

2.15 Use of Force and Restraints

I. Purpose and Scope

This detention standard authorizes staff to use necessary and reasonable force after all reasonable efforts to otherwise resolve a situation have failed, for protection of all persons; to minimize injury to self, detainees, staff and others; to prevent escape or serious property damage; or to maintain the security and orderly operation of the facility.

Staff shall use only the degree of force necessary to gain control of detainees and, under specified conditions, may use physical restraints to gain control of a dangerous detainee.

This detention standard does not specifically address the use of restraints for medical or mental health purposes, which is addressed by standard “4.3 Medical Care.”

Canine units, where available, may be used for contraband detection, but their use for force, control, or intimidation of detainees is prohibited.

This detention standard applies to the following types of facilities housing ICE/ERO detainees:

- Service Processing Centers (SPCs);
- Contract Detention Facilities (CDFs); and
- State or local government facilities used by ERO through Intergovernmental Service Agreements (IGSAs) to hold detainees for more than 72 hours.

Procedures in italics are specifically required for SPCs, CDFs, and Dedicated IGSA facilities. Non-dedicated IGSA facilities must conform to these procedures or adopt, adapt or establish alternatives, provided they meet or exceed the intent represented by these procedures.

Various terms used in this standard may be defined

in standard “7.5 Definitions.”

II. Expected Outcomes

The expected outcomes of this detention standard are as follows (specific requirements are defined in “V. Expected Practices”):

1. Physical force shall only be used, when both necessary and reasonable,
2. Facilities shall endorse confrontation avoidance as the preferred method for resolving situations, always to be attempted prior to any calculated use of force.
3. Physical force shall only be used to the minimum extent necessary to restore order, protect safety and provide security.
4. Physical force or restraint devices shall not be used as punishment.
5. Restraints shall not be applied without approval in those circumstances for which prior supervisory approval is required.
6. Four/five-point restraints shall be applied only in extreme circumstances and only when other types of restraints have proven ineffective. Advance approval is required, as is prompt notification of and examination by the medical staff. Use of these restraints shall be continued only in accordance with required procedures and documentation.
7. Intermediate force devices shall be used only in circumstances prescribed herein.
8. In each facility, all weapons and related equipment shall be stored securely in designated areas to which only authorized persons have access.
9. In each facility, chemical agents and related security equipment shall be inventoried at least once per month to determine their condition and expiration dates.
10. In each facility, a written record of routine and

emergency distribution of security equipment shall be maintained.

11. An employee shall submit a written report no later than the end of his/her shift when force was used on any detainee for any reason, or if any detainee remains in any type of restraints at the end of that shift. This documentation includes written report of discharge of a firearm and use of less lethal devices to control detainees.
12. Telephonic notification to the Field Office Director shall occur as soon as practicable. Documentation shall be submitted to the Field Office Director within two business days via an ICE-approved form or equivalent, of any use-of-force incident involving an ICE detainee. Appropriate documentation shall be maintained when physical force is used.
13. Canines shall not be used for force, control, or intimidation of detainees.
14. The facility shall provide communication assistance to detainees with disabilities and detainees who are limited in their English proficiency (LEP). The facility will provide detainees with disabilities with effective communication, which may include the provision of auxiliary aids, such as readers, materials in Braille, audio recordings, telephone handset amplifiers, telephones compatible with hearing aids, telecommunications devices for deaf persons (TTYs), interpreters, and note-takers, as needed. The facility will also provide detainees who are LEP with language assistance, including bilingual staff or professional interpretation and translation services, to provide them with meaningful access to its programs and activities.

All written materials provided to detainees shall generally be translated into Spanish. Where practicable, provisions for written translation shall be made for other significant segments of the population with limited English proficiency.

Oral interpretation or assistance shall be provided to any detainee who speaks another language in which written material has not been translated or who is illiterate.

III. Standards Affected

This detention standard replaces “Use of Force” dated 12/2/2008.

IV. References

American Correctional Association, *Performance-based Standards for Adult Local Detention Facilities*, 4th Edition: 4-ALDF-2B-01, 2B-02, 2B-03, 2B-04, 2B-05, 2B-06, 2B-07, 2B-08, 2C-01, 2C-02, 2C-06, 7B-15, 7B-16.

ICE Interim “Use of Force Policy” (7/7/2004), as amended or updated.

DHS “Use of Deadly Force Policy” (06/25/2004).

National Enforcement Standard, “Use of Intermediate Force.”

V. Expected Practices

A. Overview

1. Use of force in detention facilities is never used as punishment, is minimized by staff attempts to first gain detainee cooperation, is executed only through approved techniques and devices, and involves only the degree necessary and reasonable to gain control of a detainee or provide for self-defense or defense of a third person.
2. Various levels of force may be necessary and reasonable, depending on the totality of the circumstances.
3. Generally, use of force is either immediate or calculated; calculated force is preferable in most cases as it is most likely to minimize harm to detainees or staff.
4. Use of force may involve physical control and placement of a detainee in secure housing,

and/or the application of various types and degrees of restraint devices.

5. Follow-up (e.g., medical attention), documentation (e.g., audiovisual recording for calculated use of force), reporting and an after-action review are required for each incident involving use of force.

B. Principles Governing the Use of Force and Application of Restraints

1. Instruments of restraint shall be used only as a precaution against escape during transfer; for medical reasons, when directed by the medical officer; or to prevent self-injury, injury to others, or property damage. Restraints shall be applied for the least amount of time necessary to achieve the desired behavioral objectives.
2. Under no circumstances shall staff use force or apply restraints to punish a detainee.
3. Staff shall attempt to gain a detainee's willing cooperation before using force.
4. Staff shall use only that amount of force necessary and reasonable to gain control of a detainee.
5. Staff may immediately use restraints, if warranted, to prevent a detainee from harming self or others or from causing serious property damage.
6. Absent one or more of the factors listed above, placement in an SMU does not constitute a valid basis for the use of restraints while in the SMU or during movement around the facility.
7. Detainees subjected to use of force shall be seen by medical staff as soon as possible. If the use of force results in an injury or claim of injury, medical evaluation shall be obtained and appropriate care provided.
8. Facility Administrator approval is required for continued use of restraints, if they are considered necessary, once a detainee is under control.
9. Staff may apply additional restraints to a detainee who continues to resist after staff achieve physical control. If a restrained detainee refuses to move or cannot move because of the restraints, staff may lift and carry the detainee to the appropriate destination. Staff may not use the restraints to lift or carry the detainee. If feasible, an assistive device (e.g., ambulatory chair, gurney) shall be used to help move the restrained detainee.
10. Staff may not remove restraints until the detainee is no longer a danger to himself or others.
11. Staff may not use restraint equipment or devices (e.g., handcuffs):
 - a. on a detainee's neck or face, or in any manner that restricts blood circulation or obstructs the detainee's airways (e.g., mouth, nose, neck, esophagus). See "V. Expected Practices."E below for more information; or
 - b. to cause physical pain or extreme discomfort. While some discomfort may be unavoidable even when restraints are applied properly, examples of prohibited applications include: improperly applied restraints, unnecessarily tight restraints, "hog-tying," and fetal restraints (i.e., cuffed in front with connecting restraint drawn-up to create the fetal position).
12. Staff shall comply with defensive tactics training and the proper application of those techniques.
13. Staff shall monitor all detainees placed in restraints.
14. Documenting, reporting and investigating use-of-force incidents helps prevent unwarranted use of force and protects staff from unfounded allegations of improper or excessive use of force.
15. Calculated use of force requires supervisor pre-authorization and consultation with medical staff to determine if the detainee has medical issues requiring specific precautions.
16. Deadly force may be used only when an officer

has probable cause that the detainee poses an imminent danger of death or serious physical injury to the officer or to another person. Deadly force may not be used solely to prevent the escape of a fleeing suspect.

C. Use-of-Force Continuum

The Use-of-Force Continuum is a five-level model used to illustrate the levels of force staff may use to gain control of a detainee. The levels are:

1. Staff Presence without Action
2. Verbal Commands
3. Soft Techniques
Techniques from which there is minimal chance of injury (e.g., grasping, using empty-hand and/or “come-along” holds, using impact weapons for holds, applying pressure to pressure points, using chemical agents).
4. Hard Techniques
Techniques with which there is a greater possibility of injury (e.g., strikes, throws, “take-downs,” or striking using impact weapons such as expandable batons, straight batons, authorized less-lethal devices and specialty impact weapons).
5. Deadly Force
The use of any force that is reasonably likely to cause death or serious physical injury. Deadly force does not include force that is not reasonably likely to cause death or serious physical injury, but unexpectedly results in such death or injury.

Staff are trained and required to use only a level of force that is necessary and reasonable to gain control of a detainee; however, the totality of the circumstances may necessitate use of a higher level of force. Staff may have to rapidly escalate or de-escalate through the Use of Force Continuum, depending on the totality of circumstances present.

D. Training

1. General Training

All new officers shall be sufficiently trained during their first year of employment. Through ongoing training (to occur annually at a minimum), all detention facility staff must be made aware of their responsibilities to effectively handle situations involving aggressive detainees.

At a minimum, training shall include:

- a. requirements of this detention standard;
- b. use-of-force continuum, to include use of deadly force;
- c. communication techniques;
- d. cultural diversity;
- e. management of detainees with mental health conditions;
- f. confrontation-avoidance techniques;
- g. approved methods of self-defense and defensive tactics;
- h. forced cell move techniques;
- i. prevention of communicable diseases, particularly precautions to be taken when using force;
- j. application of restraints (progressive and hard);
- k. reporting procedures; and
- l. forced medication procedures.

Staff shall also be advised of the “Prohibited Force Acts and Techniques,” listed below in “Section E” of this standard. Staff shall receive defensive tactics training before being placed in a detainee-contact position.

2. Specialized Training

Any officer who is authorized to use an intermediate force device shall be specifically trained and certified to use that device. Training in the use of chemical agents also shall include treatment of individuals exposed to them.

Training shall also cover use of force in special circumstances (detailed below).

All employees who participate in a calculated use-of-force move shall have received prior training.

The employee shall receive training on an annual basis, and documentation of that training shall be maintained in the employee's training record for the duration of his/her employment at the facility. The employee must also maintain certification.

E. Prohibited Force Acts and Techniques

The following acts and techniques are specifically prohibited, unless deadly force would be authorized:

1. Choke holds, carotid control holds and other neck restraints;
2. Using a baton to apply choke or "come-along" holds to the neck area;
3. Intentional baton strikes to the head, face, groin, solar plexus, neck, kidneys, or spinal column;

The following acts and techniques are generally prohibited, unless both necessary and reasonable in the circumstances:

1. Striking a detainee when grasping or pushing him/her would achieve the desired result;
2. Using force against a detainee offering no resistance; and
3. Restraining detainees to fixed objects not designed for restraint.

F. Use of Force in Special Circumstances

Occasionally, after the failure of confrontation-avoidance techniques, staff must make a judgment whether to use higher levels of force with detainees in special circumstances. Except in instances where immediate use of force is necessary, staff shall consult medical staff, in certain cases set forth below, before unilaterally determining a situation sufficiently grave to warrant the use of physical force.

1. Restraints on Pregnant Women

A pregnant woman or woman in post-delivery

recuperation shall not be restrained absent truly extraordinary circumstances that render restraints absolutely necessary as documented by a supervisor and directed by the on-site medical authority. This general prohibition on restraints applies to all pregnant women in the custody of ICE, whether during transport, in a detention facility, or at an outside medical facility. Restraints are never permitted on women who are in active labor or delivery.

Restraints should not be considered as an option, except under the following extraordinary circumstances:

- a. a medical officer has directed the use of restraints for medical reasons;
- b. credible, reasonable grounds exist to believe the detainee presents an immediate and serious threat of hurting herself, staff or others; or
- c. reasonable grounds exist to believe the detainee presents an immediate and credible risk of escape that cannot be reasonably minimized through any other method.

In the rare event that one of the above situations applies, medical staff shall determine the safest method and duration for the use of restraints and the least restrictive restraints necessary shall be used.

Even in the extraordinary circumstance when restraints are deemed necessary, no detainee known to be pregnant shall be restrained in a face-down position with four-point restraints, on her back, or in a restraint belt that constricts the area of the pregnancy. All attempts will be made to ensure that the detainee is placed on her left side if she is immobilized.

The use of restraints requires documented approval and guidance from the on-site medical authority. Record-keeping and reporting requirements regarding the medical approval to use restraints shall be consistent with other provisions within these standards, including documentation in the detainee's

A-file, detention and medical file.

2. Detainees with Wounds or Cuts

Staff shall wear protective gear when restraining aggressive detainees with open cuts or wounds. If force is necessary, protective gear shall include a full-body shield.

Aggressive detainees in restraints shall be placed in administrative segregation, and segregated from all other detainees. Such detainees shall remain in a Special Management Unit (SMU) until cleared to return to the general population by the chief immigration enforcement agent and the clinical director, with the facility administrator's approval.

3. Detainees with Special Medical or Mental Health Needs

If a situation arises involving a detainee with special needs, the appropriate medical or mental health staff shall be consulted prior to the calculated use of force. "Detainees with special needs" include detainees with physical, intellectual, and developmental disabilities and detainees with a mental health condition that may impair their ability to understand the situation. Medical staff shall be consulted in circumstances involving special-needs detainees. "Special needs" is defined in Standard 7.5 "Definitions."

G. Intermediate Force Weapons

In this detention standard, "Intermediate Force Weapons" refers to weapons otherwise known as "non-deadly force weapons," "non-lethal weapons," or "less-than-lethal weapons."

1. Storage

Ordinarily, when not actually in use, intermediate force weapons and related equipment are permitted only in designated areas:

- a. where access is limited to authorized personnel, and
- b. to which detainees and non-authorized personnel

have no access.

If such equipment is kept in an SMU, staff shall store and maintain it under the same conditions as Class "A" tools. If an SMU lacks appropriate secure space, the equipment must be kept in a secure location elsewhere in the facility.

2. Recordkeeping and Maintenance

Each facility shall maintain a written record of routine and emergency distribution of security equipment and shall specifically designate and incorporate, in one or more post orders, responsibility for staff to inventory chemical agents and related security equipment at least monthly to determine their condition and expiration dates.

3. Use

The facility administrator may authorize the use of intermediate force weapons if a detainee:

- a. is armed and/or barricaded; or
- b. cannot be approached without danger to self or others; and
- c. a delay in controlling the situation would seriously endanger the detainee or others, or would result in a major disturbance or serious property damage.

Staff shall consult medical staff as practicable, before using pepper spray or other intermediate force weapons unless escalating tension makes such action unavoidable. When possible, medical staff shall review the detainee's medical file for a disease or condition that an intermediate force weapon could seriously exacerbate, including, but not limited to, asthma, emphysema, bronchitis, tuberculosis, obstructive pulmonary disease, angina pectoris, cardiac myopathy or congestive heart failure.

In the use-of-force continuum, the collapsible steel baton authorized below is an "impact weapon" that is considered:

- a. a "soft" technique when used during "come-

alongs” or to apply gradual pressure for compliance, or

- b. a “hard” technique when used for striking.

As with any use of force, staff using an impact weapon shall choose the appropriate level as required by the totality of circumstances, and its use must be discontinued when adequate control of a detainee has been achieved.

4. Authorized Intermediate Force Devices

The following devices are authorized:

- a. oleoresin capsicum (OC) spray (“pepper spray”);
- b. collapsible steel baton;
- c. a 36” straight, or riot, baton; and
- d. ICE authorized chemical and impact munitions

5. Unauthorized Force Devices

The following devices are not authorized:

- a. saps, blackjacks and sap gloves;
- b. mace, CN, tear gas, or other chemical agents, except OC spray;
- c. homemade devices or tools; and
- d. any other device or tool not issued or approved by ICE/ERO.

H. Immediate use of force

An “immediate-use-of-force” situation is created when a detainee’s behavior constitutes a serious and immediate threat to self, staff, another detainee, property, or the security and orderly operation of the facility. In that situation, staff may respond without a supervisor’s direction or presence.

Upon gaining control of the detainee, staff shall seek the assistance of qualified health personnel to immediately:

- 1. Determine if the detainee or facility staff requires continuing care and, if so, make the necessary arrangements. Continuing care may involve such

measures as admission to the facility hospital.

- 2. Examine the detainee and immediately treat any injuries. The medical services provided and diagnosed injuries shall be documented.
- 3. Examine any involved staff member who reports an injury and, if necessary, provide initial emergency care. The examination shall be documented.
- 4. A written report shall be provided to the shift supervisor by each officer involved in the use of force by the end of the officer’s shift.

The shift supervisor shall provide a written report to the facility administrator or designee no later than the end of a tour of duty when force was used on any detainee, or if any detainee remains in restraints at the end of that shift.

I. Calculated Use of Force and/or Application of Restraints

If a detainee is in a location where there is no immediate threat to the detainee or others (for example, a locked cell or range), staff shall take the time to assess the possibility of resolving the situation without resorting to force.

A calculated use of force needs to be authorized in advance by the facility administrator (or designee).

Medical staff shall review the detainee’s medical file for a disease or condition that an intermediate force weapon could seriously exacerbate, including, but not limited to, asthma, emphysema, bronchitis, tuberculosis, obstructive pulmonary disease, angina pectoris, cardiac myopathy, or congestive heart failure.

Calculated use of force is feasible and preferred to immediate use of force in most cases and is appropriate when the detainee is in a location where the detainee poses no immediate threat of harm, even if the detainee is verbalizing threats or brandishing a weapon, provided staff sees no immediate danger of the detainee’s causing harm to

himself or others. Calculated use of force affords staff time to strategize and resolve situations in the least confrontational manner and assist to de-escalate the situation.

1. Confrontation Avoidance

Before authorizing the calculated use of force, the on-site ranking detention official, a designated health professional and others as appropriate shall assess the situation. Taking into account the detainee's history and the circumstances of the immediate situation, they shall determine the appropriateness of using force.

The conferring staff may consider in their assessment the detainee's medical/mental history, recent incident reports involving the detainee, if any, and emotional shocks or traumas that may be contributing to the detainee's state of mind (e.g., a pending criminal prosecution or sentencing, divorce, illness, death).

Interviewing staff familiar with the detainee might yield insight into the detainee's current agitation or even pinpoint the immediate cause. Such interviews may also help identify those who have established rapport with the detainee or whose personalities suggest they might be able to reason with the detainee.

2. Documentation and Audiovisual Recording

While ICE/ERO requires that all use-of-force incidents be documented and forwarded to ICE/ERO for review, for calculated use of force, it is required that the entire incident be audio visually recorded. The facility administrator or designee is responsible for ensuring that use of force incidents are audio visually recorded. Staff shall be trained in the operation of audiovisual recording equipment. There shall be a sufficient number of cameras appropriately located and maintained in the facility. The audiovisual record and accompanying documentation shall be included in the investigation package for the after-action review described below.

Calculated use-of-force incidents shall be audio visually-recorded in the following order:

- a. Introduction by team leader stating facility name, location, time, date, etc., describing the incident that led to the calculated use of force, and naming the audiovisual camera operator and other staff present.
- b. Faces of all team members shall briefly appear (with helmets removed and heads uncovered), one at a time, identified by name and title.
- c. Team Leader offers the detainee a last chance to cooperate before team action, outlines the use-of-force procedures, engages in confrontation avoidance and issues use-of-force order.
- d. Record entire use-of-force team operation, unedited, until the detainee is in restraints.
- e. Take close-ups of the detainee's body during a medical exam, focusing on the presence/absence of injuries. Staff injuries, if any, are to be described but not shown.
- f. Debrief the incident with a full discussion/analysis/assessment of the incident.

3. Use-of-Force Team Technique

When a detainee must be forcibly moved and/or restrained during a calculated use of force, staff shall use the use-of-force team technique to prevent or diminish injury to staff and detainees and exposure to communicable disease. The technique usually involves five or more trained staff members clothed in protective gear, including helmet with face shield, jumpsuit, stab-resistant vest, gloves and forearm protectors. Team members enter the detainee's area together and have coordinated responsibility for achieving immediate control of the detainee.

- a. Staff shall be trained in the use-of-force team technique in sufficient numbers for teams to be quickly convened on all shifts in different locations throughout the facility. To use staff resources most effectively, the facility

administrator shall provide use-of-force team technique training for all staff members who could potentially participate in a calculated use of force.

- b. The use-of-force team technique training shall include the technique, its application, confrontation-avoidance, professionalism and debriefing.
- c. Training shall also address the use of protective clothing and handling of spilled blood and body fluids.
 - 1) Use-of-force team members and others participating in a calculated use of force shall wear protective gear, taking particular precautions when entering a cell or area where blood or other body fluids could be present.
 - 2) Staff members with a skin disease or skin injury shall not participate in a calculated use-of-force action.
- d. The shift supervisor or another supervisor on duty:
 - 1) must be on the scene prior to any calculated use of force to direct the operation and continuously monitor staff compliance with policy and procedure;
 - 2) shall not participate except to prevent impending staff injury;
 - 3) shall seek the advance guidance of qualified health personnel (based on a review of the detainee's medical record) to identify physical or mental issues and, whenever feasible, arrange for a health services professional to be present to observe and immediately treat any injuries;
 - 4) shall exclude from the use-of-force team any staff member involved in the incident precipitating the need for force; and
 - 5) may expand the use-of-force team to include staff with specific skills (e.g., those who

handle chemical agents).

- e. When restraints are necessary, the team shall choose ambulatory or progressive models (described later in this document) and may resort to four/five-point restraints only if the less restrictive devices prove ineffective.
- f. The supervisor shall provide a written report to the facility administrator or designee, no later than the end of a tour of duty when force was used on any detainee, or if any detainee remains in restraints at the end of that shift.

J. Evidence Protection and Sanitation

The supervisor shall inspect areas of blood or other body-fluid spillage after a use-of-force incident. Unless the supervisor determines that the spillage must be preserved as evidence, as specified under standard “2.3 Contraband,” staff or properly trained detainees shall immediately sanitize those areas, based on medical department guidance on appropriate cleaning solutions and their use. Standard “1.2 Environmental Health and Safety” provides detailed guidance for cleaning areas with blood and other body fluid spills.

Standard sanitation procedures shall be followed in areas with blood or other body fluid spillage. Wearing the appropriate protective gear, staff and/or detainees shall immediately apply disinfectant to sanitize surfaces such as walls and floors, furniture, etc. Articles of clothing and use-of-force equipment contaminated with body fluids shall likewise be disinfected or destroyed as needed and appropriate.

K. Maintaining Audiovisual Recording Equipment and Records

Staff shall store and maintain audiovisual recording equipment under the same conditions as “restricted” tools. The equipment must be kept in a secure location elsewhere in the facility.

Since audiovisual recording equipment must often be readily available, each facility administrator shall

designate and incorporate in one or more post orders responsibility for:

1. maintaining cameras and other audiovisual equipment;
2. regularly scheduled and documented testing to ensure all parts, including batteries, are in working order; and
3. keeping back-up supplies on hand (e.g., batteries, tapes or other recording media, lens cleaners).

Each audiovisual record shall be catalogued and preserved until no longer needed, but shall be kept no less than six years after its last documented use. In the event of litigation, the facility shall retain the relevant audiovisual record a minimum of six months after the litigation has concluded or been resolved.

***The relevant audiovisual record shall be retained by the facility for one year after litigation or any investigation has concluded or been resolved.*

The audiovisual records may be catalogued electronically or on 3" x 5" index cards, provided that the data can be searched by date and detainee name. A log shall document audiovisual record usage.

Use-of-force audiovisual records shall be available for supervisory, Field Office and ICE/ERO headquarters incident reviews and may also be used for training.

Release of use-of-force audiovisual recordings to the news media may occur only if authorized by the Director of Enforcement and Removal Operations, in accordance with ICE/ERO procedures and rules of accountability.

L. Approved Restraint Equipment

The following restraint equipment is authorized:

1. handcuffs: stainless steel, 10 oz.;
2. leg irons: stainless steel and must meet the National Institute of Justice standard;

3. martin chain;
4. waist or belly chain: case-hardened chains with a minimum breaking strength of approximately 800 pounds;
5. handcuff cover: cases for the security of handcuffs used on high security detainees;
6. soft restraints: nylon/leather type with soft arm and leg cuffs containing soft belts with key locks;
7. plastic cuffs: disposable; and
8. any other ICE/ERO-approved restraint device.

Deviations from this list of restraint equipment are strictly prohibited.

M. Ambulatory and Progressive Restraints

When sufficient for protection and control of a detainee, staff shall apply ambulatory restraints, which are soft and hard equipment that provides freedom of movement sufficient for eating, drinking and other basic needs without staff assistance or intervention;

If ambulatory restraints are insufficient to protect and control a detainee, staff may apply progressive restraints, which are more secure or restrictive. The facility administrator shall decide on the appropriate restraint method, i.e., hard restraints with/without waist chain or belt; four/five-point soft restraints with hard restraints to secure the detainee to a bed; four/five-point hard restraints, etc.

In situations involving a highly assaultive and aggressive detainee, progressive restraints may be needed as an intermediate measure while placing a detainee in, or removing a detainee from, four/five-point restraints.

Once a detainee has been placed in ambulatory restraints, the shift supervisor is required to conduct a physical check of the detainee once every two hours to determine if the detainee has stopped the behavior which required the restraints and thus restraints are no longer necessary. Once a positive

behavioral change has been achieved, a decision to remove the restraints or place the detainee in less restrictive restraints shall be made. If this has not been achieved, the shift supervisor shall document the reason for continuance of the ambulatory restraints.

The supervisor shall provide a written report to the facility administrator no later than the end of the tour of duty when any detainee remains in restraints at the end that shift.

N. Four/Five-Point Restraints

1. General Requirements

When four/five-point restraints are necessary, staff shall:

- a. Use soft restraints (e.g., vinyl), unless they:
 - 1) were previously ineffective with this detainee,
or
 - 2) proved ineffective in the current instance.
- b. Provide the detainee with temperature-appropriate clothing and a bed, mattress, sheet, and/or blanket. Under no circumstance shall a detainee remain naked or without cover (sheet or blanket) unless deemed necessary by qualified health personnel.
- c. Check and record the detainee's condition at least every 15 minutes to ensure that the restraints are not hampering circulation and to monitor the general welfare of the detainee. If the detainee is confined by bed restraints, staff shall periodically rotate the detainee's position to prevent soreness or stiffness.
- d. All facilities shall document all checks of detainees in four/five point restraints every 15 minutes.

Staff shall use the SMU logbook to record each 15-minute check of detainees in four/five-point restraints. Documentation shall continue until restraints are removed. The shift supervisor shall be immediately notified if the detainee is calm, to

permit re-evaluation of the use of restraints.

2. Medical Staff

A health professional shall test the detainee's breathing, other vital signs and physical and verbal responses. If the detainee is bed-restrained, the health professional shall determine how the detainee must be placed. Qualified health personnel are required to visit the detainee at least twice per eight-hour shift. When qualified health personnel are not immediately available, staff shall place the detainee in a "face-up" position until the medical evaluation can be completed. Medical checks shall be documented. Mental health assessments shall be conducted by a qualified health professional when restraints are utilized for more than eight hours. In such instances, detainees should also be assessed by a qualified mental health professional as soon as possible.

3. Shift Supervisor

The shift supervisor shall be responsible for the following:

- a. The shift supervisor shall review a detainee in four/five-point restraints every two hours. If the detainee has calmed down and restraints are no longer necessary, they may be removed and, if appropriate, replaced by a less restrictive device.
- b. At every two-hour review, the detainee shall be afforded the opportunity to use the toilet, unless the detainee actively resists or becomes combative when released from restraints for this purpose.
- c. The decision to release the detainee or apply less restrictive restraints shall not be delegated below the shift supervisor's level. The shift supervisor may seek advice from mental or medical health professionals about when to remove the restraints.

The shift supervisor shall document each two-hour review in the SMU logbook.

4. Facility Administrator

- a. When any detainee is restrained for more than eight hours, the facility administrator shall telephonically notify the Assistant Field Office Director and provide updates every eight hours until the restraints are removed.
- b. The facility administrator shall provide the Field Office Director with written documentation of the reason(s) for placing the detainee in four/five-point restraints, regardless of duration, on the following workday.

O. Documentation of Use of Force and Application of Restraints

Staff shall prepare detailed documentation of all incidents involving use of force, including chemical agents, or intermediate force weapons. Staff shall also document the use of restraints on a detainee who becomes violent or displays signs of imminent violence. A copy of the report shall be placed in the detainee's detention file.

1. Report of Incident

Facilities shall promptly notify FODs of all uses of force involving:

- 1) Intermediate force devices, including:
 - a) Pepper spray or other chemical agents
 - b) Batons
 - c) Impact munitions
 - d) Tasers
- 2) Other hard control techniques, such as:
 - a) Strikes, kicks or punches
 - b) Throws or "take-downs"
- 3) Deadly force (i.e., any use of force that is reasonably likely to cause death or serious physical injury)
- 4) Use of Progressive (i.e., Four-Point and Five-Point) Restraints

Notifications are typically not necessary for:

- 1) Soft techniques, such as grasping and empty-hand holds
- 2) Use of ambulatory restraints.

Note that PBNDS requires that detainees placed in ambulatory restraints be checked every two hours, with written reports to the facility administrator at the end of each shift. Accordingly, use of ambulatory restraints for periods that exceed 36 hours require notification to the Field Office.

2. Use of Force Form

All facilities shall have an ICE/ERO-approved form to document all uses of force.

Within two working days, copies of the report shall be placed in the detainee's A-File and sent to the Field Office Director.

A report is not necessary for the general use of restraints (for example, the routine movement or transfer of detainees).

Staff shall prepare a use of force form for each incident involving use of force. The report shall identify the detainee(s), staff and others involved and describe the incident. If intermediate force weapons are used (e.g. collapsible steel baton or 36-inch straight (riot) baton), the location of the strikes must be reported on the use of force form. Each staff member shall complete a memorandum for the record to be attached to the original Use of Force form. The report, accompanied by the corresponding medical report(s), must be submitted to the facility administrator by the end of the shift during which the incident occurred.

3. Audiovisual Recording Use-of-Force Incidents

Staff shall immediately obtain an audiovisual camera to record any calculated use of force incident, unless such a delay in bringing the situation under control would constitute a serious hazard to the detainee, staff, or others, or would result in a major disturbance or serious property damage.

The facility administrator shall review the

audiovisual recording within four working days of the incident and shall then send the Field Office Director a copy for review. The Field Office Director shall forward audiovisual recordings of questionable or inappropriate cases to the Deputy Assistant Director, Detention Management Division, for further review.

When an immediate threat to the safety of the detainee, other persons, or property makes a delayed response impracticable, staff shall activate a video camera and start recording the incident as quickly as possible. After regaining control of the situation, staff shall follow the procedures applicable to calculated use-of-force incidents.

4. Recordkeeping

All facilities shall assign a designated individual to maintain all use-of-force documentation.

The designated individual shall maintain all use of force documentation, including the audiovisual record and the original after-action review form for a minimum of six years. A separate file shall be established on each use of force incident.

P. After-Action Review of Use of Force and Application of Restraints

1. Written Procedures Required

All facilities shall have ICE/ERO-approved written procedures for after-action review of use of force incidents (immediate or calculated) and applications of restraints. The primary purpose of an after-action review is to assess the reasonableness of the actions taken and determine whether the force used was proportional to the detainee's actions.

All facilities shall model their incident review process after ICE/ERO's process and submit it to ICE/ERO for ERO review and approval. The process must meet or exceed the requirements of ICE/ERO's process.

2. Medical Evaluation

When any use of force resulting in an injury or

claim of injury occurs, the staff member must immediately prepare an incident report. The detainee will be referred immediately to medical staff for an examination. A copy of the staff member's incident report will be forwarded to medical and to ICE/ERO.

3. Composition of an After-Action Review Team

The facility administrator, the assistant facility administrator, the Field Office Director's designee and the health services administrator (HSA) shall conduct the after-action review. This four-member after-action review team shall convene on the workday after the incident. The after-action review team shall gather relevant information, determine whether policy and procedures were followed, make recommendations for improvement, if any, and complete an after-action report to record the nature of its review and findings. The after-action report is due within two workdays of the detainee's release from restraints.

4. Review of Audiovisual Recording

The after-action review team shall also review the audiovisual recording of any use-of-force incidents for compliance with all provisions of this standard, with particular attention paid to:

- a. whether the use-of-force team technique was exercised properly;
- b. the professionalism of the shift supervisor;
- c. adherence to the requirement of wearing prescribed protective gear;
- d. ensuring that unauthorized items, equipment or devices (e.g., towels, tape, surgical masks, hosiery) were not used;
- e. whether team members applied only as much force as necessary to subdue the detainee, including whether team members responded appropriately to a subdued or cooperative detainee or a detainee who discontinued his/her violent behavior;
- f. whether the shift supervisor was clearly in charge

- of team and situation. This includes intervention at the first sign of one or more team members applying more force than necessary;
- g. whether the detainee received and rejected the opportunity to submit to restraints voluntarily before the team entered the cell/area. If he/she submitted, team action should not have been necessary;
 - h. whether team members exerted more pressure than necessary to the detainee's thorax (chest and back), throat, head and extremities when applying restraints;
 - i. the amount of time needed to restrain the detainee. Any non-resisting detainee restrained for longer than necessary could indicate training problems/ inadequacies;
 - j. whether team members wore protective gear inside the cell/area until the operation was completed;
 - k. whether there was continuous audiovisual coverage from the time the camera started recording until the incident concluded. The review team shall investigate any breaks or sequences missing from the audiovisual record;
 - l. whether a medical professional promptly examined the detainee, with the findings reported on the audiovisual record;
 - m. whether use of chemical agents, pepper spray, etc., was appropriate and in accordance with written procedures;
 - n. whether team member(s) addressed derogatory, demeaning, taunting, or otherwise inappropriate/inflammatory remarks made to detainee or person(s) outside the cell or area; and

- o. if the incident review reveals a violation of ICE/ERO policy or procedures, the after-action review team shall then determine whether the situation called for improvised action and, if so, whether the action taken was reasonable and appropriate under the circumstances.

The after-action review team shall complete and submit its after-action review report to the facility administrator within two workdays of the detainee's release from restraints. The facility administrator shall review and sign the report, acknowledging its finding that the use of force was appropriate or inappropriate.

5. Report of Findings to Field Office Director

Within two workdays of the after-action review team's submission of its determination, the facility administrator shall report with the details and findings of appropriate or inappropriate use of force, by memorandum, to the Field Office Director and whether he/she concurs with the finding. Included in the report shall be consideration of the following: whether proper reporting procedures were followed; in the event of five point restraints, whether checks were made and logged at the appropriate times; and whether appropriate medical care was provided once the situation was under control.

6. Further Investigation

The review team's investigative report will be forwarded to the Field Office Director for review. The Field Office Director will determine whether the incident shall be referred to the Office of Professional Responsibility, the Department of Homeland Security, Office of the Inspector General or the Federal Bureau of Investigation.