

1.5.H.3 Use of Force – Division of Juvenile Services

I Policy Index:



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Office of Primary Responsibility: Director of Juvenile Services & DOC Administration

II Policy:

Division of Juvenile Services staff can employ force that is reasonable and necessary in the performance of their duties. Juvenile Services staff will only employ the minimum amount of force necessary to achieve a legitimate purpose which is reasonably necessary under the circumstances.

III Definitions:

Excessive Force:

While not subject to a precise definition, excessive force includes situations in which staff use more force than necessary to control the threat or use force when force is not necessary. Whether the force used was excessive will be judged from the perspective of a hypothetical reasonable person on the scene and in light of the particular circumstances.

When analyzing whether a particular use of force was excessive, courts consider the following:

- The threat the staff member reasonably perceived.
- Whether there was a need for force based on that perceived threat.
- Any alternatives to force that were attempted.
- Relationship between the need for force and the amount of force utilized.
- Extent of any injuries to the offender.

Force:

Defined as the exertion of power to compel or restrain the behavior of another.

Immediate Threat:

Refers to an impending violent act or active resistance that staff reasonably believe will occur, based on the totality of the circumstances.

Juvenile Services Staff:

Employees and contractual employees of the Department of Corrections responsible for the supervision of juvenile offenders, pursuant to SDCL § 26-11A-11. Juvenile Corrections Agents (JCAs) and area supervisors are responsible for the direct supervision of juvenile offenders.

Less-Lethal Force:

Any force option that a reasonably-trained staff member should know is reasonably likely to create a risk of causing bodily harm but does not automatically create a substantial risk of death or serious bodily injury, though, this is a possible outcome. May include physical or non-physical force, such as verbal directives or hands-on techniques; e.g. certain body holds or non-violent crisis intervention methods.

Lethal Force:

A level of force which is intended to cause death or serious bodily injury, or which creates some specified degree of risk that a reasonable and prudent staff member would consider likely to cause death or serious bodily injury. When applying lethal force, the objective shall be to stop or incapacitate the person. Lethal force is not intended for use by any Juvenile Community Corrections staff person, except when the life of self or others is at risk.

Offender:

For the purposes of this policy, an offender is a juvenile committed to the DOC by the courts.

Office of Risk Management:

A service of the South Dakota Bureau of Administration. The office is responsible for efficiently and effectively protecting the assets of the state of South Dakota in the conduct of governmental activity, through the use of risk management and insurance programs, safety and loss control techniques. The office has the primary responsibility of implementing the risk management objectives of the state to ensure its operations are not impaired by a loss.

Pregnant Offender:

Any stage of pregnancy, labor, delivery, and the post-partum period.

Reasonable Belief:

A belief that is objectively reasonable, based on all the facts and circumstances presented to the Juvenile Community Corrections staff person at the time the belief is formed, or decision reached, which would cause an ordinary and prudent person to act or think in a similar way under like circumstances.

Restraints:

A device designed for and used to restrict an offender's mobility, or to limit movement of an offender's wrists or ankles. Includes handcuffs, leg cuffs, waist chains, restraint belts and black box

Substantial Risk:

The possibility that a certain and undesirable outcome or result is real and considerable.

Use of Force:

The application of progressive levels of force to gain control of an offender, up to and including lethal force. This does not include situations in which security restraints are used in a standard manner for escort or transport of an offender.

Weapon of Opportunity:

During a sudden violent encounter, Juvenile Community Corrections staff may be called upon to defend themselves using the article(s) they have at-hand; i.e. flashlight, clipboard, cell phone, etc. An improvised impact device like these could cause serious physical injury or death if used against certain areas of the human body.

Working Day:

A standard workweek day, Monday through Friday, except for recognized state holidays, recognized national holidays and any other special holidays declared by the Governor of South Dakota or the President of the United States.

IV Procedures:

1. Use of Force Overview:

- A. This policy provides guidelines for the use of force by Division of Juvenile Services staff. Staff may apply individual discretion when determining whether to apply authorized uses of force, based on the perceived threat and circumstances of the situation.
- B. Juvenile Services staff will be familiar with the DOC policies and OMs pertaining to use of force and shall be trained to ensure informed and appropriate use of force. Training will be required during pre-service training. Remedial training will be required as deemed necessary.
- C. Nothing in this policy is intended to imply or indicate a staff member under investigation for applying use of force has acted improperly.
- D. Nothing in this policy is intended to supersede or limit any of the following:
 - 1. The resistance to a public offense (See SDCL § [22-5-9](#)) (See [Attachment 2](#)).
 - 2. A staff person who engages in justifiable homicide (See SDCL §§ [22-16-34](#) and [22-16-35](#) on Attachment 2).
- E. The use of mechanical restraints during the routine transportation or escort of an offender is not considered a use of force.

2. Response to Resistance:

- A. The following is offered as a guide for possible responses to resistance by an offender and should not be interpreted as limiting the reasonable actions of staff defending themselves or others:
 - 1. The appropriate response to resistance in any situation depends on the reasonable belief of staff, based on the facts presented at the time.
 - 2. Staff will attempt to resolve the situation using only the level of force/response to resistance necessary to accomplish lawful objectives.
 - 3. Staff may employ force from any point, provided it is objectively reasonable under the circumstances.

- B. The appropriate level of response follows the techniques taught through the Crisis Prevention Institute's/CPI Nonviolent Crisis Intervention program. The response levels include those described for each escalating level of resistance, as well as those described for all lower levels as listed below:
1. An assailant who is demonstrating psychological intimidation:
 - a. Staff will respond with staff presence, verbal direction and verbal de-escalation.
 2. An assailant who is verbally non-compliant by refusing to comply with an order:
 - a. Staff will respond with staff presence, verbal direction and verbal de-escalation.
 3. An assailant who is defensively resistant by physically resisting, but non-assaultive:
 - a. Staff will respond with staff presence, verbal direction, verbal de-escalation, use of hands, mechanical restraints and physical force if necessary.
 4. An assailant who is actively aggressive with overt actions of assault:
 - a. Staff will use presence, verbal direction, de-escalation, weapons of opportunity, law enforcement, use of hands, mechanical restraints and physical force if necessary.
 5. An assailant who has shown aggravated active aggression and may cause death or serious physical injury:
 - a. Staff will use staff presence, verbal direction, de-escalation, weapons of opportunity, law enforcement, use of hands, mechanical restraints, physical force or evacuate to a safe place if possible.
- C. Nothing in this policy shall be interpreted as limiting the reasonable and lawful actions of staff defending themselves or others from death, physical injury or assault.

3. Use of Weapons:

- A. The DOC does not issue weapons to staff.
- B. Staff is authorized to use a weapon of opportunity to defend themselves and/or aid others as permitted by SDCL.
- C. Staff will contact outside law enforcement staff/agencies as deemed necessary, if staff anticipate presence of armed law enforcement may be required when responding to a particular situation or offender. The regional supervisor will be notified if law enforcement is summoned at the request of staff.

4. Use of Force:

- A. Time permitting, staff will assess each incident to determine which response to resistance is most likely to safely de-escalate resistance by the offender. Staff have an obligation and responsibility to exercise discipline, caution, restraint and good judgement when using force.
- B. Staff are authorized to use less-lethal force to accomplish the following lawful objectives:

1. **Self-defense.** Staff may use force to defend themselves from an attack or imminent serious bodily injury.
 2. **Defend or aid others.** Staff may use force to defend or aid others under imminent threat of attack or serious bodily injury by an offender.
 - a. The term "imminent threat" means an imminent or proximate peril; e.g. a person who is physically attacked by an offender.
 - b. It is the duty and responsibility of staff to defend and aid others under imminent threat by an offender.
 3. **Prevent the commission of a crime.** Includes use of force upon a another aiding an offender attempting to commit a crime, such as: physical assault, setting a fire or other destruction of property that is likely to endanger lives or cause serious bodily injury.
 4. **Quell or suppress a disturbance.** Staff may use force to maintain or restore order, regain control, maintain discipline or restrain an offender causing or involved in a disturbance.
 5. **When an offender exhibits physical resistance to a lawful order.** Staff may use force to overcome physical resistance and gain compliance when there is reason to believe the offender's physical resistance, refusal/non-compliance poses an immediate threat to the safety and wellbeing of staff, the offender or others.
 6. **Preventing an offender from injuring him/herself.**
- C. The use of force by staff as a means of corporal punishment, retaliation or discipline is strictly prohibited. Only the minimum amount of force needed to carry out a lawful objective may be used.
1. Corporal punishment is defined as the deliberate infliction of pain as retribution for an offence committed.
 2. Under no circumstance will staff use force on an offender that is controlled to the point he/she does not pose an immediate threat to the safety of staff, the offender or others; or the lawful objective of the staff member has been accomplished.
- D. Staff should attempt to de-escalate incidents before using force to respond. Staff have the ability to impact the direction and outcome of many situations they respond to based on their decision-making and tactics they choose to employ. Staff will use advisements, warnings, verbal de-escalation and other tactics and alternatives to higher levels of force, when possible, and without jeopardizing their own safety or the safety of others.
- E. Parameters for use of less lethal force:
1. The offender has the ability or apparent ability to cause serious bodily injury to staff or others, resistance, disorder, commission of a felony, etc.
 2. The offender has the opportunity to cause serious bodily injury to the staff or others, resistance, disorder, commission of a felony, etc.

3. The offender poses jeopardy/danger. Staff reasonably believe the offender poses jeopardy/danger of causing serious bodily injury to staff or others, resistance, commission of a felony etc.
 4. Preclusion. Staff have reasonably exhausted all other means of control.
- F. If no other means are or would be effective, staff may use lethal force in the following circumstances:
1. If staff has reasonable belief the life or safety of the staff member or another is in imminent danger of death or serious bodily injury, given the totality of circumstances known to the staff person at the time of his/her actions.

5. Use of Restraints:

- A. Mechanical restraints, as defined in this policy, may be used by staff trained in the use and application of restraints, under the following circumstances:
1. To prevent assaultive or physically destructive behavior by an offender that may cause risk of serious bodily injury to others.
 2. To prevent imminent serious bodily injury or harm to self.
 3. When an offender's behaviors escalate as a result of staff's response to a serious incident/disturbance.
 4. The offender is attempting to cause serious destruction or damage to property that may result in risk of serious bodily injury to self, staff or others.
 5. The offender is resistive and must be controlled for safety and security reasons and no other less intrusive means of control are effective or believed to be effective.
- B. Staff's use of restraints to place an offender in custody or to prevent escape during transport is not a use of force (See DOC policy 1.5.H.2 [Juvenile Offender Transport and Use of Restraints by Staff](#)).
- C. Mechanical restraints will not be used in a way that cause undue physical discomfort, unnecessary or wanton infliction of pain, in a manner that restricts the blood circulation and/or breathing of an offender, or as a means of punishment.
- D. Staff will check the offender for injury, swelling or bruising after restraints have been applied. Staff will check restraints for appropriate placement/fitting.
1. Any injury received by an offender that may have resulted from restraints being applied or removed, will be photographed, documented and reported to the area supervisor.
 2. Appropriate medical attention will be offered to the offender.
- E. If an offender is continuously restrained for one (1) hour, staff will check the restraints to ensure they are secure, and the offender has no injuries, swelling or bruising resulting from the application of the restraints. Restraints will be checked by staff at one (15) minute intervals thereafter until the restraints are removed.

F. Female offenders known by staff to be pregnant, may have restraints applied only when absolutely necessary. Absolutely necessary is defined as when there is imminent risk of escape or harm to the pregnant offender, fetus or physical abuse/assault/serious bodily injury to self or others, which cannot be managed by other reasonable means (e.g. enhanced security measures).

1. Wrist restraints will only be applied to the front of the offender. Leg and/or ankle restraints are not permitted.

6. Medical Attention Following a Use of Force Incident:

A. Following any use of force incident, if an offender or staff member is injured, complains of injury, or staff has reasonable belief the offender may be injured, staff will arrange for the offender to be seen by a medical provider.

1. Medical attention will be offered as quickly as possible, in light of the circumstances.
2. Circumstances to consider include, but are not limited to:
 - a. Severity of any injuries.
 - b. The safety of people at the scene of the incident.
 - c. The staff member's physical capacity to render or summon aid.

B. Medical attention provided by staff to an offender may include:

1. Increased observation to detect obvious changes in the offender's condition; or
2. Administering basic first aid, within the abilities of the staff member and resources available.

C. In the event an offender sustains serious injury during a use of force, staff shall contact 911 and request emergency medical services.

D. Staff injured in a use of force incident will seek medical attention and promptly notify the regional supervisor.

E. Any use of force that results in serious bodily injury requiring immediate medical attention, emergency treatment or hospitalization that is considered critical or life threatening, will be reported to DOC administration staff and Risk Management within twenty-four (24) hours of the incident in accordance with DOC policy 1.1.A.3 [Staff Reporting Information to DOC Administration](#).

1. A BOA [Report of Accident, Incident or Unsafe Condition](#) form will be completed by staff. The form is available through the Risk Management website.
2. Still pictures will be taken documenting any injuries to staff or offenders. If a digital camera is used, the disk/digital chip with the photos may accompany the use of force paperwork in place of printed photos.
 - a. If the injuries to be documented are on a private portion of the offender's body, reasonable efforts to ensure privacy of the person will be observed. The staff member

making the recording/photo will be the same sex as the injured offender or medical staff.

- F. Whenever the use of force results in a death, the DOC staff member(s) who applied the force will be advised they will be interviewed by investigative personnel and instructed to remain on duty until released by the proper authority. The staff member(s) may be placed on administrative leave. Staff involved is prohibited from making a statement (written or verbal) regarding the incident to any member of the media or unauthorized agent.
1. The assignment to administrative leave will not be interpreted to imply or indicate the staff member(s) acted improperly.
 2. Staff may be referred to a specialist/licensed counselor for post-critical incident counseling (See [Attachment 3](#) for listing of resources). Support may be provided by fellow staff members or supervisors assigned to assist the staff person and/or monitor the staff person's wellbeing.
 - a. This referral will be for support purposes, allowing the staff person the opportunity to discuss any problems or concerns related to the incident and use of force.
 - b. Referral for counseling may be by the Director or other staff member. Staff may request access to a mental health professional or counselor by contacting his/her supervisor or BHR representative. The supervisor or BHR representative receiving the request will follow-up with the staff person to verify whether counseling services were accessed. Supervisors and/or BHR staff will respond to all staff requests for mental health services and/or counseling.
 - c. Participation in post-critical incident counseling is mandatory for staff involved in a use of force that resulted in the death of a person. The extent of the mandatory post-incident counseling shall be determined by the staff person and/or his/her supervisor with input from the counseling provider.
 3. Prior to being authorized to return to active duty, the staff person must be evaluated by a licensed psychiatrist or psychologist.
 4. The Director may authorize participation in post incident counseling for other staff involved in the incident. Staff may request counseling or access to a mental health professional.
 5. The cost for any post-critical incident counseling and/or required evaluation by a licensed psychiatrist or psychologist will not be charged to the staff person.
- G. If a use of force incident results in a death, the Division of Criminal Investigation (DCI) will be promptly notified.
- H. Provided all litigation, claims, and audit findings involving a use of force incident have been resolved and final action has been taken, all documentation/records pertaining to a use of force incident may be destroyed three (3) years from the date the offender is discharged from DOC custody.

7. Reporting Use of Force:

- A. The area supervisor and the Director of Juvenile Services will be directly notified when:

1. A use of force results in the death or serious injury of any person.
 - a. "Serious injury" is defined as an injury that requires immediate medical attention, emergency treatment or hospitalization.
- B. Following a use of force incident involving a juvenile offender, (limited to steps 3-5 in Section 2 B. of this policy), staff will complete a Major Incident Report (See [Attachment 1](#)) in accordance with DOC policy 1.1.A.3 [Staff Reporting Information to DOC Administration](#).
- C. Off-duty staff involved in a use of force incident involving an offender is subject to the same reporting procedures.
- D. The Major Incident Report will be forwarded within to the doc.ADMININ@state.sd.us email group.
- E. Media contacts, including press releases and requests for information regarding a use of force incident shall be directed to the Secretary of Corrections or the DOC Communication and Information Manager (See DOC Policy 1.1.A.4 [Relationship with News Media, Public and Other Agencies](#)).

8. Allegations of Excessive Use of Force:

- A. Anytime staff maliciously and sadistically use force to cause harm, regardless of whether significant injury occurs to the offender, this is considered an excessive use of force.
- B. Any staff member who observes or witnesses what they perceive to be excessive or inappropriate force upon an offender must take action to attempt to stop the excessive or inappropriate use of force. If verbal intervention is unsuccessful or physical intervention is unsuccessful or unsafe, the staff member shall immediately call for assistance. The first priorities of staff responding to an incident involving excessive or inappropriate force upon an offender are life safety, followed by stabilization of the incident.
- C. Any staff member who becomes aware of apparent misconduct or violation of the Use of Force policy by a staff member shall report the information to his/her supervisor immediately (See DOC policy 1.1.C.1 [Staff Code of Ethics](#)).
- D. Allegations or knowledge of excessive or inappropriate use of force or abuse or neglect by an offender in the custody or care of a private facility must be reported in accordance with the facility's grievance or reporting of abuse process.
- E. Any offender not in the custody or care of a private facility, who alleges they are the victim of excessive or inappropriate use of force or has knowledge of such force being applied to another, must promptly report the information to their JCA, the regional supervisor (Juvenile Services staff) or the Director of Juvenile Services. If the report is verbal, a written report shall be generated by the staff member receiving the information. The offender may also submit a written statement. Staff will explain the reporting process to any offender who alleges excessive or inappropriate use for force or abuse or neglect.
- F. Upon receipt of a report involving excessive or inappropriate use of force or abuse or neglect of an offender, the Director of Juvenile Services will ensure the report is promptly investigated. This may include an agency-initiated investigation into the incident and allegations, and/or an outside investigation lead by law enforcement. The results of the investigation shall be recorded and reported as required by policy and any applicable law or rule. Disclosure of the

identity of, or any other personally identifiable information related to the juvenile shall be in accordance with SDCL § [26-11A-30](#).

- G. If the agency investigation supports an excessive or inappropriate use of force has occurred, the Secretary of Corrections, Division of Criminal Investigation (DCI) and the Department of Social Services (if the alleged victim is under eighteen (18) years old) must be promptly notified by the Director of Juvenile Services (See DOC policy 1.1.C.3 [Staff Reporting Abuse or Neglect](#)).
- H. Any use of force incident may be reviewed and/or investigated to ensure compliance with policy and applicable law. Reviews may be conducted administratively and/or criminally by outside investigating law enforcement agencies.

V Related Directives:

SDCL § [22-5-9](#), [22-16-34](#), [22-16-35](#), [26-11A-11](#) and [26-11A-30](#).

- DOC policy 1.1.A.3 – [Reporting Information to DOC Administration](#)
 DOC policy 1.1.A.4 – [Relationship with News Media, Public and Other Agencies](#)
 DOC policy 1.1.C.1 – [Staff Code of Ethics](#)
 DOC policy 1.1.C.3 – [Staff Reporting Abuse or Neglect](#)
 DOC policy 1.3.E.3 – [Juvenile Administrative Remedy Procedure](#)
 DOC policy 1.5.H.2 – [Offender Transport and Use of Restraints by JCC Staff](#)

VI Revision Log:

April 2006: New policy.

October 2006: **Added** a reference to the Critical Incident Stress Management team **Updated** attachment 2 **Added** attachment 3.

September 2007: **Added** a definition for working day **Changed** business day to working day in notifications to the Director of Juvenile Community Corrections.

October 2008: **Revised** formatting of policy and attachment in accordance with DOC policy 1.1.A.2. **Deleted** “intended” relating to causing death and **added** statement regarding when lethal force may be used by JCC staff within definition of Lethal Force. **Revised** title to Response to Resistance and revised ss (B) of same section and **added** use of hands, mechanical restraints and physical force to ss ((B3, B4 and B5) **Added** weapons of opportunity to ss (B of Use of Less-Lethal Force) **Added** “EMT” to ss (B3 of Medical Aid Following a Use of Force Incident). **Revised** instructions to access and complete the First Report of Injury in ss (D of Medical Aid Following a Use of Force Incident). **Replaced** less lethal force with force beyond verbal directives in ss (C), **replaced** reference to DOC policy 1.A.1.3 with 1.1.A.3 in ss (F) and **added** injury, death or complaint to ss (H2 and I) all within Reporting Use of Force **Replaced** offender with assailant as appropriate throughout policy **Added** reference to DOC policy in section V. **Deleted** reference to continuum throughout policy. **Replaced** Attachment 1 with new form and **revised** where it is saved on the WAN **Revised** Attachment 3 with updated contact information.

May 2013: **Added** definition of “Office of Risk Management” **Deleted** “adjudicated” and **Replaced** with “committed to the DOC by the courts” in definition of “Offender” **Deleted** “belly chains. Black boxes are also considered a mechanical restraint and will be provided to JCA offices upon request” and **Replaced** with “transportation restraint belts, (leather chain or nylon) to definition of “Mechanical Restraints” **Added** “cell phone” to definition of “Weapon of Opportunity” **Added** “or death”. **Deleted** “issued copies of and be instructed in” and **Replaced** with “familiar with DOC policies and OMs” and **Added** “and receive regular training in the use of force” in Section 1 B. **Added** E. to Section 1. **Added** F. and G. to Section 1. **Deleted** “many of” and **Replaced** with “follows the techniques taught through the Crisis Prevention Institute’s CPI Nonviolent Crisis Intervention program” **Added** “should not be interpreted as limiting the reasonable actions of staff who are defending themselves or others” in Section 2 A. **Deleted** “all JCC staff are required to attend the initial and subsequent annual recertification training sessions” and **Replaced** with “The response levels include” in Section

2. B. **Added** “possess or use” and **Deleted** “for their DOC job duties” and **Replaced** with “during the performance of their official DOC job duties” in Section 3 B. **Added** D. to Section 3. **Deleted** “less lethal techniques” and **Replaced** with “response to resistance” and **Added** “safely” and **Deleted** “and bring the situation under control in a safe manner” to Section 3 C. **Added** “imminent” and “or serious injury” to Section 4 B.1. **Added** “of bodily harm or serious injury” and **Added** “It is the duty and responsibility of JCC staff to aid others under duress or imminent or proximate peril, through the direct or indirect actions of an offender, or otherwise” to Section 4 B. 2. **Added** “trained in the use and application of restraints” in Section 4 C. **Added** “and/or to prevent escape” in Section 4 C. 1. **Deleted** “is likely to” and **Replaced** with “there is an imminent danger of the offender” in Section 4 C. 4. **Added** 5. to Section 4 C. **Added** D. E. E. a. and F. to Section 4. **Added** “to the offender” to Section 5 C. **Updated** procedure for “First Report of Injury” in Section 5 E. **Deleted** “physical” and **Added** a. to Section 5 B. **Deleted** “appear to be life threatening” and **Replaced** with “requires immediate medical attention, emergency treatment or hospitalization” in Section 5 c. **Deleted** 2 “Whenever a JCC staff person has been killed or sustains serious physical injury” in Section 6 B. **Added** “or reports” in Section 6 B.3. **Deleted** “immediately” and **Replaced** with “complete a Major Incident Report and directly” and **Deleted** “or his/her designee” and **Replaced** with “in accordance with DOC policy” in Section 6 C. **Deleted** reference to Garrity Rule in Section 6 D. and D.1. **Deleted** “to overcome an assailant’s resistance” and **Replaced** with “(level 3, 4, or 5 response to resistance)” in Section 5 F. **Added** “an offender or” to Section 6 E. **Deleted** “also provide for the immediate” and **Replaced** with “be used to” and **Deleted** “force used so that if a complaint is filed the pertinent facts are readily available” in Section 6 F. 1. **Added** “and/or policy, procedure” in Section 6 F. 2. **Added** “on any incident that required the use of force beyond giving verbal directive” and **Added** “The area supervisor will notify and forward the Major Incident Report to the Director of Juvenile Community Corrections. This will be completed no later than one working day after the area supervisor’s receipt of the report” in Section 6 G. **Added** c. to Section 6 G. 1. c. **Deleted** 2. “If not already done, The Director of Juvenile Community Corrections will be notified by the area supervisor following any use of force incident on an assailant no later than one working day after the area supervisor receives the report” in Section 6 G. **Deleted** H. The area supervisor will forward the Major Incident Report to the Director of Juvenile Community Corrections within 3 working days” **Added** “resulted in serious injury or death of any person” in Section 6 H. **Deleted** 1. “If not already done, the Director of Juvenile community Corrections will notify the Director of Juvenile Services and the SOC upon the receipt of the Major Incident Report” in Section 6 H. **Added** “serious” and “or death of an offender of staff member following the use of force incident” and **Deleted** “the Director of Juvenile Services and SOC” and **Replaced** with “within 24 hours of the incident in accordance with DOC policy” in Section 6 G. **Deleted** “The area supervisor” and **Replaced** with “Designated staff” and **Added** “and/or other appropriate staff” in Section H. 2. **Deleted** b. “In the event the area supervisor was involved in the use of force incident, the Director of Community Corrections will determine if post trauma counseling is needed and if so, is also responsible for making arrangements with a Critical Incident Stress Management Team” in Section 6 H. **Added** “Director of Juvenile Services” to Section 6 H. 2. **Deleted** “The area supervisor” and **Replaced** with “Designated staff” in Section 6 H. 2. a. **Added** **Deleted** “An offender who is not under physical custody of a DOC facility may contact” and **Replaced** with “or by an offender” and **Added** “(normally a written complaint shall be required” and **Added** “JCC staff will explain this process to any offender who allege excessive use of force by JCC staff” in Section 7 A. **Added** “Director of Juvenile Services” and **Added** “complete a Major Incident Report and” and **Deleted** “immediately concerning the” and **Replaced** with “regarding all reports involving” and **Added** “staff member” to Section 7 B. **Deleted** “either personally conduct a formal investigation of” and **Replaced** with “ensure” and **Deleted** “or he/she may assign a staff member of other agency personnel (not involved with the use of force incident) to conduct a formal investigation” in Section 7 C. **Added** “Secretary of Corrections” and **Added** “by the Director of Juvenile Services or his/her designee” and **Added** “may have occurred” in Section 7 D. **Updates** to Attachment 3.

October 2014: **Deleted** “Non-Public” and **Replaced** with “Public”.

October 2015: **Deleted** “it is the duty and responsibility of JCC staff to aid others under duress or imminent or proximate peril, through the direct or indirect actions of an offender or otherwise” in Section 4 B. 2. **Added** 2. to Section 4 E. **Added** “continuously” to Section 4 F. **Deleted** “appropriate

medical aid” and **Replaced** with “medical attention” in Section 5. **Deleted** “will evaluate the physical condition of the offender in custody to determine the need, if any, for medical attention” and **Replaced** with “has reasonable belief an offender may require medical attention, staff will assist the offender in receiving medical attention” in Section 5 A. **Deleted** “Medical attention does not mean every offender has to be evaluated at a medical facility” in Section 5 B. **Deleted** 3. “Evaluation by an Emergency Medical Technician (EMT) or paramedic” in Section 5 B. **Added** “JCC staff if an offender or staff member is injured during a use of force incident” and **Updated** the web link in Section 5 E. **Deleted** 2. “Misconduct by JCC staff is alleged or reported or is suspected to have been committed during a use of force incident. **Deleted** 3. An individual or offender complains or reports an injury was inflicted by a JCC staff person during the application of a use of force” in Section 6 A. **Deleted** “If any of the above described situations occur, the area supervisor or the Director of JCC will complete a” and **Replaced** with “Following a use of force incident involving a juvenile offender” in Section 6 B. **Deleted** “The Secretary may direct the Director of JCC” in Section 6 D. **Deleted** E. in Section 6. **Deleted** “area supervisor” and **Replaced** with “DOC email group” and **Deleted** “The area supervisor will notify and forward the report to the Director of JCC. This will be completed no later than one working day after the area supervisor’s receipt of the report” in Section 6 E. **Deleted** 1. and 2. In Section 6 E. **Deleted** “or a complaint of excessive use of force by staff” in Section 6 F. **Deleted** “may be resolved” and **Replaced** with “shall be responded to” and **Added** “if the offender is not in the custody of DOC” in Section 7 A. **Deleted** B. “The Director of Juvenile Community Corrections will complete a Major Incident Report and notify the Secretary of Corrections, the Director of Juvenile Services and the Office of Risk Management regarding all reports involving an allegation of excessive use of force by JCC staff.” in Section 7. **January 2017: Added** C. to Section 2. **Added** F. G. and H. to Section 5. **Added** A-F in Section 7. **July 2019: Revised** definition of “Immediate Threat”, “Less Lethal Force”, “Lethal Force”, “Reasonable Belief”, “Use of Force”, and **Added** definition of “Pregnant Offender”. **Deleted** “Staff will not possess or use personal weapons during the performance of their official DOC duties” in Section 3. **Updated** the lawful objectives (1-6) in Section 4. **Added** C.-F. in Section 4. **Added** new Section 5 “Use of Restraints”. **Added** A. to Section 8.

Mike Leidholt (original signature on file)

Mike Leidholt, Secretary of Corrections

07/25/2019

Date

Attachment 1: Major Incident Report

The **Major Incident Report** form will be generated as an Integrated Word Processing (IWP) document in COMS located in JCCCOM/Community Management.

1. Select offender record in COMS.
2. Select Case Management/Case Plan module
3. Select IWP icon on Syscon toolbar
4. Select document type “Major Incident Report” utilizing the List of Values (LOV)
5. Select “New” and then “Generate” to view document

South Dakota Department of Corrections Policy Distribution: Non-Public		Attachment: Major Incident Report Please refer to DOC policy 1.1.A.3 / 1.5.H.3 Reporting Information to DOC Administration / Use of Force - JCC	
MAJOR INCIDENT REPORT			
TO:	FROM: Amy Miklos		
<input type="button" value="+"/>	NAME OF OFFENDER(S): <small>Last - First</small>	Offender#	DOB
			Crime or Adjudication
TYPE OF INCIDENT: <input type="text"/>			
DATE OF INCIDENT: <input type="text"/>		TIME OF INCIDENT: <input type="text"/> <input type="checkbox"/> AM <input type="checkbox"/> PM	
LOCATION OF INCIDENT: <input type="text"/>			
NARRATIVE SUMMARY: (Provide how the incident occurred, how the incident was discovered and all details of the incident in chronological order). <input type="text"/>			
WHO WAS INVOLVED? (Include the names of all staff involved in the incident)			
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
HOW WAS ESTABLISHED POLICY AND PROCEDURE FOLLOWED? <input type="text"/>			
RESPONSE: (List whether and when law enforcement, media, and others were contacted)			
Media Contacted:	<input type="checkbox"/> Yes <input type="checkbox"/> No	Date/Time Contacted: <input type="text"/> at <input type="text"/> <input type="checkbox"/> AM <input type="checkbox"/> PM	
Law Enforcement Contacted:	<input type="checkbox"/> Yes <input type="checkbox"/> No	Date/Time Contacted: <input type="text"/> at <input type="text"/> <input type="checkbox"/> AM <input type="checkbox"/> PM	
Others Contacted?	<input type="checkbox"/> Yes <input type="checkbox"/> No	Who? <input type="text"/>	
		Date/Time Contacted: <input type="text"/> at <input type="text"/> <input type="checkbox"/> AM <input type="checkbox"/> PM	
Others Contacted?	<input type="checkbox"/> Yes <input type="checkbox"/> No	Who? <input type="text"/>	
		Date/Time Contacted: <input type="text"/> at <input type="text"/> <input type="checkbox"/> AM <input type="checkbox"/> PM	
CORRECTIVE ACTION: (Briefly state any corrective action or disciplinary action that has been taken or will be taken as a result of this incident). <input type="text"/>			
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Attachment 2: Related Use of Force SDCL

SDCL § [22-5-9](#). Resistance to public offenses permitted. Any person may lawfully resist, by force or violence, the commission of any public offense as follows:

(1) Any person, upon reasonable apprehension of threat of bodily injury, may make sufficient resistance to prevent an offense against his or her person or the person of any family or household member, or to prevent an illegal attempt by force to take or injure property in his or her lawful possession; and

(2) Any person may make sufficient resistance in aid or defense of any other person, threatened with bodily injury, to prevent such offense.

Source: SDC 1939 & Supp 1960, § 34.0101; SDCL, § 23-13-3; SL 1978, ch 185, § 4; SL 2005, ch 120, § 382; SL 2006, ch 116, § 1.

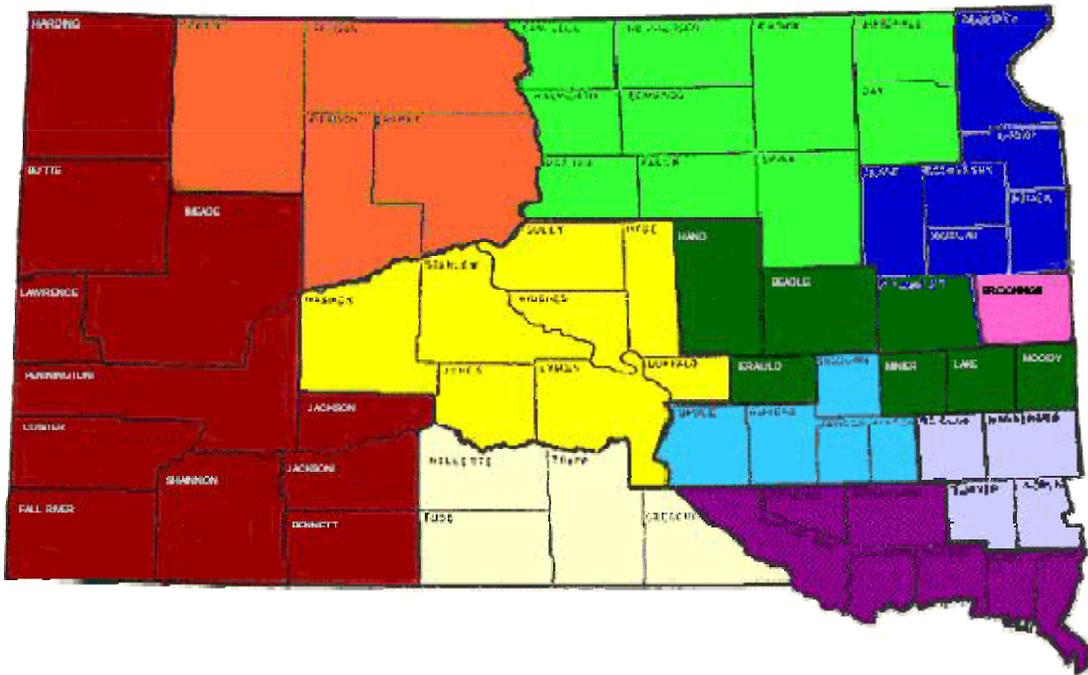
SDCL § [22-16-34](#). Justifiable homicide--Resisting attempted murder--Resisting felony on person or in dwelling house. Homicide is justifiable if committed by any person while resisting any attempt to murder such person, or to commit any felony upon him or her, or upon or in any dwelling house in which such person is.

Source: SDC 1939, § 13.2003 (1); SL 2005, ch 120, § 165.

SDCL § [22-16-35](#). Justifiable homicide--Defense of person--Defense of other persons in household. Homicide is justifiable if committed by any person in the lawful defense of such person, or of his or her husband, wife, parent, child, master, mistress, or servant if there is reasonable ground to apprehend a design to commit a felony, or to do some great personal injury, and imminent danger of such design being accomplished.

Source: SDC 1939, § 13.2003 (2); SL 2005, ch 120, § 166.

Attachment 3: Post-Trauma counseling; Community Mental Health Center (CMHC) and Latitude Employee Assistance Program (LEAP) resources:



Alphabetical by City	Name of Center	Counties Served:
ABERDEEN	<u>Northeastern Mental Health Center</u> 703 Third Avenue SE, Aberdeen, SD 57401 (605) 225-1010	Brown, Campbell, Day, Edmunds, Faulk, Marshall, McPherson, Potter Spink, & Walworth.
BROOKINGS	<u>East Central Behavioral Health</u> 211 Fourth Street, Brookings, SD 57006 (605) 697-2850	Brookings
HURON	<u>Community Counseling Services</u> 357 Kansas SE, Huron, SD 57350 (605) 352-8596	Beadle, Hand, Jerauld, Kingsbury, Lake, Miner, & Moody.
LEMMON	<u>Three Rivers Mental Health and Chemical Dependency Center</u>	Corson, Dewey, Perkins, & Ziebach.

	Box 447 ~ 11 E. 4th St., Lemmon, SD 57638 (605) 374-3862	
MITCHELL	<u>Dakota Counseling Institute</u> 910 West Havens, Mitchell, SD 57301 (605) 996-9686	Aurora, Brule, Davison, Hanson & Sanborn.
PIERRE	<u>Capital Area Counseling Services</u> P. O. Box 148 ~ 803 E. Dakota Ave. Pierre, SD 57501-0148 (605) 224-5811	Buffalo, Haakon, Hughes, Hyde, Jones, Lyman, Stanley & Sully.
RAPID CITY	<u>Behavior Management Systems</u> 350 Elk Street, Rapid City, SD 57701 (605) 343-7262	Bennett, Butte, Custer, Fall River, Harding, Jackson, Lawrence, Meade, Pennington & Shannon.
SIOUX FALLS	<u>Southeastern Behavioral HealthCare</u> 2000 S. Summit Avenue, Sioux Falls, SD 57105 (605) 336-0510	Lincoln, McCook, Minnehaha & Turner.
WATERTOWN	<u>Human Service Agency</u> P. O. Box 1030 ~ 123 19th Street, NE Watertown, SD 57201-6030 (605-) 886-0123	Clark, Codington, Deuel, Grant, Hamlin & Roberts.
WINNER	<u>Southern Plains Behavioral Health Services</u> 500 E. 9th Street, Winner, SD 57580 (605) 842-1465	Gregory, Mellette, Todd & Tripp
YANKTON	<u>Lewis & Clark Behavioral Health Services</u> 1028 Walnut, Yankton, SD 57078 (605) 665-4606	Bon Homme, Charles Mix, Clay, Douglas, Hutchinson, Union & Yankton.

Latitude Employee Assistance Program (LEAP)

LEAP is administered by APS Healthcare and is a free service offered to benefit eligible State Employees. LEAP resources may be accessed by calling **800-713-6288** or by visiting <http://www.apshelplink.com> and entering company code **southdakota**. Pop-up menus will highlight counseling sources available for eligible Juvenile Community Corrections personnel.