted in the report and a copy of the Court Order should be included in the Use of Force Report (i.e., order to produce, warrant, etc.).
 - c. If a conducted electrical weapon (CEW) or TASER was used (intentionally or accidentally discharged by a DOCCS staff member, the DOCCS staff member shall complete Form #4944A. Staff shall refer to the policy on the use of a CEW. The staff member's immediate supervisor shall review and approve the report, unless that supervisor was involved in the underlying incident. If so, then another supervisor will be assigned to review and approve the report form for completeness by a second line supervisor or above.
 - d. The forms must include a detailed description and chronological account of the events that led up to the use of force and a description of all events and circumstances involved in the incident. The written narrative must fully describe the method of force (e.g., firearm, chemical agent, expanded baton, restraints, holds) used. Indication of the use of alcohol, drugs, or prescription medications by the subject should be noted in the report. A description of the subject's actions, behavior, statements, previous history of violent behavior, or history of mental illness, must be included.
 - e. Any photo or video recording must be noted. The images or recordings must be preserved with the use of force file.
 - f. Involved DOCCS staff members shall not review video footage of the use of force prior to completing their Use of Force Report. If the respective Regional Director, Assistant Regional Director, Deputy Chief (OSI), Bureau Chief, or ranking supervisor permit the involved staff members to review video footage at a later time, the staff members shall not be permitted to change their original Use of Force Report but may submit a supplemental report upon request.
 - g. If the subject was arrested or charged, indicate all charges and include copies of all related documentation.
 - h. The existence of any injuries or claims of injury must be reported. A medical evaluation shall be conducted on the subject regardless of the level of force utilized. When it is reasonably safe to do so, the subject shall receive a medical evaluation and appropriate treatment from the qualified medical personnel (e.g., physician, emergency medical technicians [EMT], physician's assistant, or nurse) due to any level of force used with a subject prior to transport to a local correctional facility, detention center, or a DOCCS facility.

As a result of the use of force, if the subject complains of pain, demonstrates any type of medical distress, or any serious respiratory problems, medical assistance shall be immediately summoned.

If the injuries were sustained as a result of the use of force, provide the name of person, hospital, treatment facility, or emergency medical service (EMS) conducting evaluation, as well as the doctor, physician, or EMT conducting the evaluation. If the subject refused medical assistance, staff shall note the reason for refusal (i.e., combative, uncooperative).

- i. If a DOCCS member, while completing Form #4944A, requires additional space to document the narrative, observations, conduct, etc., Form #4944B should be used and attached to the initial report form.
 - j. Following the use of Chemical Agents (e.g., OC spray) on a subject, staff member(s) shall, unless exigent circumstances exist:
 - (1) Secure decontamination for the affected subject as soon as practical.
 - (2) Direct communications to dispatch paramedics to the scene of the incident or a safer location.
 - (3) Ensure that any person who is intentionally subjected to chemical agents and taken into custody be properly decontaminated prior to the arrival at a local correctional facility or detention facility.
 - (4) Remain vigilant in changes to breathing, cessation of movement, and cessation of verbal communication. This is also true when using protective devices such as a spit mask which may restrict breathing.
 - k. Following the use of a taser or CEW by a staff member, DOCCS staff present at the scene will ensure compliance with the procedures set forth in the DOCCS policy on using tasers, including obtaining medical assistance for the subject whenever necessary. DOCCS personnel present at the time of the incident are responsible for completing a Use of Force Report in response to the use of a taser or CEW device by law enforcement or an OSI Investigator. DOCCS personnel are also responsible for obtaining copies of the incident reports completed by law enforcement personnel.
 - l. When it is reasonably safe to do so, any DOCCS staff member injured during a use of force shall receive a medical evaluation and appropriate treatment from qualified medical personnel.
 - m. The Use of Force Report shall be reviewed and approved by the staff member's immediate supervisor.
 - n. Copies of Form #4944A and #4944B (if applicable), and all related documentation shall be distributed up the chain of command and maintained in case-specific records.
2. Form #4944C, "Use of Force Report – Evaluation Report," is to be completed by the Supervisor, and up through the chain of command to an Assistant Commissioner, as part of the internal incident review process. The evaluation process shall include a review of all related documentation and incident information.

Each level of the chain of command will conduct a review of the incident and detail comments and recommendations in the appropriate section of the report. The Assistant Commissioner will ensure that all levels of the chain of command have completed the appropriate sections of the evaluation report.

The internal review is intended to determine whether there are compliance, training, or employee discipline issues that need to be addressed. The evaluation report is to be completed within 10 days from the date of incident. The review of use of force evaluations within OSI shall be concluded by the Director of Operations. The Director shall inform the Deputy Commissioner/Chief and/or Assistant Commissioner/Assistant Chief of any further investigation, referrals, or corrective action that may be needed. That review, as well as any subsequent action, shall be documented in accordance with OSI policy.

This review will include a determination by the appropriate Assistant Commissioner and/or their designee(s) regarding the appropriateness of the physical force used and if such force was in compliance with Departmental policy. They will notify the appropriate Deputy Commissioner and the Department's OSI if they determine there are questionable facts regarding a use of force or there is a reasonable suspicion that the use of force does not conform to Departmental policy.

3. Analysis of Use of Force Incidents by the Office of Internal Operations for Community Supervision: All community-based Use of Force Reports, evaluations, and related documentation completed by Community Supervision staff shall be transmitted to the Director of Internal Operations for Community Supervision. The Office of Internal Operations will conduct an annual review of all community-based incidents that involved Community Supervision personnel. The annual review and analysis will be performed at the end of each calendar year.
 - a. Upon receipt of the incident specific documents, the Director of Internal Operations will create a use of force incident file with an associated Use of Force (UOF) Case Number. Each occurrence of a reported use of force will be identified as follows:
 - (1) Use of Force (UOF) Case Number.
 - (2) Staff member's name, shield, and employee number.
 - (3) Region and Bureau of assignment.
 - (4) Date, time, and location of incident.
 - (5) Name, DIN, and NYSID of the subject involved.
 - (6) Type of force used (e.g., firearm, baton, OC spray, hands/holds, taser, other).
 - (7) Firearm used (DOCCS issued, personal, law enforcement personnel).
 - (8) Reasons for use of force (arrest, self-defense, defense of others, prevent escape, restrain for personal safety, other reason).
 - (9) Photographs on file.
 - (10) Injuries sustained/claimed by subject.
 - (11) Injuries sustained by staff.

- (12) Brief description of the incident.
- b. The Director of Internal Operations will review and analyze all information contained in the Use of Force Reports, evaluation reports, and related documents.
 - c. The 12-month analysis will be summarized in an annual report. The year-end report will cite any patterns or trends, and will make appropriate recommendations for staff training, equipment needs and utilization, and policy modifications.
 - d. The annual analysis and report will be submitted to the Deputy Commissioner of Community Supervision. The Deputy Commissioner will review the report, consider the recommendations, and take action, as appropriate.
4. Analysis of Use of Force incidents by the OSI Analysis Unit: All Use of Force Reports, evaluations, and related documentation for use of force by OSI staff members shall be transmitted to the OSI Analysis Unit, which will conduct an annual review of all such incidents that involved OSI members. The annual review and analysis will be performed at the end of each calendar year and the results will be reported to the Deputy Commissioner/Chief. The Deputy Commissioner will review the report, consider the recommendations, and take action, as appropriate.

V. PHOTOGRAPHING INJURIES/USE OF FORCE:

A. Corrections-Based

1. All facilities are required to photograph a subject's injuries that were sustained during a use of force incident. Digital color photographs of all injuries are to be taken.
In those cases where the subject claims no injuries, and no injuries are noted by medical staff, full body pictures of the subject from the front, back, and sides will be taken using a digital camera. These photographs shall be taken with undershorts on for males and with panties and a bra on for females, and subjects assigned to a male correctional facility who have been issued a permit to possess and wear a bra (such as a subject diagnosed with Gender Dysphoria/GID, or who has breast development). The photographs will be delivered to the Watch Commander as soon as possible, but no later than the end of the shift.
2. Overview
 - a. The photographs are to be taken by an employee who was not involved in the incident. The area Sergeant or higher-ranking supervisor will directly supervise the taking of the photographs. The Correction Officers and Security Supervisors present during the taking of the photographs must be the same gender as the gender classification of the facility, absent exigent circumstances.
 - b. These photographs will be taken with the subject wearing undershorts only, unless the injury is in the area covered by the undershorts. In the case of female subjects and subjects assigned to a male correctional facility who have been issued a permit to possess and wear a bra, the photographs will be taken with the subject wearing both panties/undershorts and bra, unless the injury is in the are covered by either garment.

- c. In addition to the photographs of the actual injuries, full body pictures of the subject from front, back, and sides will be taken using a digital camera.
 - d. The Watch Commander will review the digital photographs to ensure that they accurately depict the injuries sustained.
 - e. The Watch Commander shall review the digital photos to ensure that any documented injuries are accurately depicted in the photographs, are consistent with the reported force that was used, and are appropriate. The Watch Commander shall print the photographs and include them in the Unusual Incident/Use of Force Report. The printed photographs shall be a minimum size of 4" x 6" to ensure that all documented injuries are clearly visible. The images will be saved to a compact disk (CD) for inclusion in the Use of Force file and retained as part of the permanent record of the incident. The retention of images captured on the digital storage media device (e.g., flash drive, SD card, etc.) is not required after the photographs have been reviewed, approved, printed, and saved onto a CD for reporting, and therefore should be reformatted.
 - f. The Watch Commander will make an entry in the Watch Commander's logbook indicating that the photos have been reviewed and approved.
 - g. In cases where a subject indicates they will refuse use of force photographs, or the on-site supervisor determines that obtaining use of force photographs presents a risk to the safety of staff and subjects, the Watch Commander will be notified. The Watch Commander will make a determination as to alternative methods to photograph the subject (e.g., photograph through the cell door, use of video, etc.). The determination made by the Watch Commander and/or the subject's refusal must be documented in the Watch Commander's logbook and via the written report of the incident.
3. Instructions for Taking Photographs
- a. Digital Camera
 - (1) At least four photographs must be taken to cover all sides of the body from at least a 10-foot distance.
 - (2) The "flash" function on the device shall be utilized in response to poor lighting or location specific factors that may potentially affect the quality of the photograph.
 - (3) Center the subject in the viewfinder. For example, when photographing the entire side or front of the body, the entire body should occupy 75% of the viewfinder.
 - (4) To take photographs of a particular body area, a range of four feet is close enough to give detail to the injury area. This distance will allow the photograph to show the size of the injury and directly relate to the four standard full-body photographs. Again, the injury area should occupy 75% of the viewfinder.
 - b. For documentation purposes, the photographer should write on an index card:
 - (1) Subject's name and DIN.

- (2) Date and time photograph was taken.
- (3) Name and title of the photographer.
- (4) Usual Incident or use of force number.

c. A photo of the completed card should then be taken and printed.

B. Community-Based

1. Photographs and/or Video of the Subject of the Use of Force: For a community-based use of force, staff shall utilize their Department (DOCCS)-issued camera-enabled phone or other state-issued camera or video equipment, to take photographs and/or video recordings of the subject of the use of force. The report shall specify whether the reporting staff member or other staff member(s) present took the photographs or the video. The photographs and/or video of the subject of the use of force shall include:
 - a. At least four photographs or video must be taken to cover all sides of the body from at least a ten-foot distance.
 - b. The "flash" function on the device shall be utilized in response to poor lighting or location-specific factors that may potentially affect the quality of the photographs.
 - c. Center the subject in the viewfinder. For example, when photographing the entire side or front of the body, the entire body should occupy 75% of the viewfinder.
 - d. To take photographs or video of a particular body area, a range of four feet is close enough to give detail to every injury area. This distance will allow the photograph to show the size of the injury and directly relate to the four, standard full-body photographs. Again, the injury area should occupy 75% of the viewfinder.
2. The existence of any photographs or video recordings shall be noted and each photograph or recording must be filed and preserved with the Use of Force Report and incident records.
3. Photographs or video recordings taken of a subject in a state of undress shall be taken by a staff member of the same gender as the subject.
4. All photographs and video files are to be identified and filed by name, DIN, and NYSID.
5. All photographs and video recordings shall be reviewed by the staff member's supervisor and all photographs and video recordings shall be made available for review and analysis by the staff member's chain of command.
6. If photographs were taken by law enforcement personnel or local corrections personnel, the report shall include the name of the law enforcement agency or corrections department, agency address, and name of the person responsible for taking the photographs.
7. The use of personally owned phones, cameras, or video equipment is strictly prohibited.

VI. USE OF FORCE RESULTING IN A SERIOUS OR SEVERE INJURY TO A STAFF MEMBER, SUBJECT DEATH, SEVERE INJURY, OR DISCHARGE OF A FIREARM:

In all instances where there is a use of force by staff that results in a severe or serious injury to a staff member, the death of the subject, severe injury to the subject, or the discharge of a firearm, the following protocols will be followed:

NOTE: Injury categories as defined in the Unusual Incident Reporting System Manual.

A. Use of Force Resulting in a Subject's Death or Severe Injury

1. When a subject's death occurs as a result of the use of force, the staff member(s) will remain, at a minimum, in a non-subject contact post during the pendency of the investigation.
2. When a subject suffers a severe injury as a result of the use of force, the staff member(s) may remain, at a minimum, in a non-subject contact post during the pendency of an investigation, if one is warranted.

B. Discharge of a Firearm

1. Any staff member who has discharged a firearm will be removed from such post during the pendency of the investigation and the weapon will be secured for investigation.
2. The staff member who has been removed from the armed post will be assigned to a non-subject contact post during the pendency of the review and investigation.

C. Notifications

1. Supervisors will notify up the chain of command, and Communications Control Center (CCC) of either event as required in Directive #4004, "Unusual Incident Report."
2. Upon notification, the CCC will notify the appropriate Deputy Commissioner, the OSI, and the Bureau of Labor Relations.
3. Upon completion of the investigation, the staff member may be returned to their assigned post, if appropriate.

D. Outside Law Enforcement Review Procedure: Any Use of Force that involves the use of deadly physical force will likely be subject to an investigation by an outside law enforcement agency or grand jury. DOCCS members are encouraged to cooperate with such a review but are entitled to their constitutional and statutory rights.

E. Use of Firearms Incident Review Procedure

1. Discharging a firearm includes any incident where a weapon is fired in the course of duty or while off-duty, as outlined in Directive #2020, "Firearms Control." The DOCCS staff member who discharged a firearm shall be removed from any on-duty carry assignments pending an internal review of the circumstances of the incident. A firearms restriction shall be considered and imposed whenever the circumstances warrant it.
2. This review shall be conducted in the same manner in which a use of force incident is conducted as described in this directive.
3. Every reasonable effort shall be made to complete the review within one week of the firearm discharge unless circumstances dictate otherwise.

4. During the review process, the staff member shall be given an opportunity to meet with a DOCCS Weapons Training Officer to review procedures and fire a similar weapon to instill confidence, if necessary and appropriate.

VII. TRAINING

- A. All Department peace officer personnel shall receive training and demonstrate their understanding on proper applications of force.
- B. Training topics will include use of force, conflict prevention, conflict resolution and negotiation, and de-escalation techniques and strategies, including, but not limited to, interacting with persons presenting in an agitated condition as well as duty to intervene and prohibit conduct.

VIII. STAFF WELLNESS AND POST USE OF FORCE ASSISTANCE: The use of force by a DOCCS staff member can be a stressful incident. Counseling and other assistance are available for staff members who experience a stressful incident as part of their duties for DOCCS. The Employee Assistance Program (EAP) is a resource for staff members and should be sought by a DOCCS staff member whenever needed. Additionally, the Critical Incident Stress Management (CISM) program is available to staff members following a stressful work-related incident. Directive #4026, "Critical Incident Stress Management Plan," provides additional information on CISM and how to obtain CISM assistance. Private counseling is also an option and should be considered by any staff member in need of help dealing with a stressful incident.

IX. REFERENCES

- Penal Law, Article 35
- Correction Law, Section 137(5)
- NYS Mental Health Law (M.H.L.), Article 10
- ACA Expected Practices
 - 5-ACI-1D-19, 5-ACI-3A-31, 5-ACI-3A-32, 5-ACI-3A-33, 5-ACI-3A-35, 5-ACI-3A-37, 5-ACI-3D-08
- Directives #0700, #2020, #3090, #4004, #4026
- Health Services Policy Manual (HSPM) 7.11
- General Housekeeping Manual, Section VIII