

USE OF FORCE (DETENTION)

OBJECTIVES

- Staff will learn use of force legal standards
- Staff will review the department's use of force policy

Detention officers use force to one degree or another on a daily basis. Our professional staff handles the vast majority of these incidents without difficulty; however, when dealing with troubled and aggressive inmate populations and their attorney's, allegations of excessive force and brutality emerge.

Officers are expected to eliminate or reduce civil liability, protect themselves and others from inmate assaults, and maintain order and security in the facility. When it comes to the use of force, officers must make good decisions and take immediate action on a daily basis or else staff, visitors, or inmates could be seriously injured or killed.

Inmates act up for a number of reasons, but ultimately, they're injurious behavior must be stopped. It's up to you; it's your responsibility to maintain security and order in the facility and very often this means employing some degree of force.

It is imperative that every detention officer understand the legal standards and department policy concerning use of force. Bottom line, we know who the aggressor is in the facility and who is assaulting whom, but as officers, we must respond professionally with proper conduct.

NMAC collected the following information from member counties:

- From 2003-2005, excessive force allegations accounted for 10% of all claims filed against detention personnel.
- Inmate assaults are the leading cause of injury to officers.
- From 2003-2005, officer assaults accounted for 121 workers' compensation injuries; these injuries represent 33% of all officer injuries for the period.

LEGAL STANDARD

The lawful use of physical force in detention operations is normally restricted to:

- 1) Self-defense
- 2) Defense of others
- 3) Enforcing facility rules
- 4) Preventing crime in facility
- 5) Preventing escape

Self-Defense:

If you fear for your safety, you are permitted to defend yourself. You can use the amount of force necessary to repel the attack and subdue the attacker. The degree of force should be enough force to protect yourself, and once the threat is removed or controlled, the use of force should stop. It may be hard to decide how much is "just enough" force. Court decisions have shown that you can use your own judgment unless the amount of force you use is "malicious or sadistic." Meaning, you can use force to protect yourself, not to punish the attacker. Once the attacker is subdued, de-escalate the force to the level necessary to maintain control.

Defense of Others:

The same principles apply for defending others as with self-defense. You may legally use the amount of force necessary to stop the attack and subdue the attacker.

Enforcing Facility Rules:

You can use force to compel inmates to obey facility rules. Controlling inmate population and maintaining order is impossible without rules. You must enforce the rules, and the inmates should understand that you are prepared to use force to ensure that they comply.

If you must resort to force to compel inmates to obey rules, it may not be arbitrary. You have to follow policies and procedures. The use of force must be reasonable and fit the circumstances, and it should follow repeated verbal requests and commands for compliance, e.g., the amount of force used for an inmate committing property damage is substantially less than that used to protect a person.

You should also expect to use force to prevent inmates from harming themselves, including suicide attempts.

Preventing Crime:

You have a duty to prevent harm to inmates, including that harm from criminal activity. The criminal activity that the law requires you to prevent in the facility could be direct harm to an inmate such as an assault, or indirect harm such as drug sales or extortion. In either case you are justified in using reasonable force to prevent criminal activity and to apprehend those who commit crimes in the facility.

Preventing Escape:

You have the right to use force to prevent escapes or to recapture an inmate who has escaped.

USE OF FORCE CONSIDERATIONS

- If you have time, use it. Using discretionary time will allow an inmate to cool down and/or give supervision time to plan a response.
- You can use the amount of force necessary to repel an attack and subdue the attacker, and once subdued, de-escalate the force to the level necessary to maintain control.
- You can use your own judgment unless the amount of force you use is “malicious or sadistic.” Officers should act reasonably based of the circumstances.
- Officers should document all uses of force and articulate, in detail, the resistance, extent of force used, inmate’s response to force, and type of force used to subdue and/or control a given situation. Properly documenting each use of force is our best defense against civil litigation or criminal prosecution.

POLICY

Discuss the department’s policies concerning use of force.

CLOSING

- *Encourage discussion about the use of force, the department’s policy, and the legal standard.*