

July 6, 2020

Notice of Proposed Rule

DEPARTMENT OF CORRECTIONS

RULE NO.: RULE TITLE:

33-602.210 Use of Force

PURPOSE AND EFFECT: To clarify the rule, to add provisions related to dart-fired electronic immobilization devices, to establish protocol for interactions with unmanned aircraft vehicles on or over state property, and to amend related forms.

SUMMARY: Rulemaking is necessary to amend and add definitions, to qualify the use of reactionary uses of force to prevent an inmate from self-harm, to add a requirement regarding videoing an inmate prior to transport, to clarify who may administer chemical agents in controlled conditions, to clarify when dart-fired electronic immobilization devices will be used, to establish protocol for interactions with unmanned aircraft vehicles on or over state property, to clarify what video must be included in a review of uses of force, to clarify what information must be included in a review of a use of force involving the use of a dart-fired electronic immobilization device, to establish and clarify post-deployment procedures related to the use of dart-fired immobilization devices, to clarify the review requirements for incidents involving a use of force, to clarify the process for the issuance and return of dart-fired electronic immobilization devices, to clarify when psychiatric restraints may be used, to amend the rule history related to laws implemented, and to revise Forms DC4-650B, DC6-230, and DC6-296 to comport to the changes in the rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The Department used an itemized checklist to conduct an economic analysis and determine if there is an adverse impact or regulatory cost associated with this rule that exceeds the criteria. Upon review of the proposed changes to the rule, the Department has determined that the amendments will not exceed any one of the economic analysis criteria in a SERC as set forth in s. 120.541(2)(a), F.S.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 944.09 F.S.

LAW IMPLEMENTED: 776.012, 776.06, 776.07, 843.04, 943.1717, 944.09, 944.35, 945.025, 945.04, 957.05 F.S.

UNLESS OTHERWISE LIMITED BY S. 120.81(3), F.S., IF REQUESTED BY AN AFFECTED PERSON WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Paul A. Vazquez, Assistant General Counsel, 501 South Calhoun Street, Tallahassee, Florida 32399-2500, paul.vazquez@fdc.myflorida.com.

THE FULL TEXT OF THE PROPOSED RULE IS:

33-602.210 Use of Force.

(1) Definitions.

(a) No change.

(b) Correctional Emergency Response Team – A team comprised of Department staff trained in special tactics, including the use of deadly force, for the intervention and resolution of life-threatening crisis events.

(c) Crisis Intervention Techniques (CIT) – Methods used to offer immediate, short-term help to individuals who experience an event that produces emotional, mental, physical, or ~~and~~ behavioral distress or problems.

(d) Crisis Intervention Techniques Training – This training assists staff ~~persons~~ in applying non-force de-

escalation techniques and strategies in the care and control of inmates suspected to be mentally ill.

(e) CS – Orthochlorobenzal Malononitrile or Orthochlorobenzylidene Malononitrile – An irritant agent that causes a burning sensation and tearing of the eyes, nasal discharge, and skin and upper respiratory irritation.

(f) Custodial grasp – ~~The A department staff person's~~ firm grasp by Department staff of the tricep(s) or elbow(s) of an inmate who is being transported internally and who is proceeding appropriately.

(g) through (h) No change.

(i) Electronic Immobilization Device (EID) – A device (~~either~~ hand-held, dart-fired, shield, or belt/band type) that delivers an immobilizing electric charge of pre-determined and preset duration.

(j) Emergency Action Center – The unit located in the Central Office charged with receiving information reports regarding serious incidents, such as riots and escapes, from all state correctional institutions and private correctional Department of Corrections' (Department) facilities and reporting the information to the proper authorities. This unit also receives requests for criminal histories, warrant confirmations, and offender location requests from law enforcement agencies throughout the United States.

(k) Great Bodily Harm – A physical condition that creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

~~(l)(4)~~ Incident Commander – The employee responsible for the management of emergency incidents, such as riots and natural disasters.

~~(m)~~ Institution – Any "state correctional institution" as defined in s. 944.02, F.S., or "private correctional facility" as defined in s. 944.710, F.S.

~~(n)(4)~~ Isolation Management Room – A room in an infirmary or inpatient mental health unit that is used for observation and management of inmates who present symptoms of acute mental impairment, inmates who present a risk of serious self-injurious or suicidal behavior, and other inmates in need of observation for mental health reasons.

~~(o)(m)~~ Less-Lethal Weapons – Weapons whose standard use is less likely to cause death or great bodily harm than are firearms loaded with lethal ammunition, including ammunition. Less lethal weapons include, but are not limited to, EIDs electronic immobilization devices (EIDs), batons, the types of chemical agents described in this rule, mentioned in subsection (6), and specialty impact munitions.

~~(p)(n)~~ Less Than Lethal Force – Any force that is neither intended nor likely to cause death or great serious bodily harm.

~~(q)(6)~~ Observation Cells – Cells in areas outside of an infirmary/inpatient mental health unit that meet the safety and custodial standards of an isolation management room.

~~(r)(p)~~ OC – Oleoresin Capsicum (~~pepper spray~~) – An inflammatory agent that causes tearing and involuntary closing of the eyes, nasal discharge, sneezing, disorientation, and the sensation of respiratory distress. OC is the primary chemical agent to be utilized for cell extractions and other in-cell uses unless circumstances exist as described in this rule. outlined below.

~~(s)(q)~~ Organized Use of Force – Any force that may be administered to control, escort, or geographically relocate an inmate, or to quell a disturbance in controlled conditions, when the immediate application is not necessary to prevent a hazard to any person.

~~(t)~~ Procedural Violation – A violation of any rule, procedure, or training that is not related to the type or amount of force used and is not criminal in nature.

~~(u)(r)~~ Psychiatric Restraints – Devices, restraints are devices, procedures, or techniques used to restrict movement or behavior as to greatly reduce or eliminate the ability of an individual to harm himself, herself, him/herself or others, including and include, but are not limited to, four-point and five-point psychiatric restraints.

~~(v)(s)~~ Qualified Mental Health Professional – A clinician who is credentialed and approved by the Department's credentials review committee or a Department contractor who provides to provide mental health treatment and services to an inmate assigned to a given level of mental health care.

~~(w)(t)~~ Rapid Response Team – A team comprised of correctional officers (officers) Correctional Officers specially trained in less-lethal and lethal munitions, chemical munitions, crowd control, and riot suppression.

~~(x)(u)~~ Reactionary Use of Force – Any force that must be administered quickly or immediately to compel the cessation of an inmate's violence or resistance to a lawful order. orders.

~~(y)(v)~~ Reasonable Force – Any force that is authorized and appropriate for the purpose of not excessive for protecting oneself or another or for gaining an inmate's compliance with a lawful order.

~~(z)(w)~~ Rubber Ball Rounds – Multiple pellets fired from cartridges at the lower extremities of rioters that are ~~and~~ designed to inflict pain compliance.

~~(aa)(x)~~ S-2 – The mental health classification grade denoting mild impairment in the ability to meet the ordinary demands of living within general inmate housing (including which includes segregation) due to a diagnosed mental disorder. The impairment in functioning is not so severe as to prevent satisfactory adjustment in general inmate housing with provision of mental health services. Clinical management of the disorder may require at least periodic administration of psychotropic medication, which the inmate may exercise his or her right to refuse.

~~(bb)(y)~~ S-3 – The mental health classification grade denoting moderate impairment in the ability to meet the ordinary demands of living within general inmate housing, due to a diagnosed mental disorder. The impairment in functioning is not so severe as to prevent satisfactory adjustment in general inmate housing with provision of mental health services. Clinical management of the disorder may require at least periodic administration of psychotropic medication, which the inmate may exercise his or her right to refuse.

~~(cc)(z)~~ Self-Injury or Self-Injurious Behavior – Any behavior where an individual purposefully inflicts harm to his or her body for any purpose that is not socially recognized or sanctioned and without the obvious intention of committing suicide. Behavior in which an inmate is attempting to hang him/herself, possesses or utilizes an instrument for self injury or any other action in which risk to the inmate’s life or safety is imminent.

~~(aa)~~ Great Bodily Harm — A physical condition that creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

~~(dd)(bb)~~ Shift Supervisor – The highest ranking ~~correctional~~ officer of the on-duty shift.

~~(ee)(cc)~~ Skip Firing – The practice of firing specialty impact munitions five to seven ~~5-7~~ feet in front of rioters, thereby deflecting the munitions into the legs of the rioters.

~~(ff)(dd)~~ Specialty Impact Munitions – Munitions designed to incapacitate, distract, and control a subject with a relatively low likelihood of life-threatening injury.

~~(gg)~~ Suicide Attempt – Any intentional act that is potentially lethal and is committed in an effort to complete a suicide.

~~(hh)(ee)~~ Uninvolved CIT-Trained Staff Member – A CIT-trained staff member who is not involved in the events leading up to the need to use force.

~~(ii)(ff)~~ Wooden Baton Rounds – Multiple wooden projectiles fired from a 37/40-mm weapon, designed to be skip fired into the lower extremities of rioters to inflict pain compliance.

(2) Authorization to Use Force.

(a) The following authorization to use force is subject to every other provision of this rule. Department staff, and staff of a Department contractor who are responsible for supervising inmates, are authorized to apply force on an inmate only when they reasonably believe it to be necessary to:

1. No change.

2. Prevent a person from escaping from an a state correctional institution or any facility when the staff member reasonably believes that person is lawfully detained in such institution ~~or facility~~,

3. through 5. No change.

6. Overcome an inmate’s physical resistance to a lawful order, command,

7. No change.

8. Restrain an inmate to permit the lawful administration of medical treatment under the supervision of a physician or his or her designee when treatment is necessary to protect the inmate from self-injury or death, or to protect the health of others.

(b) Force is necessary only when it would be unreasonable to pursue other means of attempting to achieve one of the objectives listed in paragraph (2)(a). Force is an option of last resort, to be used only after ~~when~~ non-force options have been ~~were~~ attempted and were ineffective or when the circumstances reasonably preclude attempting or continuing non-force alternatives to achieve one of the objectives listed in paragraph (2)(a).

(c) Any force used must be reasonable, lawful, and of the minimum amount necessary to achieve one or more of the objectives listed in paragraph (2)(a). ~~the objective(s) from the above list that justified force.~~

(d) The custodial grasp is not a use of force.

(e) Verbal ~~Mere verbal~~ abuse alone is not a sufficient basis to authorize the use of force.

(3) Determination of Method of Force. If a Department staff member, ~~department or~~ Department contractor

staff ~~member, or private correctional facility staff~~ member determines that force should be used, he or she must determine which method of force to use or ~~to seek to use~~. The person pursuing the use of force should pursue any method ~~a method, or methods~~, of force that is lawful and that he or she reasonably believes, ~~they reasonably believe~~, based on ~~their~~ training and experience, is consistent with Department rules and is most appropriate under the circumstances.

(4) Use of Force – General and Miscellaneous Provisions.

(a) No change.

(b) Miscellaneous Use of Force Protocol.

1. Any use of force shall cease whenever an inmate complies with lawful orders or ceases the behavior which justified the use of force.

2. through 4. No change.

5. If an inmate who is secured in a cell fails to comply with a lawful order ~~command~~ to cease his or her prevention of staff from closing a food flap/cuff port cover, staff shall pursue an organized use of force.

6. Reactionary use of force to prevent an inmate from self-harm shall only be used in the most extreme cases when the action of the inmate has caused observable injuries, the inmate is attempting to hang himself or herself, ~~him/herself~~, or the inmate possesses an instrument for self-injury and the risk is imminently ~~imminent~~ and life threatening.

(c) Video Recording Protocol.

1. No change.

2. Reactionary Use of Force.

a. A ~~video~~ camera operator shall commence recording all reactionary use of force incidents upon arrival at the scene as soon as possible. At a minimum, the camera operator shall verbally identify himself or herself and state themselves as well as stating the date, time, and location of the incident when commencing recording.

b. ~~Once in the event of a reactionary use of force, once~~ the camera operator and shift supervisor arrive on the scene of a reactionary use of force, the shift supervisor, ~~supervisor~~ upon assessing the situation and being properly briefed, ~~briefed~~ shall make a brief statement noting the reason(s) for the use of force. This shall be prior to the conclusion of recording and must include:

(I) through (V) No change.

3. Organized Use of Force.

a. No change.

b. The shift supervisor during any organized use of force shall include in each video recorded markers of the following:

(I) through (VII) No change.

(VIII) Final warning order administered by a supervisor or Incident Commander ~~incident commander~~,

(IX) through (XIV) No change.

(XV) Verbal refusals by the inmate ~~inmates~~ to participate in decontamination or medical examination (if applicable),

(XVI) No change.

c. Anytime there is a change in the on-scene supervisor or other staff during an application of an organized use of force, a new video recording will be initiated and the requirements in subparagraph (4)(c)1., and subparagraphs (4)(c)3.a. and b., shall be repeated.

d. through e. No change.

4. Post-Use of Force.

a. Video recordings of post-use of force medical exams shall be conducted through a window or at a distance in such a manner so as to provide the maximum amount of privacy needed for the exams and so as to limit the disclosure of inmate protected health information to the minimum amount necessary. The fact that the footage is taken through a window or at a sufficient distance is to keep communication between the inmate and medical staff confidential and to ensure that only the minimum amount of protected health information, e.g., visible injuries or the lack thereof, is disclosed. Inmates involved in an organized use of force shall be video recorded continually until they have been placed in a vehicle for transportation or in a secure cell.

b. Immediately prior to securing the inmate in a cell or a vehicle for transportation, the officer in charge shall

ensure the camera operator records the inmate's anterior and posterior body for the presence or absence of visible injuries. Caution shall be taken to avoid capturing the inmate's unclothed genitalia, buttocks, or female breasts.

(5) Use of Chemical Agents.

(a) General.

1. through 2. No change.

3. Authorization to Use CS instead of OC.

a. No change.

b. The warden or designee may authorize the use of CS as an initial primary chemical agent whenever past applications of OC to ~~OC~~ to an inmate were documented on a Report of Force Used, Form DC6-230, ~~DC6-230~~ as having been applied and ineffective. Form DC6-230, Report of Force Used, is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399-2500, <http://www.flrules.org/Gateway/reference.asp?No=Ref-09006>. The effective date of the form is 01/18.

c. No change.

4. No change.

(b) Reactionary use of chemical agents on inmates outside of controlled conditions.

1. Officers may utilize chemical agents for any of the reasons set forth in paragraph (2)(a), subparagraphs (2)(a)1-8. During emergency situations with multiple inmates in an outside area, chemical agents may be applied to quell the disturbance. In reactionary use of force situations, chemical agents are authorized for disbursal in a continuous manner until the moment the inmate(s) become(s) compliant with lawful orders.

2. No change.

(c) Use of Chemical Agents on Inmates in Controlled Conditions.

1. The warden or designee shall be consulted and his or her written Authorization for Use of Force, Form DC6-232, ~~DC6-232~~ must be obtained for any organized use of force force, prior to the application of chemical agents. Form DC6-232, Authorization for Use of Force, is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399-2500, <http://www.flrules.org/Gateway/reference.asp?No=Ref-01701>. The effective date of the form is 09/09. The person ~~who was~~ responsible for submitting the use of force authorization shall prepare, date, and sign the authorization either prior to or immediately after the end of the shift in which force was used. If the authorization for use of force is granted after normal working hours, the authority granting the action shall sign the use of force authorization within one day following the incident, excluding weekends and holidays.

2. When an inmate in a controlled condition creates a disturbance, or the officer's ability to provide unit security is adversely impacted by an inmate's behavior, and the inmate refuses to comply with clear and audible lawful orders to cease his or her behavior, the following steps will be followed unless there is an emergency or other circumstances arise that would dictate alternative actions: ~~actions~~.

a. through b. No change.

c. If the inmate remains non-compliant, prior to issuance of a final order to an inmate ordering compliance with lawful commands or cessation of the behavior that would justify using force, the confinement lieutenant, close management lieutenant, ~~lieutenant~~ or shift supervisor shall have control room staff check the Bed Inventory List to ascertain whether the inmate involved is classified as S-2 or higher. During regular work hours, if the involved inmate is S-2 or higher, the housing lieutenant or shift supervisor shall have a qualified mental health professional, if available, or CIT-trained security staff member provide crisis intervention and attempt to de-escalate the situation and prevent a use of force. After regular work hours, the housing lieutenant or shift supervisor shall have an uninvolved CIT-trained officer speak with the inmate in an attempt to de-escalate the situation and prevent a use of force.

d. If the inmate remains non-compliant or continues in his or her behavior that would justify using force and it is evident that the use of chemical agents is necessary to gain control of the inmate while minimizing the risk of injuries to others, ~~others~~ the housing lieutenant or shift supervisor shall ensure that the following order of events takes place:

(I) No change.

(II) The shift supervisor shall review the Risk Assessment for the ~~For The~~ Use of ~~Of~~ Chemical Restraint Agents

~~and~~ ~~And~~ Electronic Immobilization Devices, Form ~~DC4-650B~~, ~~DC4-650B~~ to determine whether the inmate has a medical condition that may be exacerbated by ~~the intended~~ ~~the intended~~ force. Form DC4-650B, Risk Assessment for the Use of Chemical Restraint Agents and Electronic Immobilization Devices, is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399-2500, <http://www.flrules.org/Gateway/reference.asp?No=Ref-09004>. The effective date of the form is 01/18. If the inmate has a medical risk factor for chemical agents, chemical agents shall not be used on the inmate unless each of the following conditions exists: the inmate possesses a weapon capable of causing great bodily harm or death, the warden or designee approves, and medical staff are present in the housing unit prior to the application of chemical agents. ~~However, if the inmate has a medical risk factor for chemical agents as indicated on the risk assessment, this does not automatically preclude the use of electronic immobilization devices on the inmate.~~ Medical staff shall be consulted about physical conditions of an inmate that may be aggravated by the application of chemical agents unless safety concerns prevent prior consultation. If the inmate has a medical risk factor for chemical agents as indicated on the risk assessment, this does not automatically preclude the use of electronic immobilization devices on the inmate.

(III) through (IV) No change.

(V) Video recording procedures shall be initiated as outlined in subsection ~~(4)~~ ~~(4)~~, of this rule.

(VI) A confinement or close management lieutenant or shift supervisor shall issue a clear concise and audible final order to the ~~inmate~~ ~~inmate(s)~~ ordering compliance. The inmate shall be advised chemical agents shall be used, if necessary, to gain compliance. If the inmate complies, the compliance shall be video recorded for ~~three (3)~~ ~~3~~ minutes and then the video recording shall cease. If, during the same shift, the inmate resumes ~~his or her~~ ~~his/her~~ disruptive behavior, video recording shall resume prior to the application of chemical agents or other force. This recording shall include a statement referring to the originating incident, and continue from this point until the decontaminating shower is given, medical examination is offered, and the inmate is returned to secure, decontaminated housing or transport vehicle.

(VII) If, after ~~three (3)~~ ~~3~~ minutes, the inmate remains non-compliant with the final order of the housing lieutenant or shift supervisor and continues to disobey lawful orders or continues the behavior that would justify using force, ~~a designated security staff member~~ ~~the shift supervisor~~ shall administer chemical agents upon the inmate in the amount of no greater than three (3) one-second bursts. The housing lieutenant or shift supervisor shall be present to directly oversee and provide clear direction to the security staff member designated to administer the chemical agents.

(VIII) through (IX) No change.

e. Protocol following a third application of chemical agents.

(I) The warden or designee shall be consulted to evaluate further responses. Additional Report of Force Used, Form ~~DC6-230~~, ~~DC6-230~~ shall be used to document the incident. The shift supervisor shall ensure all use of force applications are properly documented in a Report of Force Used, Form DC6-230.

(II) The warden or designee shall authorize the activation of a cell extraction team as necessary to ~~ensure~~ ~~obtain~~ safety or ~~obtain~~ compliance; ~~however,~~ ~~however~~ additional applications of chemical agents shall not be administered or discharged upon an inmate after the initial three applications until at least sixty (60) minutes have elapsed from the time of the last application.

f. Post-chemical agent use protocol.

(I) Once the inmate becomes compliant with lawful orders and ceases his or her disruptive behavior, Department staff shall initiate decontamination protocol as outlined in paragraph ~~(9)(b)~~ ~~(9)(b)~~, of this rule.

(II) Once decontamination protocol is complete, the inmate shall be offered medical examination as outlined in paragraph ~~(9)(c)~~ ~~(9)(e)~~, of this rule.

(III) Reports for the completed use of force shall be completed in accordance with paragraph ~~(9)(a)~~ ~~(9)(a)~~, of this rule.

(6) Use of Other Less-Lethal Weapons.

(a) No change.

(b) The use of EIDs ~~electronic immobilization devices (EIDs)~~, batons, ~~the types of chemical agents mentioned in this section~~, specialty impact munitions, or other less-lethal weapons within an institution ~~institutions~~ shall be authorized ~~authorized~~, only by the warden or designee ~~designee~~, when their use is necessary, their use would

comport with the other provisions of this rule, and the use of the chemical agents referenced elsewhere in this rule would be either inappropriate or ineffective. Such weapons shall be utilized by officers who have completed the Department's standard training on their use and shall be used in accordance with manufacturer specifications.

1. EIDs.

a. EIDs authorized by the Department include:

(I) Handheld EIDs, which shall be an intermediate level of force alternative, issued to officers who are transporting and supervising inmates outside an institution,

(II) Dart-fired EID (DFEID), which shall be an intermediate level of force alternative, issued primarily to officers supervising inmates within the general population setting. DFEIDs shall not be used on inmates while in a confinement or close management cell,

(III) Electronic shields, which may be used by forced cell extraction teams, and

(IV) Electronic restraint belts, which are authorized to be placed on an inmate for appearance in court, during transportation, or when the inmate is determined to be high risk or to have a history of violent behavior.

b.a. EIDs shall not be used on anyone other than an inmate during an authorized use of force, or upon any person to prevent serious injury or death. If possible, the shift supervisor shall counsel with the inmate, issue the final order to the inmate ordering compliance or cessation of disruptive behavior, and be present prior to the use of an EID at an ~~institution~~, institution or during work detail or transport.

~~b. EIDs authorized by the Department include:~~

~~(I) Handheld EIDs, which shall be the intermediate level of force alternative, issued primarily for the purpose of transportation and supervision of inmates outside the institution,~~

~~(II) Electronic shields, which may be used by force cell extraction teams; and,~~

~~(III) Electronic restraint belts, which are authorized to be placed on an inmate for appearance in court, during transportation, or when the inmate is determined to be high risk or to have a history of violent behavior.~~

c. DFEIDs are authorized to be used during reactionary use of force incidents prior to using chemical agents or physical force when appropriate and necessary to quickly or immediately quell a disturbance involving the active physical resistance of an inmate to a lawful order when the inmate has the apparent ability to physically threaten an officer or another person.

d. DFEIDs are authorized to be used during reactionary use of force incidents when appropriate to defend against an inmate's imminent use of unlawful force upon staff, inmates, or others, or to overcome an inmate's active physical resistance to a lawful order when the inmate has the apparent ability to physically threaten an officer or another person.

e.e. Prior to any organized use of force of the type described in sub-sub-subparagraph ~~(6)(b)1.a.(III)~~, ~~(6)(b)1.b.(II)~~, above, the shift supervisor shall review the Risk Assessment for the For The Use of Of Chemical Restraint Agents and and Electronic Immobilization Devices, Form DC4-650B, DC4-650B to determine whether the inmate has a medical condition that may be exacerbated by the intended force. If the inmate has a medical risk factor for EIDs, they shall not be used on the inmate unless each of the following conditions exists: the inmate possesses a weapon capable of causing great bodily harm or death, the warden or designee approves, and medical staff are present in the housing unit prior to the application of EIDs. ~~However, if the inmate has a medical risk factor for EIDs, this does not automatically preclude the use of chemical agents on the inmate.~~ Medical staff shall be consulted about physical conditions of an inmate that may be aggravated by the application of EIDs unless safety concerns prevent prior consultation. If the inmate has a medical risk factor for EIDs, this does not automatically preclude the use of chemical agents on the inmate.

2. Specialty impact munitions. Specialty impact munitions shall only be used when necessary after all other reasonable alternatives to regain control have been exhausted ~~and their use is necessary~~. They are intended to be used as an interim force response between the use of chemical agents and deadly force.

a. Specialty impact munitions shall be used only by the Department's designated armed response teams, Rapid Response Teams, Correctional Emergency Response ~~Teams, Teams~~ and/or trained staff as authorized by the Deputy Secretary of Institutions for use during riots and disturbances and to respond to staff assaults. They are intended as a less-lethal alternative to the use of deadly force. Specialty impact munitions shall not be used on anyone other than an inmate during an authorized use of force.

b. The following specialty impact munitions have been approved for use by the Department:

(I) through (VI) No change.

(VII) 40-mm impact munitions (OC, marking and inert foam) long ~~range, and range; and,~~

(VIII) No change.

c. through d. No change.

3. Pepperball Launching System (PLS). The PLS shall be used instead of aerosol-type chemical agents when aerosol-type chemical agents would not be effective due to weather conditions or when their use could subject the officer or uninvolved inmates to injury. The PLS shall be used only by restricted labor squad supervisors and exercise officers for confinement, close management, maximum management, and death row populations. The PLS shall only be employed by officers who have completed the Department's standard training ~~trained~~ in their use and effects.

a. General Provisions.

(I) No change.

(II) The PLS is classified as less-lethal at all distances, but, unless the incident necessitates otherwise, it only should be utilized at a distance of five (5) feet or greater to prevent the inmate from attempting to take control of the launcher.

b. Use of the PLS in ~~in~~ Controlled Conditions.

(I) through (II) No change.

c. Use of the PLS Outside of Controlled Conditions.

(I) No change.

(II) The PLS is authorized for use in confinement, close management, maximum management, and death row recreation areas to quell mass disturbances, violent events, assaults, and fights among inmates.

4. Noise flash distraction devices. Noise flash distraction devices shall be used only by the Department's Rapid Response Teams, Correctional Emergency Response Teams, ~~Teams~~ and/or other trained staff as authorized by the Deputy Secretary of Institutions for the purpose of creating a momentary diversion to assist correctional staff in restoring order in hostile situations. These situations include hostage rescue, crowd control, ~~control~~ and certain escape and recapture efforts. The following noise flash distraction devices have been approved for use by the Department:

~~a.~~ (a) Hand-launched, reloaded noise flash distraction devices, ~~devices;~~

~~b.~~ (b) Hand-launched, single use noise flash distraction devices, and ~~devices;~~

~~c.~~ (c) Shotgun-launched (aerial distraction) noise flash distraction devices.

(7) Use of Deadly Force.

(a) Use of Deadly Force. Except as set forth elsewhere in this subsection, an officer is authorized to use deadly force only when the officer believes that such force is necessary to prevent imminent death or great bodily harm to himself, herself, him or herself or another.

1. Use of Firearms. The procedures set forth in this rule shall be readily available at all institutions ~~and facilities~~ for staff review.

2. Firearms or weapons shall be issued to an officer only upon instructions of the warden or designee, chief of security, or shift supervisor by the arsenal officer or the officer designated to issue weapons. Officers shall not intentionally discharge a firearm loaded with lethal ammunition, as opposed to less-lethal ammunition, at or in the direction of another person except under the following circumstances ~~and~~ after all reasonable non-lethal alternatives have been exhausted ~~exhausted~~, and there is no reasonable danger to innocent bystanders:

a. No change.

b. To prevent any conveyance to gain unauthorized entry into or exit from an ~~a correctional~~ institution,

c. through d. No change.

3. Nothing in this rule ~~Subparagraph (7)(a)2.~~ shall ~~not~~ be read to say that there are always reasonable non-lethal alternatives to the intentional discharge of firearms loaded with lethal ammunition.

4. Firearms and other weapons are approved for use by the Department's designated armed response team, Rapid Response Teams, Correctional Emergency Response Teams, ~~Teams~~ and/or other trained staff as authorized by the Deputy Secretary of Institutions for use during riots and mass disturbances. The Incident Commander shall determine the type of authorized lethal or less-lethal ammunition that is necessary to quell the riot or mass disturbance, and shall give orders accordingly.

5. No change.

6. Firearms shall not be discharged:

a. through b. No change.

c. As a warning, except during escapes or when the officer reasonably believes it necessary to protect oneself or another from imminent death or great bodily harm, and time permits ~~to do so,~~

d. Until the employee reasonably believes that the person to be fired upon is an escaping ~~department~~ inmate,

e. through g. No change.

(b) Because aircraft such as helicopters, airplanes, and unmanned aircraft (collectively referred to as "aircraft") can be used to deliver contraband, carry out assaults, or facilitate an escape at an institution, the following policy shall apply whenever an aircraft approaches the perimeter fence line:

1. Staff shall immediately notify the control room of the location of the aircraft and its direction of flight, and shall continue to observe the aircraft.

2. When it can be done safely, actions other than firing weapons, such as waving arms in a manner to indicate disapproval to enter an area, shall be made in an attempt to cause the aircraft to change its flightpath.

3. If, when used, attempts to divert the aircraft fail, the aircraft shall be allowed to land.

4. Staff shall conduct a search of the flightpath of the aircraft over the property of an institution to determine if contraband was dropped.

5. All inmates shall be kept away from an aircraft while it is over or on the property of an institution.

6. Once an aircraft lands on the property of an institution, it shall be secured using armed security staff and shall be prevented from being flown away without causing damage to the aircraft by securing the flight equipment with locks and chains so that the aircraft can safely be removed by the proper authorities.

7. If an aircraft lands due to an in-flight emergency, it and any of its occupants shall be secured by staff until they are removed from the landing site.

8. If an aircraft hovers over or lands on the property of an institution for any reason, efforts shall be made to stop any inmate from boarding the aircraft. Any attempt by an inmate to board an aircraft shall be deemed to be an escape attempt. Department personnel are authorized to use deadly force against any inmate attempting to escape in accordance with this rule. When circumstances permit, a verbal warning to halt and a warning shot shall be fired prior to the inmate reaching the aircraft to board.

9. If weapons are fired from an aircraft, Department personnel are authorized to return fire and use deadly force to protect themselves and others from imminent death or great bodily harm.

10. Firearms shall not be fired toward a departing aircraft after it leaves contact with the ground except when weapons are being fired from the aircraft.

11. Department personnel may use deadly force against an escaping inmate being carried by the unmanned aircraft.

12. When an aircraft lands on the property of an institution, the local law enforcement agency and the Office of Inspector General shall be immediately notified. The Office of Inspector General shall notify the Florida Department of Law Enforcement, Federal Bureau of Investigation, and the Federal Aviation Administration.

13. All inmates shall receive orientation regarding this paragraph of the rule, which shall be made a part of the Department's orientation program at all reception centers. This orientation shall contain instructions stating that should any aircraft land or attempt to land on or near the property of a state correctional institution or private correctional facility, inmates are required to move away from the aircraft, and that any movement toward the aircraft by an inmate shall be viewed as an escape attempt and shall subject the inmate to the use of deadly force to prevent him or her from escaping. ~~Because helicopters or other aircraft may be used during an escape or assault, the following policy shall apply:~~

~~1. When it can be done safely, actions other than firing weapons, such as waving arms in a manner to indicate disapproval to enter an area, shall be made in an attempt to cause the aircraft to leave.~~

~~2. If these attempts fail, the aircraft shall be allowed to land.~~

~~3. All inmates shall be kept away from the aircraft.~~

~~4. The aircraft shall be secured using armed security staff and shall be prevented from being flown away by securing the flight equipment with locks and chains, without causing damage to the aircraft, so that the aircraft can safely be removed by the proper authorities.~~

~~5. If the landing occurs due to an in-flight emergency, e.g., engine failure, staff shall maintain security of the aircraft and all occupants until their removal from the site.~~

~~6. Once the aircraft lands, efforts shall be directed to stop any inmate from boarding the aircraft. Staff are authorized to shoot any inmate attempting to escape in accordance with this rule. When circumstances permit, a verbal warning to halt and a warning shot shall be fired prior to the inmate reaching the aircraft to board.~~

~~7. If weapons are fired from an aircraft, Department personnel are authorized to return fire and use deadly force to protect themselves and others from imminent death or great bodily harm.~~

~~8. Firearms shall not be used on departing aircraft after leaving contact with the ground. Immediate notification, without delay, shall be made to the law enforcement agency of local jurisdiction and the Office of Inspector General upon an aircraft landing on Department property. The Office of Inspector General shall notify the Florida Department of Law Enforcement, Federal Bureau of Investigation, and the Federal Aviation Administration.~~

~~9. All inmates shall receive orientation in regard to this subsection of the rule. This subsection of the rule shall be made a part of the Department's orientation program at all reception centers. This orientation shall contain instructions indicating that should any aircraft attempt to land on or near the property of any Department facility, inmates are required to move away from the aircraft. Movement toward the aircraft by an inmate shall be viewed as an escape attempt and shall subject the inmate to the use of deadly force to prevent him or her from escaping.~~

(c) Use of a conveyance to gain unauthorized entry into or exit from an a-correctional institution or facility. The institution ~~or facility~~ shall take the following steps to prevent any conveyance or vehicle from being used to gain unauthorized forced entry into or forced exit from its perimeter area:

1. through 2. No change.

(d) Use of Force to Prevent Escape or to Recapture Escapee. Officers are authorized to use force, including deadly force, as necessary to prevent the escape of an inmate from an a-correctional institution.

1. Escape attempts from inside an institutional perimeter where armed perimeter staff are assigned:

a. Institutions with a double perimeter fence. A loud verbal warning shall be made, if possible, instructing the inmate to stop or halt prior to the inmate's contact with any inner perimeter fence. A warning shot may be safely fired prior to any inmate's attempt to cross or pass over, through, or under the inner perimeter fence. ~~A The~~ firearm shall not be fired at the inmate until he or she has begun to cross or pass over, through, or under the inner perimeter fence.

b. Institutions with a single perimeter fence. A loud verbal warning shall be ~~reasonably made, if possible, where possible~~ instructing the inmate to stop or halt prior to the inmate's contact with any perimeter fence. ~~A and a~~ warning shot may be safely fired prior to the inmate's contact with the perimeter fence. A firearm shall not be fired at the inmate until he or she has begun to cross, or to pass over, through, or under the perimeter fence.

c. No change.

2. Apprehension of escaped inmates once they are outside an institutional perimeter.

a. Officers are considered to be in active pursuit of an escaped inmate who has fled from an institution or supervised work detail so long as the escape commander determines that the escape recovery efforts are active. An officer is authorized to use deadly force, after giving a loud verbal warning for the inmate to stop or halt the escape attempt, when the inmate is demonstrating a refusal to cease active flight or escape from an institution or supervised work detail. A firearm shall not be fired if it creates a hazard to persons ~~to persons~~ other than the inmate.

b. No change.

c. Officers may provide assistance to any law enforcement agency that is seeking to capture or take into custody any inmate who has failed to return from a furlough or non-supervised outside assignment or who has escaped from any work release center. ~~Officers Correctional officers~~ who are utilized to assist outside law enforcement agencies are authorized to use deadly force pursuant to Florida law.

3. No change.

(e) Post-Firearm Discharge Protocol.

1. In addition to the any applicable post-use of force protocol set forth in subsection ~~(9) (9)~~ of this rule, officers shall comply with the following protocol after a firearm is discharged: discharged.

a. Any officer who discharges a firearm shall complete a Use of Force Incident Report, Form DC6-210A. Form DC6-210A, Use of Force Incident Report is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399-2500.

<http://www.flrules.org/Gateway/reference.asp?No=Ref-09005>. The effective date of the form is 01/18.

b. Any officer who has fired a weapon during the performance of his or her duty shall, upon the conclusion of the event giving rise to the discharge of the firearm, immediately notify his or her supervisor.

c. The shift supervisor shall, immediately after learning of such an incident, have the scene secured and notify the Office of Inspector General.

d. The senior officer in charge at the scene of the incident shall ensure all evidence is undisturbed, including locations of empty cartridges, until processed by a law enforcement agency or the Office of Inspector General. Any officer who discharges a firearm shall complete a Use of Force Incident Report, Form DC6-210A. Form DC6-210A, Use of Force Incident Report is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399-2500, <http://www.flrules.org/Gateway/reference.asp?No=Ref-09005>. The effective date of the form is 01/18. Any officer who has fired a weapon during the performance of his or her duty shall, upon the conclusion of the event giving rise to the discharge of the firearm, immediately notify his or her supervisor. Such shift supervisor shall, immediately after learning of such an incident, have the scene secured and notify the Office of Inspector General. The senior officer in charge at the scene of the incident shall ensure all evidence is undisturbed, including locations of empty cartridges, until processed by a law enforcement agency or the Office of Inspector General.

2. Any officer who accidentally or negligently discharges a ~~Department firearm or~~ any firearm upon the property of any institution ~~institutional property~~ shall immediately report the incident to the warden or designee and shall complete a Use of Force Incident Report, Form DC6-210A.

(8) Use of Force Considerations and Protocol Unique to Inmates in Mental Health Treatment Settings.

(a) It is often necessary to use force on inmates who are in the mental health treatment settings described in this subsection. ~~set forth in the following paragraph.~~ While ~~Though~~ these situations present unique issues and challenges, they are subject to all the provisions of this rule unless otherwise stated in this subsection. ~~rule, including the following paragraph.~~ Where this subsection may depart from use of force protocol set forth in other subsections of this rule, the provisions of this subsection shall nonetheless bind Department staff members in situations involving those inmates described in the following paragraph.

(b) through (d) No change.

(e) Use of Psychiatric Restraints.

1. Psychiatric restraints shall only be applied to inmates in an inpatient mental health level of care status when housed in an isolation management room. ~~are devices, procedures, or techniques used to restrict movement or behavior as to greatly reduce or eliminate the ability of an individual to harm him/herself or others, and include, but are not limited to, four point and five point psychiatric restraints.~~

2. The warden or designee may only authorize placing an inmate in psychiatric restraints after receiving an order and authorization from a qualified clinician. ~~Authorization~~ ~~consultation with a member of health services staff.~~ ~~Approval~~ from the warden or designee shall be obtained prior to any inmate being placed in psychiatric restraints. Health services staff shall review the medical record of the inmate prior to advising the warden or designee of known medical conditions that would affect the health of the inmate should the inmate be placed in psychiatric restraints. There are some instances when an inmate must be placed in psychiatric restraints immediately after having chemical agents applied. In such situations, the inmate shall be monitored by health services staff without interruption. Medical attention shall be provided, upon detection of physical distress, without unnecessary delay. No inmate shall be restrained in a manner that ~~which~~ restricts breathing.

3. When the use of psychiatric restraints is authorized, and the inmate does not offer resistance to the application of the restraints, the completion of Form DC6-210, Incident Report, shall be required. Form DC6-210, Incident Report, is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399-2500, <http://www.flrules.org/Gateway/reference.asp?No=Ref-01697>. The effective date of the form is 12/12 ~~12-12~~. The application of the psychiatric restraints will be videotaped. The videotape, Form DC6-210, a written use of force authorization, Form DC4-701C, Emergency Room Record, and Form DC4-708, Diagram of Injury. ~~Injury~~ shall ~~also~~ be completed in their entirety ~~their entirety~~ with applicable data or the letters "N/A" used to indicate inapplicability and shall be forwarded to the warden or acting warden for review within one working day. Form DC4-701C, Emergency Room Record, is hereby incorporated by reference. Copies of this form are available from the Forms

Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399-2500, <http://www.flrules.org/Gateway/reference.asp?No=Ref-01695>. The effective date of the form is 12/12 ~~12-12~~. Form DC4-708, Diagram of Injury, is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399-2500, <http://www.flrules.org/Gateway/reference.asp?No=Ref-01696>. The effective date of the form is 10/07 ~~10-04-07~~. Each institution shall retain all videotape and documents ~~the reports~~ for the applicable retention period. If at any time prior to or during the application of the psychiatric restraints ~~restraints~~, the inmate offers resistance to the application, force shall be used ~~used~~, if necessary and justified.

(9) Post-Use of Force Protocol.

(a) Reporting.

1. No change.

2. Any time force is used, the staff member ~~person~~ initially using force shall complete a Report of Force Used, Form DC6-230. The completed report must contain a clear and comprehensive narrative of the circumstances that led to the use of force, the specific justification and necessity for the use of force, and a description of the actual events that occurred as well as the post-event actions. If more than one staff member was involved in the use of force, the initial staff member using force shall complete the Report of Force Used, Form DC6-230. All participants who agree with the initial staff member shall sign the Report of Force Used, Form DC6-230. Any participant who objects to information recorded by the reporting staff member or who has additional observations to add to the narrative or description of the incident written by the reporting staff member shall complete a separate Report of Force Used, Form DC6-230 and attach it to the Report of Force Used, Form DC6-230 completed by the staff member initially using force. To provide additional detail, each participant in the use of force shall also complete their own Use of Force Incident Report, Form DC6-210A, and each such report shall be attached to the Report of Force Used, Form DC6-230 that was written by the person initially using force. However, if a participant writes his or her own Report of Force Used, Form DC6-230, his or her Use of Force Incident Report, Form DC6-210A, ~~DC6-210A~~ shall be attached to their own Report of Force Used, Form DC6-230. All Report of Force Used, Form DC6-230, ~~DC6-230~~ and Use of Force Incident Report, Form DC6-210A, ~~DC6-210A~~ shall be placed together in one folder or binder.

3. A Report of Force Used, Form DC6-230, ~~DC6-230~~ shall be completed by all those staff involved in any application of force, reactionary or organized, that occurred during their shift. The ~~This~~ Report of Force Used, Form DC6-230, ~~DC6-230~~ shall be completed no later than the end of the shift during which the use of force occurred, or within 24 hours of the use of force incident if completion of the form is not possible during their shift. All reports must be typed. No Report of Force Used, Form DC6-230, ~~DC6-230~~ may be altered, changed, or destroyed by any employee. However, staff members may submit amendments to a report at any time with authorization from the warden or designee. In such situations, the original report itself shall remain intact and shall remain as part of the file; an amendment, a separate document, shall be added to the file. The warden or designee shall ~~then~~ appoint a staff member of equal or higher rank than those involved in the use of force incident to collect all pertinent information and required documentation. This information shall include the reports of all involved staff who do not agree with the account as reported in the Report of Force Used, Form DC6-230, ~~DC6-230~~ or the statements of staff witnesses, inmate witnesses, or the inmate subject. Any employee who witnesses but does not participate in a use of force and suspects inappropriate action shall complete a Use of Force Incident Report, Form DC6-210A. The warden shall ensure that Form DC4-701C, Emergency Room Record, ~~and~~ Form DC4-708, Diagram of Injury, and all associated video recordings capturing the use of force incident, including all fixed camera recordings that captured the incident and subsequent inmate escort until the handheld camera is activated, are included in the review of all uses of force and are also forwarded with the rest of the required documentation to the Office of the Inspector General – Use of Force Unit. The Office of Inspector General ~~field offices within each region~~ shall provide the institution ~~institutions~~, ~~via electronic mail~~, with a use of force number once one is assigned and entered into the Office of Inspector General case management system, ~~electronic logging system~~.

4. Form DC6-112C, Witness Statement, shall be completed by the inmate whom force was used upon during the shift immediately following the shift during which ~~within three (3) working days of~~ the use of force incident occurred. Form DC6-112C is incorporated by reference in Rule 33-601.313, F.A.C. This statement shall be obtained by a staff member of the rank of lieutenant or higher who was not involved in the use of force or assigned to the

shift on which the use of force occurred. If the inmate refuses to sign the ~~statement~~, ~~statement~~ the inmate's refusal shall be witnessed by two staff members. In instances where the force occurred outside of controlled conditions, the uninvolved staff member assigned to obtain witness statements shall interview a random sample of the inmate witnesses and provide them with the opportunity to submit a written statement on Form DC6-112C.

5. No change.

6. The application of force by an EID or less-lethal weapon shall be reported by completion of a Report of Force Used, Form DC6-230, ~~DC6-230~~ by the staff member who deployed the device. All use of force incidents involving a DFEID must include the following:

a. Results of the deployment, to include all injuries or the absence of injuries.

b. The serial number of the DFEID, and

c. The serial number of the DFEID cartridge.

7. No change.

8. Any time a witness of a reported use of force chooses to make a written statement, or is a use of force participating staff member and chooses to provide information not included in the reporting staff member's initial Report of Force Used, Form DC6-230, such person shall complete a Report of Force Used, Form DC6-230, ~~DC6-230~~ of their own. No employee may interfere with or obstruct such reporting or order any participant or witness involved in the use of force to alter, change, or not produce a written report of an incident in which the employee was involved or which he or she observed.

9. No employee shall commit a battery on or engage in cruel or inhumane treatment of any inmate. Any employee who witnesses, has reasonable cause to suspect, or has knowledge that any inmate has been a victim or subject of an unlawful battery or has been abused in violation of law or the Department's administrative rules shall immediately submit a Use of Force Incident Report, Form DC6-210A, ~~DC6-210A~~ to the warden or designee describing his or her observations, knowledge, or suspicion. ~~No employee shall commit a battery on or engage in cruel or inhumane treatment of any inmate.~~ The warden or designee shall forward a copy of all reports involving allegations of inmate abuse, neglect, or battery to the Office of Inspector General without unnecessary delay.

10. Staff members may use reasonable hands-on force to restrain an inmate, ~~under~~ ~~upon~~ supervision and direction of a qualified health care provider, ~~physician or medical practitioner~~, for the purpose of providing necessary and lawful treatment to protect the health of others or to satisfy a duty to protect an inmate against self-injury ~~self-inflicted injury~~ or death. The attending qualified health care provider who directs or observes medically necessary use of force shall prepare a written authorization to use force. Staff members who use force pursuant to the request of a qualified health care provider ~~a physician or medical practitioner's request~~ shall prepare a Report of Force Used, Form DC6-230, ~~DC6-230~~ and a Use of Force Incident Report, Form DC6-210A, ~~DC6-210A~~ when actual force is used, or an Incident Report, Form DC6-210, ~~Form DC6-210~~ when restraints are applied with no physical resistance by the inmate. ~~The inmate, and the reports shall be forwarded to the warden.~~ ~~Any report required in the preceding sentence shall be completed and forwarded to the warden~~ immediately upon the conclusion of the incident giving rise for the use of force.

11. No change.

(b) Decontamination and Monitoring After Chemical Agent Exposure.

1. Inmates who have been exposed to any chemical agent shall be constantly monitored by a staff member or officer for no less than one (1) hour after application. The affected inmate shall remain in a standing or sitting position. The monitoring staff ~~member~~ ~~members~~ or ~~officer~~ ~~officers~~ shall immediately seek medical attention ~~from~~ ~~by~~ the appropriate medical staff any time signs of respiratory distress, labored breathing, excessive or persistent coughing, or chest or arm pain are evident, ~~evident~~ or if unconsciousness occurs, ~~occurs~~ or other signs of medical distress are observed. The absence of medical staff on scene does not preclude taking action as an emergency responder. The shift supervisor shall summon a medical staff member to the physical location of an inmate who has been exposed to a chemical agent, ~~application~~.

2. All inmates exposed to chemical agents shall be ordered to shower in cool water and change inner and outer garments within twenty (20) ~~20~~ minutes from the last application of chemical agents, unless there is a documentable emergency resulting in an extension of this time frame. The shift supervisor or confinement lieutenant shall record the decontamination activities in a Use of Force Incident Report, Form DC6-210A, ~~DC6-210A~~ and on Form DC6-229, Daily Record of Special Housing. Form DC6-229 is incorporated by reference in Rule 33-601.800, F.A.C.

3. The shift supervisor shall order the inmate to submit to cuffing procedures in order to exit ~~his or her~~ her/his cell for a shower and decontamination of the cell. If at any time an inmate complies with orders to submit to a shower and decontamination procedures, then normal cuffing and escort procedures shall be followed and documented. Any portion of the inmate's body, including the eyes, that was exposed to, or that came in contact with, chemical agents, ~~including the eyes,~~ shall be flushed with water as soon as possible after application for two (2) 2 minutes or until the affected inmate experiences relief, whichever is longer. The inmate shall be advised by the officer in charge to avoid rubbing any irritated area with a cloth or towel. Under no circumstances will oils, creams, or topical medications be applied to the inmate without approval of a member of the medical services staff.

4. Inmates are not allowed to refuse a shower or refuse the decontamination of their cell after exposure to chemical agents. If the affected inmate refuses to participate in a decontamination shower, a second order shall be given by the shift supervisor. ~~Inmates are not allowed to refuse a shower or refuse the decontamination of their cell after exposure to chemical agents.~~ The shift supervisor shall record in a Use of Force Incident Report, Form DC6-210A, DC6-210A that a second order was given administered and the inmate refused to comply. The shift supervisor shall submit Form DC6-112F, Disciplinary Report Worksheet, for processing. Form DC6-112F is incorporated by reference in Rule 33-601.313, F.A.C.

5. No change.

6. After the second refusal by the inmate, inmate the shift supervisor shall contact the warden or designee for authorization to initiate cell extraction procedures. Upon approval by the warden or designee, the shift supervisor shall instruct the cell extraction team to enter the cell and place the inmate in restraints.

7. At least two (2) team members of the same sex ~~as~~ of the inmate will maintain custodial grasp control of the inmate and physically guide the inmate to the shower to ensure that he or she he/she remains under cool running water for no less than two (2) 2 minutes. Any portion of the inmate's body exposed ~~to, to~~ or that came into contact with, with chemical agents, including the eyes, shall be flushed with water as soon as possible after application. Staff shall not inhibit the ability of the inmate to move his or her her/his head from under the water. The inmate should be advised by the officer in charge to avoid rubbing any irritated area with a cloth or towel. Caution shall be exercised to prevent injury to both staff and inmate. During the shower, all contaminated clothing with the exception of undergarments shall be removed, and the cell shall be decontaminated and searched for contraband.

8. No change.

9. Officers shall use all reasonable and due care to avoid physically placing the inmate in any position that may contribute to positional asphyxia, restricted blood circulation, or interference with physical functions that permit life processes to occur, occur or in any position that causes any physical injury. Restraints shall not be applied in any manner for the purpose of administration of punishment. The inmate shall not be directed, ordered, or required to stand or sit uninterrupted if such action is intended for reasons of reasons of punishment or is likely to cause injury.

10. No change.

11. All ~~subsequent~~ reports, medical requirements, and reviews required for the use of chemical agents as outlined in this rule shall be completed after the use of the PLS.

(c) Medical Attention Following Use of Force.

1. Medical Attention for Inmates Following Use of Force.

a. Appropriate medical treatment shall be provided immediately or, in the case of a riot or other man-made or natural disaster, as soon as possible following resolution of the riot or disaster. Any treatment or follow-up action shall be documented in the Report of Force Used, Form DC6-230. A qualified health care provider shall examine any person physically involved in a use of force to determine the extent of injury, if any, and shall prepare a report that shall include a statement of whether further examination by a physician is necessary. Any noticeable physical injury shall be examined by a physician, and the physician shall prepare a report documenting the extent of the injury and the treatment prescribed. Such report shall be completed within one (1) business day of the incident and shall be submitted to the warden for initial review. The qualified health care provider and physician shall use Form DC4-701C, Emergency Room Record, to document an examination following use of force. Form DC4-708, Diagram of Injury, shall be used along with Form DC4-701C to document observed or known physical injuries. A copy of the reports, report, including referenced forms, shall be attached to the Report of Force Used, Form DC6-230. The original reports shall be filed in the inmate's medical record.

b. After any use of force, a clinician ~~the attending physician or medical practitioner~~ shall complete Form DC4-

701C, Emergency Room Record, and Form DC4-708, Diagram of Injury, with applicable data or the letters “N/A” used to indicate inapplicability. The attending physician or medical practitioner shall document the presence or absence of any injury in his or her records whenever force has been applied. Every physical examination of an inmate patient who has been the subject of an application of force shall be documented with specificity by the attending physician or medical practitioner to include extent of injury, type of injury, and a description of any injury. Any time a ~~clinician physician or attending medical practitioner~~ reports reasonable suspicion of abuse of an inmate to the warden or the Office of Inspector General, it shall be recorded in the Use of Force Incident Report, Form DC6-210A.

c. Upon being summoned by a shift supervisor to the ~~physical~~ location of the inmate after a use of force, ~~health services staff the medical staff member~~ shall conduct an examination of the inmate after the decontamination process is completed. ~~Health~~ ~~The health~~ services staff or ~~the~~ ranking officer present shall ensure that any inmate who has a history of experiencing or who exhibits symptoms of physical distress as a result of chemical agent exposure is immediately provided all necessary medical attention. ~~Health services staff~~ ~~Medical staff members~~ shall record any observations and medical actions taken on Form DC4-701C, Emergency Room Record, and Form DC4-708, Diagram of Injury, the following forms, including the presence or non-presence of injury ~~on a DC4 701C and DC4-708.~~

d. Post DFEID Deployment.

(I) Officers shall not remove DFEID probes from an inmate or other person. Observing universal precautions, DFEID probes shall be removed by medical personnel only.

(II) DFEID probes that have been removed from an inmate or other person shall be handled as biohazard waste and disposed of accordingly.

(III) Medical personnel shall visually examine the inmate to determine the presence or absence of an injury.

(IV) The shift supervisor shall ensure that photographs are taken of the inmate’s body where the probes impacted the skin, which shall be attached to the Report of Force Used, Form DC6-230, prepared by the staff member who initiated the use of force.

(V) The shift supervisor shall ensure that the expended cartridge is returned to the arsenal for accountability and disposal.

~~e.~~ In addition to completing a medical examination of any inmate who is exposed to chemical agents or EIDs, the ~~clinician attending medical staff member~~ shall make a mental health referral for any inmate classified as “S-2” or “S-3” on Form DC4-529, Staff Request/Referral, and forward it immediately so that for a mental health evaluation can to be conducted on the inmate. Form DC4-529, Staff Request/Referral, is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399-2500, <http://www.flrules.org/Gateway/reference.asp?No=Ref-01692>. The effective date of the form is 12/12. Mental health staff shall evaluate the inmate no later than the next business day. The ~~clinician mental health staff member~~ who conducts the evaluation shall recommend to the shift supervisor those measures that he or she believes they believe are necessary for the safety of the inmate, including placement in isolation management, a transitional care unit, or crisis stabilization as those placements are defined in Rule 33-404.103, F.A.C. ~~After each use of specialty impact munitions, exposed inmates shall be examined by medical personnel.~~

f. In the event an inmate is sent to an outside hospital for evaluation of any medical issue within 24-hours following a use of force involving the inmate, health services staff shall notify the shift supervisor of the circumstances necessitating transport. The shift supervisor shall immediately notify the Warden or designee of the transport. The Warden or designee shall be responsible for notifying the district supervisor (during normal business hours) or the on-call supervisor (after business hours) of the Office of the Inspector General. The outside hospital records shall be included in the documentation provided to the Office of the Inspector General – Use of Force Unit.

2. Medical Attention for Department Staff Members Following Use of Force.

a. Any employee who participates in ~~a the application of~~ reactionary or organized use of force and receives or experiences any injury shall report such injury to the officer in charge. Injured staff shall be offered an opportunity to receive a medical examination by health services staff.

b. No change.

3. Medical services staff members shall record all observations and recommendations on the following forms:

a. through b. No change.

c. Form DC4-701, Chronological Record of Health Care. Form DC4-701, Chronological Record of Health Care, is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399-2500, <http://www.flrules.org/Gateway/reference.asp?No=Ref-01694>. The effective date of the form is 4/8/10 ~~4-8-10~~.

(10) Review Requirements.

(a) The warden or designee shall conduct a preliminary review of facts recorded in reports to determine if the application or demonstration of force was lawful and a procedurally appropriate ~~application~~. All use of force incidents will be reviewed by a designee of the rank of Correctional Officer Major or above and shall include a review of all videotapes of the incident. It shall be noted in a memorandum to the inspector with the Office of Inspector General if any video recording is poor quality. The warden shall ensure that any designee that reviews any use of force incident conducts the review in a comprehensive manner and that, in addition to procedural concerns, the force used was authorized and appropriate in accordance with this rule. ~~necessary, justified, proper, and not excessive.~~ Any time improperly applied or unlawful use of force is indicated in a report, the warden shall personally review the incident. The warden shall personally review the ~~reports~~ reports, and all videotapes of any use of force incident that results in outside medical treatment for the involved inmate; this includes transfers to another ~~institution~~ correctional facility specifically for medical treatment. The warden shall consult with the Health Service Administrator or other medical personnel as appropriate regarding the nature of the injuries and required treatment determined to be necessary by the outside medical entity and incorporate this information into the documentation forwarded to the Office of the Inspector General – Use of Force Unit and the determination of whether ~~if~~ the force used was authorized and appropriate in accordance with this rule. ~~excessive, improper, or unnecessary.~~

(b) If during any part of the review process there is any indication that a use of force was not authorized or appropriate in accordance with this rule. ~~of excessive, improper, or unnecessary force,~~ the reviewer will notify the warden, who shall conduct a personal review of all pertinent information, reports, documentation, and videotapes and notify the Office of the Inspector General – Use of Force Unit ~~Chief or Assistant Chief of Investigations~~ in Central Office within one business day.

(c) The warden or designee shall review the information and note any inappropriate actions in a memorandum and attach the information to the Report of Force Used, Form DC6-230. The warden or designee's signature in the Warden's Review signature block on the Report of Force Used, Form DC6-230. ~~DC6-230~~ indicates that the review of the reports, and videotapes as required, did or did not reveal, in addition to procedural concerns, any indication that a use of force was not authorized or appropriate in accordance with this rule. ~~of excessive, improper, or unnecessary force.~~ All videotape recordings of force applications and the original and one copy of the Report of Force Used, Form DC6-230. ~~DC6-230~~ shall be forwarded to the Office of Inspector General within eleven (11) business days. Requests for extensions for submitting the Report of Force Used, Form DC6-230. ~~DC6-230 to be forwarded~~ after eleven (11) days shall require authorization from the Deputy Secretary of Institutions and the Inspector General or designee. Requests for extensions for submitting the ~~submission of~~ Report of Force Used, Form DC6-230. ~~DC6-230~~ beyond eleven (11) days may be granted if required staff is unavailable for signatures due to extended leave or similar circumstances, e.g., a staff member was injured in the use of force, ~~etc.,~~ or if ~~and~~ major incidents occurring at the institution necessitate an extension, e.g., a riot or other major disturbance, natural ~~nature~~ disaster evacuation, ~~etc.~~

(d) The warden shall keep all original completed forms and a copy of all the Report of Force Used, Form DC6-230. ~~DC6-230(s)~~ until notified that the final review by the Office of Inspector General is complete. Once the final review is complete, all ~~All~~ original reports pertaining to a use of force shall be retained by the warden or designee for the applicable retention period.

(e) The Office of Inspector General shall report a disposition to the warden of any use of force within fourteen (14) business days of receipt. The warden shall be noticed of any extension to the review granted by the Inspector General or designee prior to the expiration of the fourteen (14) business days. The Inspector General shall notify the warden either that a case has been reviewed and the use of force ~~action~~ was appropriate or a further review has commenced.

(f) Upon review of the submitted documents, the Office of Inspector General shall notify the warden in writing or by electronic mail of its ~~the~~ findings. The Office of the Inspector General shall evaluate the use of force to determine if the type and amount of force used was in accordance with the law, rule, or procedure, and whether any

procedural violations are noted. All video recordings submitted with a Report of Force Used, Form DC6-230, ~~DC6-230~~ shall be retained and maintained by the Office of Inspector General in accordance with public records retention law, statutes. The Office of Inspector General shall deem the use of force in compliance or not in compliance with law, rule, or procedure. The Office of the Inspector General shall notify the regional director and warden any time a reasonable suspicion or probable cause is found that the force administered by a staff member was not in compliance with law, rule, or procedure. The Office of Inspector General ~~or the warden, upon referral by the Office of Inspector General,~~ shall conduct an investigation of the incident. ~~Any staff member who is a subject of an investigation based on suspicion or allegation that force administered with their participation was not in compliance with this rule shall be notified by written letter when the matter is being investigated by the Office of Inspector General. Staff members shall not disclose or discuss any information concerning a use of force administrative investigation until receiving notice that a determination has been issued by the Office of Inspector General or warden.~~ The warden Wardens shall complete Form DC6-296, Non-Compliant Disapproved Use of Force/Warden Disposition ~~Force/Warden Disposition Report~~, should the their review of referred cases lead to a determination that a procedural violation occurred. ~~force was not appropriately used.~~ All disciplinary actions shall be forwarded to the Human Resources Section upon completion. Form DC6-296, Non-Compliant Disapproved Use of Force/Warden Disposition Report, is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399-2500, <http://www.flrules.org/Gateway/reference.asp?No=Ref-01703>. The effective date of the form is 07/02 ~~7-25-02~~.

(g) The Deputy Secretary of Institutions, regional director, or warden shall be responsible for issuing any corrective action pursuant to a finding of non-compliance with this rule. Copies of the employee's report, the warden's summary, and the Office of Inspector General review and determination shall be kept in the inmate's file pursuant to public records retention law. The Department shall maintain an electronic database of all use of force incidents that is searchable by officer name. ~~Form DC2 802, Use of Force Log, shall be placed in every employee's personnel file. Form DC2 802, Use of Force Log, is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399 2500, <http://www.flrules.org/Gateway/reference.asp?No=Ref-01691>. The effective date of the form is 2-7-00. This form shall be maintained by the servicing personnel office and shall contain a record of every Report of Force Used, Form DC6-230 completed by the employee.~~

~~(h) The warden or designee shall be responsible for submitting accurate information to the personnel office in order to maintain Form DC2 802. Any Report of Force Used, Form DC6-230 completed prior to April 15, 1998, shall remain in the file and be retained for the applicable retention period.~~

~~(h)(+)~~ The Office of Inspector General shall provide written notification to the warden of any staff member involved in three or more reactionary use of force incidents in a six-month period. The warden shall provide the following information on the document received from the Office of Inspector General and forward it to the appropriate regional director:

1. The number of of reactionary uses of force involving chemical agents during this period,
2. The number of other reactionary uses of force during this period, and period; and,
3. Whether the staff member employee in question was reassigned because on account of the Office of Inspector General's written notification.

~~(i)(+)~~ The regional director shall review the information provided by the warden and note whether he or she agrees with the determination to reassign the employee in question. The regional director shall forward the written notification to the Deputy Secretary of Institutions.

~~(j)(+)~~ The Office of the Inspector General shall notify the warden of any staff member involved in eight or more organized use of force incidents in an eighteen-month period. This notification will be for informational purposes only, and will not require any further action.

~~(k)(+)~~ Any incident that necessitates the drafting of a Report of Force Used, Form DC6-230, ~~DC6-230~~ shall be submitted to the Emergency Action Center ~~(EAC)~~.

(11) Chemical Agents – Issuance, Storage, and Handling.

(a) No change.

(b) Chemical agents assigned to an institution institutions may not be removed from the institution facility at any time without authorization from the warden or designee.

(c) No change.

(d) Only ~~correctional~~ officers and staff who have successfully completed the Department-approved training in the use of chemical agents, in possession of a current and valid certification of such completion, and assigned to institutions and work camps shall be issued an approved OC dispenser to carry while on duty. The warden is authorized to exempt an officer from carrying, possessing, or using chemical agents. Officers assigned to armed perimeter posts may be exempted from the requirement to carry OC by the warden or designee.

(e) An MK-9 sized canister or equivalent OC dispenser shall be issued to ~~correctional~~ officers who have successfully completed Department-approved training, are in possession of a current and valid certification of same, and who are assigned to internal security posts, recreation fields, shift supervisor posts, or designated as special response team members within an institution, including work camps. These officers are authorized to administer chemical agents during reactionary disturbance incidents that involve multiple inmates in locations where multiple inmates are generally present, such as open bay dorms, dining halls, recreation fields, canteens, and meal lines. This option shall only be exercised in response to mass disturbance critical incidents and as necessary to restore control, stability, or institutional disciplinary order and shall normally not be used indoors.

(f) For those security positions assigned to housing units with a secure officer's station, an MK-4 sized canister or equivalent OC dispenser will be passed on from shift to shift and accounted for on Form DC6-209, Housing Unit Log, at the beginning of each shift with an entry for each canister indicated by canister number and officer initials who is assigned that canister. Form DC6-209 is incorporated by reference in Rule 33-601.800, F.A.C. Canisters that are not being worn by staff on shifts that have fewer assigned staff will remain in the officer station, stored in a secure, locked cabinet or drawer designated for this purpose. The number of chemical agent canisters assigned to a housing unit shall not exceed the maximum number of staff (officer and sergeant) assigned for the highest staffed shift per the institutional post chart. Any evidence of tampering, broken or missing seal, or signs that the canister is not functional will be immediately reported to the shift officer in charge. Additionally, a Use of Force Incident Report, Form DC6-210A, ~~DC6-210A~~ will be completed by the end of the officer's shift and a replacement of the canister will occur. The canisters will be inventoried and inspected once per week by the arsenal sergeant with appropriate entry placed on the Housing Unit Log, Form DC6-209.

(g) For those staff assigned to internal security and designated A-Team members, exchange of approved canisters shall occur on the compound, with the canister number and confirmation of seal status and condition of canister called into the control room and notation made on the DC6-281, Control Room Security Equipment/Weapons Check Out/In Log. Form DC6-281, Control Room Security Equipment/Weapons Check Out/In Log, is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, 501 South ~~S~~: Calhoun Street, Tallahassee, FL 32399-2500, <http://www.flrules.org/Gateway/reference.asp?No=Ref-02952>. The effective date of the form is 8/13. The canisters will be inventoried and inspected once per week by the arsenal sergeant with appropriate entry placed on the Control Room Log.

(h) For those staff assigned to food service, wellness, gate areas, program areas, and other compound posts that are not manned on a 24-hour basis, the staff assigned to the daylight shift shall pick up their canisters at the control room immediately prior to proceeding to their assigned post. The exchange of canisters for their reliefs shall occur on the compound, with the canister number and confirmation of seal status and condition of canister called into the Control Room and notation made on Form DC6-281, ~~DC6-281~~ Control Room Security Equipment/Weapons Check Out/In Log. The canisters will be inventoried and inspected once per week by the arsenal sergeant with appropriate entry placed on the Control Room Log.

(i) Chemical agent dispensers shall be securely encased and attached to the officer's belt. Each chemical agent dispenser shall be secured within a pouch or to a holstering device by a numbered, breakable seal. Officers shall examine the condition of the canister and the safety seal at the time of receiving or being issued any chemical dispenser to ensure that the canister is not damaged and that the seal is intact and shall report any alteration or broken seal to the shift supervisor.

(j) Shift supervisors shall examine the seal of any chemical dispenser reported to be altered, broken, or manipulated and upon confirmation of alteration, breakage, or manipulation shall report the observation on a Use of Force Incident Report, Form DC6-210A. The sergeant in charge of the arsenal shall maintain a master inventory of all individual chemical agent dispensers in storage. The master inventory shall indicate the weight of each dispenser at the time the original seal is attached and shall note ~~annotate~~ the weight of the dispenser any time a dispenser is

returned with a broken seal on Form DC6-216, Chemical Agent Accountability Log, and replace the seal or attach a new one. The arsenal sergeant shall report any discrepancies in the weight of the dispenser to the chief of security and complete a Use of Force Incident Report, Form DC6-210A.

(k) The shift supervisor shall verify the weight of chemical agent dispensers after any use of the dispenser upon return to storage. Additionally, the shift supervisor shall ensure all issued chemical agent dispensers are accounted for and recorded on Form DC6-216, Chemical Agent Accountability Log. The chief of security shall monitor the canister weights following each use of chemical agents to ensure the contents are consistent after a reported use of force and recorded on Form DC6-216.

(l) No change.

(12) Less-Lethal Weapons – Issuance, Storage, and Handling.

(a) through (d) No change.

(e) EIDs shall not be used after the application of any chemical agents.

(f) DFEIDs shall only be issued to officers assigned to security posts as designated by the Department.

(g) The issuance and return of DFEIDs shall be documented on Form DC6-281, Control Room Security Equipment/Weapons Check Out/In Log, and shall be documented separately from all other security equipment.

(h) DFEIDs and associated body cameras shall be paired and issued as a set. Officers shall at no time possess a DFEID without a paired body camera. Operating a DFEID without a paired body camera is strictly prohibited and may result in disciplinary action.

(i) All trained officers who are issued a DFEID shall carry it while on-duty. The DFEID shall be secured in the appropriate holster and worn on the officer's duty belt.

(j)(e) Storage of Specialty Impact Munitions.

1. Specialty impact munitions shall be stored and maintained in the main arsenal.

2. Specialty impact munitions shall not be mixed with lethal munitions. Weapons designated to deploy specialty impact munitions shall be marked in a manner to alert staff of their intended use.

3. All specialty impact munitions shall be accounted for in the same manner as firearms and ammunition.

(k)(f) No weapon shall be issued for any purpose other than the authorized use of force or to a certified training officer for the purpose of approved training without prior written authorization from the warden or designee.

Rulemaking Authority 944.09 FS. Law Implemented 776.012, 776.06, 776.07, 843.04, 943.1717, 944.09, 944.35, 945.025, 945.04, 957.05 945.05 FS. History—New 4-8-81, Amended 10-10-83, 9-28-85, Formerly 33-3.066, Amended 3-26-86, 11-21-86, 4-21-93, 7-26-93, 11-2-94, 2-12-97, 11-8-98, Formerly 33-3.0066, Amended 10-6-99, 2-7-00, 7-25-02, 8-25-03, 2-25-04, 11-7-04, 4-17-05, 8-1-05, 3-2-06, 9-18-06, 10-4-07, 3-3-08, 8-4-08, 1-6-09, 5-26-09, 4-8-10, 9-13-10, 3-22-11, 12-16-12, 8-11-13, 11-5-13, 1-10-18, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Richard Comerford, Assistant Deputy Secretary of Institutions

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Mark S. Inch, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 27, 2020

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