

# **SUPERVISION\DCC\SUPERVISION PROCESS\VIOLATIONS\USE OF FORCE**

## **Use of Force**

### **.01 AUTHORITY**

[Wisconsin Administrative Code DOC 328.18](#)

### **.02 GENERAL STATEMENT**

Whenever feasible, field staff will rely on law enforcement authorities to exercise force against offenders. If law enforcement is not available, techniques learned in (POSC) Principle of Subject Control/Intervention Options training should be exercised. Prior to engaging in the use of force, staff must make a determination that the use of force is both justifiable and desirable as trained in POSC.

### **.03 DEFINITIONS**

In this subchapter, the following definitions apply:

- a. "Bodily injury" means physical pain or injury, illness, or any impairment of physical condition.
- b. "Deadly force" means force which the user reasonably believes will create a substantial risk of causing death or great bodily injury to another.
- c. "Force" means the exercise of strength or power to overcome resistance or to compel another to act or refrain from acting in a particular way. It includes the use of mechanical and physical power or strength. Only so much force may be used as is reasonably necessary to achieve the objective for which it is used.
- d. "Great bodily injury" means bodily injury which creates a high probability of death, which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily injury.
- e. "Non-deadly force" means force which the user reasonably believes will not create a substantial risk of causing death or great bodily injury to another.
- f. "Reasonably believes" means that the actor believes that a certain fact situation exists and such belief under the circumstances is reasonable even though it may be erroneous.

#### **.04 NON-DEADLY FORCE**

Non-deadly force may be used by field staff against offenders only if the user of force reasonably believes it is immediately necessary to realize one of the following purposes:

- a. To prevent death or bodily injury to oneself or another;
- b. To prevent unlawful damage to property that may result in death or bodily injury to oneself or to another;
- c. To prevent an offender from fleeing the control of a field staff member;
- d. To change the location of an offender; or
- e. To prevent unlawful damage to property.

#### **.05 PROCEDURE**

Non-deadly force may be used to apprehend an offender or take an offender into custody only in the following manner:

- a. Staff has exhausted all efforts to persuade the offender to voluntarily be taken into the custody of field staff prior to using force;
- b. If the offender refuses, staff may exercise minimal physical force necessary to apprehend the offender. Minimal force should be exercised in the following way:
  1. If possible, staff should not attempt to physically handle the offender until sufficient staff are present to evidence a show of force;
  2. The offender should again be asked to voluntarily be taken into custody;
  3. If the offender refuses and the decision is made to proceed with the custody, staff may attempt to stabilize the offender using techniques trained in POSC; and
  4. The offender will then be handcuffed behind his or her back, or restrained by other appropriate methods.

#### **.06 REPORTING REQUIREMENTS**

If force is used, the agent or other involved staff shall prepare a Wisconsin Integrated Corrections System (WICS) Incident Report and complete Section A of the DCC Use of Force Report ([DOC-1960B](#)) form within 1 working day of incident and forward it to the Field Supervisor.

The Field Supervisor will review and complete the WICS Incident Report and complete Section B of the DCC Use of Force Report ([DOC-1960B](#)) and forward to the Regional Chief/Designee within three working days of incident.

The Regional Chief/designee will review and complete the WICS Incident Report and complete Section C of the Use of Force Report ([DOC-1960B](#)) and forward to the POSC Staff Development Specialist/Use of Force Committee within 5 working days of receipt.

The POSC Staff Development Specialist/Use of Force Committee will review the WICS Incident Report and complete Section D of the Use of Force Report ([DOC-1960B](#)) within 10 working days of receipt and forward to the Administrator/designee and the Regional Chief/designee.

The Administrator/designee shall review the completed reports and take appropriate action, if necessary, and advise the Regional Chief/designee on any and all recommendations submitted by the POSC Staff Development Specialist/Use of Force Committee.

After apprehension, the offender and staff should be checked for injury and treated by a physician if necessary. If injury resulted, a WICS Incident Report will be completed detailing the cause and extent of the injury and the treatment provided. In addition to a completed WICS Incident Report, any assaultive behavior or threats made against DOC staff shall also be documented in the Cautionary Information Section in COMPAS.

#### **.07 DEADLY FORCE**

Deadly force may not be used by field staff against offenders except to prevent death or great bodily injury to oneself or another.

Deadly force may not be used by field staff if its use creates a substantial danger or harm to innocent third parties, unless the danger created by not using such force is greater than the danger created by using it.

#### **.08 PROHIBITED ACTS**

Staff shall not utilize excessive force, corporal punishment, verbal or any other form of abuse. Staff shall not compromise a subject's ability to breathe in any manner.

#### **.09 INJURY REPORT**

If a staff injury occurs, the employee, if able, must complete the Employee's Work Injury and Illness Report ([DOA-6058](#)) and a WICS Incident Report within 24 hours of injury, and submit the form to his/her immediate supervisor. Refer to the DOC Health and Safety Handbook for further details.

Supervisor's Responsibility: After appropriate investigation, the immediate supervisor of the employee must ensure that an Employer's First Report of Injury or Disease ([WKC-12](#)) is completed and submitted. In cases where the injured employee is unable to complete the form or when a fatality has occurred, the supervisor will complete the employee report section.

## **.10 OLEORESIN CAPSICUM (OC) SPRAY**

Policy: In all instances, de-escalation should be attempted prior to use of OC. OC is not to be used as punishment or to facilitate offender movement. Users of OC must have completed a POSC/Intervention Options training, which includes personal exposure to OC and decontamination procedures. Only DOC approved products and delivery systems will be approved for employment related use. OC products must be used and stored according to the DOC policy and the manufacturer's instructions. After the workday, OC products must be stored in a locked and secured area. Medical attention must be provided immediately after exposure, once the area is secured. Documentation will be required following any use of OC spray.

Procedures:

- A. Training: Authorized training for field staff in DCC will be according to the Wisconsin Department of Justice Minimum Instructional Standards-OC Aerosol Basic Training Program. Prerequisites include completion of POSC/Intervention Options training. All field staff in DCC authorized to use OC must be recertified for continued use annually.
- B. Approved Products: Approved products for field staff in DCC included foam or stream delivery only. No larger than 2-ounce aerosol delivery systems with belt cases will be approved. DCC employees will not carry OC products on key rings or key chains. The propellant used must be nonflammable, and percentage of OC will be within the 5% to 10% range.
- C. Authorized Use: Field staff in DCC may direct the use of OC spray toward an offender, a third person, or animal only when acting in self-defense or defense of a third

person. OC use is not authorized because an offender refuses to follow orders or for the purpose of causing bodily harm or discomfort. In all instances, de-escalation should be attempted prior to use of OC.

- D. Documentation: If OC spray is used, follow reporting requirements noted above. The employee must be placed on office duty pending assessment of the incident.