

December 11, 2014

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-602.210

RULE TITLE: Use of Force

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the Notice of Proposed Rulemaking published in Vol. 40, No. 196 (October 8, 2014) of the Florida Administrative Register. The changes are in response to comments made by the Joint Administrative Procedures Committee in a letter dated October 20, 2014. The changes are as follows:

33-602.210 Use of Force.

(1) No change.

(2) Definitions.

(a) through (r) No change.

(s) Uninvolved CIT-Trained Officer – A CIT-trained officer that is not involved in the events leading up to the need to use force.

~~(t)(e)~~ 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.

(3) A video camera operator shall commence recording all reactionary use of force incidents upon arrival at the scene as soon as possible. All organized use of force incidents shall be video recorded unless exigent or emergency circumstances prevent such action. Except in the circumstances described in sub-subparagraph ~~(9)(o)2.e. (9)(n)2.e.~~, video recordings shall continue uninterrupted from commencement until the situation is stable and under control and the inmate is placed in a secure cell or transport vehicle for transfer. Additionally, the camera operator shall, to the best of his or her ability, ensure that all staff actively involved in any use of force and captured within the viewfinder of the camera is identified by rank/title and name.

(a) through (e) No change.

(4) through (8) No change.

(9) Use of Chemical Agents. All chemical agents shall be used with caution and in accordance with the manufacturer's instructions.

(a) through (f) No change.

(g) Prior to issuance of a final order to an inmate ordering compliance or cessation of disruptive behavior, a confinement lieutenant, close management 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 confinement lieutenant, close management lieutenant or shift supervisor shall have a qualified mental health professional provide crisis intervention and attempt to de-escalate the situation and prevent a use of force. After regular work hours, the confinement lieutenant, close management 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.

(h) through (q) No change.

(10) An employee of the Department is Non-deadly Force. In accordance with Section 944.35, F.S., officers are authorized to apply lawful and reasonably necessary physical force upon an inmate to:

(a) Defend himself, herself, themselves or others against an imminent use of unlawful force from actions that are likely to cause injury or death;

(b) Prevent a person from escaping from a state correctional institution or any facility where an inmate is not permitted to leave without authorization when the employee reasonably believes that person is lawfully detained in such institution or facility; Prevent the escape of a convicted felon from the custody of a correctional institution, any facility where an inmate is not permitted to depart without authorization, or as necessary to gain custody of an escaped inmate;

(c) Gain custody of an escaped inmate; Prevent the escape of an inmate during transport or while outside a correctional institution or facility;

(d) through (f) No change.

(g) Prevent an inmate from inflicting any self-injury or attempting from attempts to commit suicide; or

(h) Restrain Reasonably restrain an inmate to permit the administration of necessary medical treatment under the supervision of a physician or his or her designee when treatment is necessary to protect the health of the inmate or others.

(11) No change.

(12) Any time force is used, the officer initially using force shall complete Form DC6-230, Report of Force Used. The completed form 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. An incident report prepared by the author of the DC6-230, Report of Force Used, may be referenced in Section A., Narrative of Pre-event, and attached to the report to provide additional detail regarding the justification and necessity for using force. If more than one officer was involved in the use of force, the initial officer using force shall complete the report. Any participant who objects to information recorded by the reporting officer or who has additional observations to add to the narrative or description of the incident written by the reporting officer shall complete and attach Form DC6-230, Report of Force Used. No officer or employee shall receive discipline for providing updated information to a use of force report, provided the updated information is presented without unnecessary delay after discovery of the discrepancy. Updates or addendums recorded on any Form DC6-230, Report of Force Used, should be completed and forwarded to the warden not later than one (1) business day (excluding weekends and holidays) following completion of the original DC6-230 the date that the original Form DC6-232, Authorization for Use of Force, is signed and dated.

(a) through (m) No change.

(n) Officers may use reasonable physical force to restrain an inmate, upon supervision and direction of a physician or medical practitioner, for the purpose of providing necessary treatment to protect the health of others or to satisfy a duty to protect an inmate against self-inflicted injury or death ~~or for the safety of an employee~~. The attending Qualified Health Care Provider who directs or observes medically necessary use of force shall prepare Form DC6-232, Authorization for Use of Force for Facilitating Emergency Treatment Order, authorizing the use of force. A copy of the DC6-232 shall be provided to the Shift Supervisor for attachment to the Institutions Report of Force Used DC6-230 for review by the Warden or Duty Warden. Form DC6-232 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 _____. Officers who use force pursuant to a physician or medical practitioner's request shall complete Form DC6-230, Report of Force Used, when actual force is used, or Form DC6-210, Incident Report, when restraints are applied with no physical resistance by the inmate, and the form shall be forwarded to the warden.

(o) through (q) No change.

(13) through (17) No change.

Rulemaking Authority 944.09 FS. Law Implemented 776.012, 776.06, 776.07, 843.04, 944.02, 944.09, 944.35, 957.05 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, _____.