

## Pepper Spray (Oleoresin Capsicum)

Pepper spray acts as an inflammatory agent when it contacts the eyes, skin and respiratory system.

Pepper spray can be the least harmful way of responding, temporarily incapacitating a prisoner, making it easier and safer to restrain and relocate them. Once compliant, the prisoner is relocated, decontaminated and assessed by health staff for any unexpected reaction.

Corrections Amendment Regulations 2022 relating to the use of pepper spray can be found in appendix \*\*. They relate to the meaning, issue, drawing and use of pepper spray and how we keep it secure.

Regulation 119A (2) specifies that an officer may draw or use pepper spray only against a prisoner and only if the officer has reasonable grounds for believing that the use of physical force is reasonably necessary for any of the purposes.-

### Types

#### **MK3**

MK3 is designed for personal carriage and can be used for spontaneous and planned incidents. It is a gel formulation with a range of 5 to 7 meters. For maximum effect the gel spray must make contact with the face, across the eyes.

#### **MK9**

The MK9 is designed for prisoner extractions and crowd management and only for planned use of force. The MK9 is delivered in a high-volume stream with a range of between 8 to 10 meters. For maximum effect the spray must make contact with the face, across the eyes.

### **Cell buster**

The cell buster is designed for prisoner extraction from a cell and only for planned use of force. The cell buster is delivered in a high-volume stream through a wand which is dispersed in droplet form. Does not need to make direct contact with face or eyes for effect.

## **Effects**

Psychological (60%) Physical (40%)

- Confusion or disorientation
- Intense panic
- Distraction – loss of focus
- Losing the will to fight
- A burning sensation on exposed skin
- Breathing made more difficult by constricted bronchial passages
- Eyes burning and involuntary closing
- Gagging or grasping for breath
- No response

Pepper spray must be used in a way that minimises pain or injury to the prisoner as far as it is consistent with protecting prison security or the safety of any person.

Pepper spray must not be used against:

- a prisoner armed with a firearm (notify Police immediately to respond to the situation)
- pregnant prisoners
- prisoners on a roof or other areas where the use of pepper spray at such a height may cause the prisoner to be injured if they were to fall
- prisoners who cannot be continually observed
- prisoners located in an area that cannot be accessed quickly (e.g. the entry / exit point has been barricaded)
- a prisoner who is restrained by any means (e.g. C&R locks or mechanical restraint)
- members of the public.

## **Issue**

Pepper spray may be issued only to an officer who has received adequate training in the use of pepper spray. Officers trained in the use of pepper spray must undergo refresher courses, at least once a year.

A security officer, or a staff member who is not an officer, must not, in any circumstance, be issued pepper spray or carry pepper spray while performing their functions.

Pepper spray may be issued only at the direction of the Prison Director. The issuing of pepper spray must comply with any further conditions or restrictions imposed by the Chief Executive.

## Drawing and use

An officer who has been issued pepper spray may draw or use it while performing their functions in a prison, or on escort duty. The officer may draw or use the pepper spray only against a prisoner and only if the officer has reasonable grounds for believing that the use of physical force is reasonably, necessary, and proportionate in the circumstance.

The officer must use the pepper spray in a way that minimises pain or injury to the prisoner, so far as that is consistent with protecting prison security or the safety of any person. The drawing and use of pepper spray must also comply with any further conditions or restrictions imposed by the Chief Executive.

## Restrictions on carrying

Only corrections officers trained in the use of pepper spray may carry pepper spray. Corrections officers must not carry pepper spray outside of a prison, except on escort.

The Prison Director may authorise the issuing of pepper spray for transportation purposes outside of prison property.

## Storage

An officer must ensure that any pepper spray issued to them is kept secure.

The Prison Director must ensure that pepper spray is securely stored at all times except when it is issued to an officer. The Prison Director of a site must ensure that an administrative system is in place for the storage and issuing of pepper spray. Pepper spray (including inert training spray) must be secured in a locked cabinet and not be exposed to direct light or stored near heating devices.

A pepper spray register must be maintained,

## Transportation

Any transportation of live pepper spray canisters outside of prison property (other than canisters issued as part of rostered duties i.e. escorts) must be approved by the prison director and must be in accordance with:

- a. Land Transport Rule: Dangerous Goods 2005, Rule 45001
- b. International Civil Aviation Organisation: Technical Instructions for the safe transport of dangerous goods by air (document 9284).

## Spontaneous use

The use of individual carry pepper spray is a use of force, the use of it must comply with legislation and Department of Corrections policy. It may only be used if there are reasonable grounds to believe the use of it is reasonable, necessary, and proportionate in the circumstances.

If the incident can be resolved using a lower level tactical option as an intervention strategy, then pepper spray should not be used.

All officers issued with individual carry pepper spray must also be issued with and carry a Body Worn Camera and must record any incidents where pepper spray is presented or deployed

## **Planned use of pepper spray**

### **Request procedures**

The request to use pepper spray can only be made after a supervising officer in attendance has determined whether:

- other tactical options will be inadequate to resolve the incident safely; and
- the use of physical force is reasonable, necessary, and proportionate in the circumstances.

Before making a request for the issuing of pepper spray, a supervising officer must complete a risk assessment to determine whether use of pepper spray would be appropriate given the circumstances, location and environment.

Staff must seek advice from Health Services on whether the prisoner has any medical conditions that would prevent the use of pepper spray unless impracticable to do so.

### **Approval process**

The prison director must only approve the use of force, including the issuing and use of pepper spray, if they have reasonable grounds for believing force is reasonable, necessary and proportionate in the circumstances:

in self-defence, in the defence of another person, or to protect the prisoner from injury, or in the case of an escape or attempted escape (including the recapture of any person who is fleeing after escape); or  
to prevent the prisoner from damaging property, or in the case of active or passive resistance to a lawful order.

### **Procedures prior to use**

Before planned use of pepper spray:

- a decontamination area must be set up.
- if practicable, health staff must be present and in safe proximity to the incident to manage any medical emergency and assess the prisoner's health status if required.

To authorise the use of MK9 and Cell Buster, the prison director must also reasonably believe that:

- there is a serious threat to prison security or to the safety of any person; and
- the use of pepper spray will reduce or eliminate the serious threat.

### **Procedures for use**

A corrections officer trained in the use of pepper spray may only use pepper spray when all the following conditions apply:

- There is a planned control & restraint (C&R) incident
- If practicable, health staff must be present and in safe proximity to the incident area, and be able to respond immediately to any medical emergency
- All members of the C&R team are trained and current in C&R and pepper spray
- Health staff will also be available at the decontamination area
- The prisoner is displaying 'assaultive' behaviour
- Approval to use force, including the issuing of all types of pepper spray canisters, has been given by the prison director

The pepper spray will not be used against:

- a prisoner armed with a firearm (notify Police immediately to respond to the situation)
- pregnant prisoners
- prisoners on a roof or other areas where the use of pepper spray at such a height may cause the prisoner to be injured if they were to fall.
- prisoners who cannot be continually observed
- prisoners located in an area that cannot be accessed quickly (e.g. the entry / exit point has been barricaded)
- a prisoner who is restrained by any means (e.g. C&R locks or mechanical restraint)
- a prisoner who is wearing a spit hood.

A corrections officer designated as "Number 1" within a Control and Restraint team has the final decision on whether to use pepper spray, including the type of pepper spray canister to be used (MK3, MK9, or Cell buster).

Pepper spray must be used in a way that minimises pain or injury to the prisoner, as far as it is consistent with protecting prison security or the safety of any person.

Following risk assessment and approval from the prison director, an officer may only use pepper spray against a prisoner if the officer has reasonable grounds for believing that the use of force is reasonable, necessary, and proportionate in the circumstances, as per use of force policy.

### **Procedures after a planned use of pepper spray**

After using pepper spray on a prisoner, a corrections officer must:

- check that the prisoner's breathing has not been severely affected and if the prisoner has difficulty resuming normal breathing, immediately request medical assistance from health staff present.
- confirm with health staff present that there are no health or injury concerns, before relocating the prisoner
- ensure the prisoner is not left lying face down with their hands restrained behind their back.

After the pepper spray has been used a corrections officer must consider whether the use of handcuffs is reasonable, necessary and proportionate in the circumstances, to protect the prisoner from injury, or to defend themselves or another person.

For example:

- The prisoner becomes violent during the decontamination process and tries to harm a staff member or themselves.
- The prisoner is attempting to transfer the pepper spray onto others for example by wiping it onto another person.

- The safe relocation of a non-compliant prisoner.

If a prisoner is wearing a spit hood, then the use of pepper spray is not permitted. Likewise, if pepper spray has been used against a prisoner, then the use of a spit hood is not permitted. The prisoner must not have their face covered at any time.

The incident supervisor is responsible for ensuring any unused canisters are returned to secure storage once they reasonably believe that pepper spray is no longer required as a tactical option to the planned use of force.

## **Decontamination process**

Any prisoner subjected to pepper spray will be decontaminated as soon as the prisoner is compliant and safely contained.

The decontamination procedure can begin where the pepper spray has been deployed, or any other appropriate area.

After the pepper spray has been used a corrections officer must consider whether the use of handcuffs is reasonable, necessary and proportionate in the circumstances to protect the prisoner from injury, or to defend themselves or another person.

The prisoner must not have their face covered; the use of a spit hood is not permitted.

A corrections officer certified in the use of pepper spray is responsible for the decontamination process.

If decontamination is required while on escort, either proceed to nearest prison facility or Police station to carry out the decontamination procedure.

If a corrections officer determines that it is necessary to use handcuffs in the circumstances, they should first take into account factors such as whether contact lenses or affected clothing need to be removed first. Any guidance from health staff present should be followed if it is safe to do so.

## **Clean up of staff and equipment**

After an incident involving the use of pepper spray, a corrections officer must:

- be provided with an opportunity to shower to remove residual spray (if required)
- arrange for their clothing to be washed (normal laundry process)
- ensure any protective equipment is washed with soap and water, or according to the specific instructions for cleaning the equipment (i.e. respirators and SRBA).

## **Requirements for reporting**

All incidents involving use of pepper spray on a prisoner must be reported (as per POM IR.06 Incident Reporting) within two hours.

In addition, the Prison Director and Regional Commissioner must be informed within two hours.

All available video recording (BWC and CCTV) of the incident must be retained and a copy sent to the Tactical Operations team coordinator at National Office within three working days of the incident occurring.

If a corrections officer has been exposed to pepper spray and experiences any physical symptoms after being sprayed, the corrections officer must complete the H&S Tracker Report.

## Control and restraint

Control & Restraint (C&R) is a last resort in response to disruptive or threatening behaviour. Every opportunity must be taken to de-escalate the incident or exit the situation before using C&R techniques. Learnings gained from previous events have been reflected in the C&R course content.

Emphasis must be placed on the medical implications of C&R including those relating to female and pregnant prisoners, and positional asphyxia.

All effort has been made to simplify the techniques and to ensure that officers are aware of the dangers involved in the restraint of a violent prisoner.

## Spontaneous incidents

Many incidents that occur in prisons are spontaneous. These can happen when officers answer personal alarms, radio messages or there is a shout for assistance.

The types of spontaneous incidents that officers may encounter are:

- assaults (either on staff, officers or prisoners)
- fighting prisoners
- prisoners damaging property
- escapes
- prisoners refusing to comply with a lawful order.

Officers may need to use whatever force is necessary to protect themselves or others, but the force used must be, reasonable, necessary, and proportionate in the circumstances as they see them.

If one officer is present at a violent incident, then personal safety tactics should be adopted (e.g. tactical communication/tactical exit). Officers should use whatever force is reasonable, proportionate, and necessary to bring the situation under control or protect themselves.

Once an element of control has been achieved, officers will use C&R techniques as taught.

## Planned use of force

### Approval

Before C&R is applied to any person, oral approval must be obtained from the Prison Director if the following apply:

- The prisoner (or other person e.g. visitor) responsible for an incident has been contained
- There is no immediate threat of harm to any person.
- It is practicable to get approval under the circumstances.

### Four officer C&R Team

C&R techniques are used by four officers to control and restrain a violent prisoner using only the minimum amount of force necessary.

## Role of the supervisor

The supervisor has overall accountability of the incident – scene management, appreciation, approvals, intervention and relocation.

Planned C&R incidents are supervised by an officer (“the supervisor”) who is accountable for the management of the incident until the prisoner is relocated. Normally, this officer will be a PCO or SCO (although competence and experience are as important as rank).

Prior to intervention in a planned incident the supervisor must:

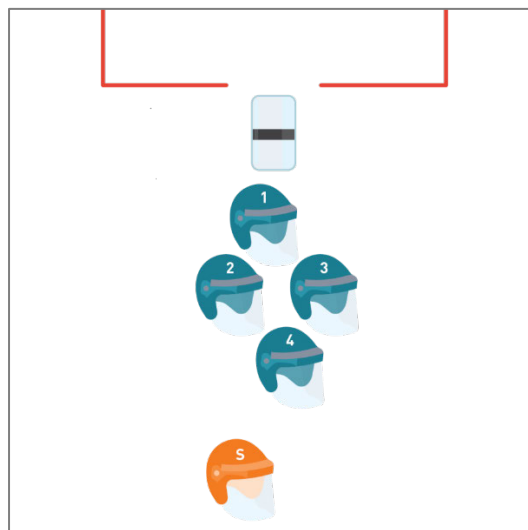
- make every reasonable effort to persuade the prisoner(s) to end the incident peacefully
- assemble the C&R team (and any necessary reserves)
- ensure that all staff present are C&R trained and currently qualified (i.e. at least refreshed in the previous 12 months). Noncertified staff must not take part in a planned C&R intervention (unless absolutely necessary and all other avenues have been exhausted)
- request that healthcare provide any pertinent medical details (e.g. that the prisoner is pregnant) and that they attend the scene in order to observe the intervention and relocation (and give them reasonable time to attend the scene)
- ensure the use of a video camera to record the intervention and relocation, refer to POM IR.02. res .03 video operator instructions
- brief the team about the current situation, the prisoner involved and the route to where the prisoner will be relocated.

## Formation of a four-officer team

The planned use of force team must be made up of at least four officers, and must:

- be pre-approved by the prison director
- plan the intervention before initiation
- involve four officers, who all must:
  - wear approved and appropriate PPE
  - be current in their Tactical Options certification
  - use only approved techniques,

Officers are detailed positions of 1,2,3,4 each position has a responsibility for the team to function effectively. Number 1 who will lead with a shield with 2,3, and 4 in close contact behind





### *Responsibilities*

- Number 1 is responsible for communicating with the prisoner and controls the prisoner's head once physical contact is made.
- Numbers 2 and 3 are in charge responsible for securing and controlling the prisoner's arms.
- Number 4 is in a support role and can assist with any of the other three positions.

The roles of the C&R team are interchangeable (i.e. if Number 1 has difficulty with controlling the head during the process of restraint, Number 4 or any other position in the team may take the head and gain that control). Whoever takes that control will now assume the position of Number 1 and continues with the communication.

### **Protective equipment**

All staff must wear, protective equipment in a planned C&R incident that is provided. Protective equipment that should be worn is detailed below:

- short shield (to be carried by Number 1)
- helmet
- shin/knee guards for each member of the team
- gloves
- stab resistant body armour (SRBA)
- pepper spray (other approved less lethal weapons)
- respirators if using Cell Buster (pepper spray)
- handcuffs
- overalls.

Normal practice would be to remove shields and helmets as soon as practicable following C&R. The Supervising Officer will decide whether to remove some items of protective equipment (e.g. helmet, shield) before escorting a prisoner to a relocation area.

### **The role of healthcare staff**

A member of the healthcare staff must attend, whenever reasonably practicable, every planned incident where staff are deployed to restrain violent or disturbed prisoners. Whenever reasonably practical, health staff will attend spontaneous use of force incidents upon request.

The member of health care staff must monitor the prisoner and members of the C&R team and provide clinical advice through the supervisor. This advice must be acted upon to avoid or address any medical emergency (i.e. the risk of positional asphyxia etc.).

## Control and restraint techniques

Staff are trained in a variety of arm and wrist locks used to control and restrain a violent prisoner using only the minimum amount of force necessary. The application of the arm locks, wrist locks and taking of the head must be carefully controlled so that the risk of injuries is minimised.

During a use of force incident, as soon as an element of control is obtained, mechanical restraints should be applied at the earliest opportunity.

Any controlling holds should then be released, and the prisoner given the opportunity to comply with instructions and be allowed to walk without any holds being applied.

### Taking control of the prisoner's head

The main reasons for controlling a prisoner's head are to protect staff from being head butted or bitten and to protect the prisoner from injury during the initial restraint.

Control of the prisoner's balance with the head forward assists the team to take the prisoner to the floor. The prisoner's head should remain in as natural position as possible. It should not be twisted or turned beyond what is normal. The head should be kept above the prisoner's hips.

### Arm locks

In the situation where an arm lock is applied, the officer should first control the prisoner's arm, and then apply the lock. Whenever a member of the team applies a lock to a prisoner it is important to notify all team members by reporting "lock on" to Number 1 of the team.

### Principles of a straight arm lock

- wrist end of the arm fixed
- shoulder end of the arm fixed
- direct pressure applied through the elbow joint.

The straight-arm locks mentioned here and described in the Instructor's Guide that are approved by Corrections:

- Front over hook/Parallel
- Front under hook
- Rear under hook
  - Transition to final lock
- Rear over hook
  - Transition to final lock
- Straight arm bar
  - Transition to hammer lock / final lock
- Upper body grab.

### Wrist locks

Principles of a Wrist lock

- cocked wrist

- blocked elbow
- direct pressure through the back of the prisoner's hand.

The wrist locks mentioned here and described in the Instructor's Guide that are approved by Corrections:

- fully extended wrist lock (used when the prisoner is not taken to floor)
- hammer lock
- final lock.

Prior to moving a prisoner under restraint, arm locks must be converted to the final lock position and mechanical restraints applied.

Any controlling holds must then be released, and the prisoner given the opportunity to comply.

In some instances, a prisoner may be so violent that it may not be possible to apply controlling locks in the standing position. In these cases, where there is a risk of injury to a member of the team or the prisoner, Number 1 will give the command "down". The prisoner will be taken down in a controlled manner into the prone position.

A pregnant prisoner must not be taken to the ground or relocated face down.

A prisoner must not be kept in the prone position for any more time than is absolutely necessary in the circumstance. The risk of positional asphyxia is increased with a person in the prone position, where the body weight of the individual acts to restrict the chest wall and the abdomen, restricting the diaphragm movement.

### **Prisoner taken to the ground**

The role of Number 1 during this movement is to control and protect the prisoner's head. This will be achieved by maintaining the head support position, ensuring that Number 1's forearm makes contact with the ground first, protecting the prisoner's face.

In the instance of a violent prisoner, it may be necessary for Numbers 2 and 3 to use strength and body weight to initiate the downward movement of the prisoner. Once the prisoner is on the ground, it is the initial responsibility of Numbers 2 and 3 to control their respective arms and move to the hammer lock position.

Once control of the arms is obtained the use of mechanical restraints, must be applied and then all controlling holds can be released. The prisoner must then be given the opportunity to comply with further instructions and allowed to walk without any holds being applied.

### **Prisoner on the ground - supine position**

When a prisoner has been taken to the floor on their back it may become necessary to roll them onto their stomach for the purpose of applying handcuffs and getting them to their feet.

The prisoner must not be kept in the prone position for any more time than is absolutely necessary in order to perform this technique.

The first option must be the application of handcuffs. The prisoner can then be assisted to a sitting then standing position prior to moving.

This procedure will be used to accomplish that and will be controlled by the Number 1 and with support from the rest of the C&R team.

A pregnant prisoner must not be taken to the ground or relocated face down.

Care must be taken to ensure that Number 1's actions do not interfere with the prisoner's hearing. The supportive roles of the Number 2 and 3 of the team are to immobilise the prisoner's arms. Once the arms are immobilised, locks will be applied to continue to restrain the prisoner.

### **Standing the prisoner up**

The first option must be the application of handcuffs. The prisoner can then be assisted to a sitting then standing position prior to moving.

The prisoner must be allowed to walk without any physical holds being applied, unless they continue to be non-compliant.

The prisoner should not be held in the prone position for any longer than is strictly necessary. The prisoner will be brought to their feet under the direction of Number 1 of the team.

The C&R team work together to enable the prisoner to get into the stand-up position by applying appropriate C&R techniques, both supporting the prisoner as well as making sure that no harm is done to the prisoner or the team.

### **Standing the prisoner from seated position (obese/pregnant prisoner)**

Number 2 and 3 of the C&R team will prevent the prisoner from any backward movement. Under the direction of Number 1, Numbers 2, 3 and 4 will assist the prisoner to a standing position.

Throughout this move, Number 1 should support the prisoner's head, but is not required to be involved in the lifting process until the prisoner is in the standing position. Staff should be reminded of the increased risk of positional asphyxia with an excessively heavy prisoner.

### **Controlling techniques**

The application of a controlling technique should never be used where an alternative can safely achieve the same objective. However, the use of a controlling technique may be justifiable if that is the only viable and practical way of dealing with a violent incident, which poses an immediate risk of serious physical harm to the prisoner, officers or others.

The application of a controlling technique may initially be successful in preventing serious physical harm from occurring. However, it must be recognised that the risk of harm to the prisoner, or others, may fluctuate throughout a restraint incident and it may therefore be necessary to re-apply a controlling technique.

Controlling techniques may not always be successful in preventing serious physical harm from occurring. If this is the case, the officer must assess whether the technique is being applied correctly and re-apply only if necessary. If it is evident that the chosen technique is not successful, officers must cease the application immediately and consider an alternative course of action.

Officers must be able to explain their reasons for using a controlling technique as part of their decision-making process and be able to set out their approach in their subsequent use of force report.

### **Risk considerations**

Prior to the application of a controlling technique, the officer must have considered if:

- there is an immediate risk of serious physical harm to the prisoner
- there is an immediate risk of serious physical harm to others or officers
- all reasonable options have been exhausted
- they are acting in the best interests of either the prisoner or others.

## Guidelines

Whenever possible officers should follow the guidelines listed below before applying any form of controlling technique:

- Refer to responsibilities of the Number 1 of the team.
- Prior to application use verbal reasoning – appropriate de-escalation dialogue.
- Give the prisoner a clear, simple, verbal instruction of what is required – ensure they understand.
- If they continue to refuse, give a clear statement that they are leaving you with few options i.e. one of those is that they may feel discomfort/pain in a specified area.
- Give a further clear, simple, verbal instruction of what is required.
- Apply the technique and continue to give verbal instructions in a controlled tone (the application of pain with instruction is more likely to result in the prisoner following the instruction) – the pitch and tone is crucial – assertive not aggressive.
- Controlling techniques should only be applied for approximately 5 seconds however circumstances may dictate that the application of a controlling technique may be required for longer.

It is accepted that in certain situations these guidelines will not be possible due to the immediate risk to officers, the prisoner or others. In these situations, officers will give clear instructions, whenever possible, during the application of controlling techniques.

Due to the level of resistance offered by the prisoner it may at times be difficult to apply controlling locks. In some situations, controlling techniques could be used to enable locks to be applied. Below is a list of the techniques taught to Corrections staff to assist in gaining control of the prisoner:

- Mandibular angle
- Thumb lock
- Philtrum technique
- Upper arm control
- Leg restraint.

## Moving a prisoner

This section of the manual deals with the various methods of moving a prisoner. The circumstances, distances and level of resistance offered by the prisoner will dictate which technique is used.

The first option should always be the application of mechanical restraints once control is obtained, this allows the controlling holds to be released and gives the prisoner an opportunity to comply (to save face) and walk without any holds being applied.

Any prisoner who has been subject to C&R must be managed as At Risk and a Review Risk Assessment completed within 4 hours (refer POM M.05.02.01.)

## De-escalation

When it has been necessary to physically restrain a prisoner, Number 1 will take every opportunity to maintain dialogue with the prisoner. Their aim will be to defuse the situation. Given the opportunity, the Supervisor, in conjunction with Number 1, will make a decision as to whether the prisoner can be released from C&R locks and escorted in the manner as per the passive prisoner technique, as referred to in the next section.

The use of mechanical restraints should be applied at the earliest opportunity during restraint once control is applied.

## Relocation

The level of resistance offered by the prisoner will dictate which technique is used. The Supervisor/Number 1 will decide on the most appropriate method of relocation. The decision-making process will be influenced by the prisoner's current behaviour, their previous history, and other known factors.

Every effort should be made to reduce the levels of restraint, the objective being a restraint-free relocation.

Prisoners, who have exhibited disruptive signs or have been physically restrained, may become passive enough so that in the judgement of staff they can be allowed to walk.

Mechanical restraints will be used as a precautionary measure, but without the use of C&R locks.

All officers involved in relocating a prisoner will constantly monitor their condition throughout the move for any signs of medical distress.

If at any time a member of the healthcare team assesses that the continued use of any restraint method presents a medical risk, then this advice must be acted on. Officers should always be prepared to relax their existing restraining holds or release them immediately.

Relocation can include techniques such as:

- Guiding Hold
- Escort in arrest mode using mechanical restraints
- Locks
- Carry technique

### *Guiding hold*

The Guiding hold is the lowest level technique that can be applied by 1 or 2 officers to enable them to escort a prisoner through or away from an area in order to prevent a situation from escalating. This hold should not be used as a matter of routine and only in direct response to any warning signs or behaviours that a prisoner exhibits (verbal or non-verbal) where risk to others or the officers is considered possible.

All officers who are involved in performing and/or monitoring a prisoner during any restraint must be aware of the signs of actual or potential harm to the prisoner and know what actions to take. If the prisoner complains of pain or discomfort when pain inducement is not intended, officers should check whether the hold is applied appropriately and readjust as necessary.

### *Carry technique*

The prisoner placed into handcuffs now refuses to conform to instructions to walk. The numbers 2 and 3 at the side of the prisoner will place their inside arm through the crook of the prisoner's arm on the inside of the elbow. Their outside arm will come underneath the prisoner's knee joint on their respective sides. The prisoner is then lifted from the floor and where possible the numbers 2 and 3 will clasp their own hands.

### *Spit hoods*

Spit hoods are a breathable fabric which is placed over the prisoner's head to reduce the risk of spreading pathogens by preventing spitting at staff. A spit hood may be used during a use of force incident providing the circumstances require an immediate action and/or approval to do so is given from the Prison Director or delegated authority. The decision to apply the spit hood should be as a direct consequence to the prisoner having spat, attempted to spit, threatening to spit or has a known history of spitting at the staff. The spit hood will be applied at the earliest and most appropriate opportunity when the prisoner is under control (time and position dependant). The Number 4 will place the spit hood over the prisoner's head. Spit hoods should be removed as soon as practicable and safe to do so. Spit hoods should not be used if pepper spray has been used on the prisoner. Under no circumstances should a prisoner wearing a spit hood be left unsupervised.

### **Strip search of a prisoner under restraint**

The safety of a prisoner who has been relocated using C&R methods is paramount. There may be times when a prisoner may need to be strip searched while under restraint.

Before a strip search several factors must be considered.

- What are the legal grounds for a strip search?
- Will the prisoner comply with the search?
- Is the strip search by force necessary, reasonable, and proportionate to the situation and resistance of the prisoner?
- Are there alternatives to the use of force to strip search the prisoner?

Section, 98 of CA 2004 provides the authority for an officer to strip search a prisoner. Staff must understand the legal basis upon which they are carrying out the strip search.

### **Use of mechanical restraints**

Authority to use mechanical restraints comes from:

- Corrections Act (CA) 2004 section 87
- Corrections Regulations (CR) 2005 regulations 124, 125 & 127 + (Schedule 5)
- Prison Operations Manual (POM) IR.02.R02.01 - Authorised mechanical restraints
- Custodial Practice Manual (CPM) Mechanical Restraints

Mechanical restraints will not be used on women on escort who are 30+ weeks pregnant, are in labour, or remain in hospital with their baby after giving birth.

This must be recorded under the Restraint Instructions section of the Escort Instructions.

(Refer POM M.03.02 Wāhine/women and pregnant prisoners)

The use of mechanical restraints should be applied at the earliest opportunity during restraint once initial control is obtained.

The use of steel chain linked handcuffs are authorised during use of force incidents.

Authorised mechanical restraints must be used in a manner that minimises harm and discomfort to the prisoner.

## **Handcuffs**

The use of mechanical restraints should be applied at the earliest opportunity during restraint once initial control is obtained. Controlling holds should then be released and the prisoner given the opportunity to comply.

They should be used when relocating a prisoner after a use of force incident. The prisoner should be given the opportunity to walk themselves without any physical holds being applied.

Mechanical restraints can also be effective during the de-escalation process. It may be a way for the prisoner to save face and maintains the safety of the officers.

A prisoner can be regarded as under control if they are:

- responding in a manner that indicates to you that they are willing to comply
- The holds applied are restricting their movement so that they are no longer an immediate threat to officers
- compliance is likely to be genuine if the prisoner:
  - stops struggling
  - talks to you
  - responds to commands.

## **High security cuffs**

Prisoner external escorts (of prisoners low-medium classification or higher) out-side of a prison carries inherent risk and as such the constant mitigating factor (among others as specified), is the use of high security handcuffs (with inserts).

The basic wrist locking unit consist of a steel shackle sliding in a cast aluminium body similar to an open shackle padlock. The double handcuff comprises of two such units attached through chain links and/or a swivel-link to provide flexibility of movement.

NOTE: At times the high security handcuffs will not fit on a prisoner due to the size of the prisoner wrists (are too big). On these occasions the large ratchet handcuffs are to be used.



## Operational debriefing

All spontaneous and planned use of force incidents will be debriefed (POM IR.05.04). An operational debrief should be used to identify learning and to verify whether key processes were followed correctly and how operational plans can be improved. Post-incident debriefs may take two formats:

- hot (immediate debrief)
- cold (delayed full operational debrief).

### Hot debrief

The officer in charge of the incident must immediately advise the prison director (or delegate, i.e. on-call officer or supervision officer) immediately following incidents where use of force has been used, it refers to;

- the use of any mechanical restraints applied to the prisoner during the incident.
- spontaneous use of force, including individual carry pepper spray.
- planned control and restraint.

The purpose of a hot debriefing is to:

- identify any ongoing threats
- identify further action required (such as incident reporting, exhibit management)
- identify and address any immediate welfare needs
- identify any immediate learning outcomes that can be rapidly addressed
- allow staff to feedback on operational activity
- allow staff directly involved in the incident to “unload” and de-stress
- provide an opportunity for the incident controller to thank staff
- establish any aspects that may require immediate follow up
- identify and address any staff welfare needs relating to the incident.

### Cold debrief

Following the hot debrief the Incident Controller, Manager or senior person will then confirm post-incident actions such as reporting and Post Incidence Response Team support are underway and that a cold, full organisational debrief is scheduled.

The cold debriefing should be held as soon as practicable after the conclusion of the incident, ideally within 24 hours of the incident. The timing of the cold debrief should ensure that those involved in the incident are able to attend and contribute effectively to the discussion.

The purpose of an operational debriefing is to provide staff involved in the incident the opportunity to discuss and learn lessons from the way the incident was handled. It also gives staff the opportunity to ask any questions they may have or raise issues that they feel should be discussed.

The person leading the debrief should ask staff members involved:

- What went well that we can build on?
- What were the challenges?
- What would we do next time?
- How could we prevent this from happening again?

With all debriefings staff should be able to speak freely for everyone to learn from their experience. The following points/issues should be included in an operational debriefing:

- the process for keeping staff and others involved in the incident informed on progress/outcomes
- acknowledgement of the way that the incident was handled
- an opportunity for staff involved in the incident to ask questions/raise issues from the incident, and to voice what went well and what could be done better next time
- immediate remedial action that can be taken
- to identify/clarify staff support opportunities that are available e.g. post incidence response team (P.I.R.T.), Employment assistance programme (E.A.P.).
- to identify learning from the incident
- verification that processes in the approved emergency plan were followed (where the incident was of a type covered in the emergency plan)
- the need to update, amend or make an addition to the emergency plan as a result of the incident
- expression of thanks to staff for managing the incident
- other issues the incident controller or staff may wish to raise.

## Reporting and investigating

Refer to IR.05 Post Incident

The response by an officer when managing challenging and violent prisoner's behaviour must always be necessary, reasonable and proportionate in the circumstances.

Following any use of force incident, a use of force form must be submitted.

This is the officer's opportunity to record the facts as they recall them. Constant review and assessment of the effectiveness of any use of force is essential to measure the success of the selected option. This will also enable the sharing of good practice. The use of force report form can support this process by recording the events accurately.

If officers do not comprehensively and accurately record the actions they took before, during and after the use of force, they may leave themselves open to serious allegations, disciplinary action, and possible litigation, bring the service into disrepute and a loss of public confidence. Officers may be questioned months or even years after the event and cannot rely on memory alone. They may be a potential witness under oath in court.

The incident report must set out what happened, give details of the officers' part in the use of force, outline any techniques used, their decision-making process, be comprehensive, clear, descriptive, specific and accurate. It gives the officer an opportunity to record the facts as they recall them.

The incident report must be completed independently of other staff involved and must be completed by all staff involved or who witnessed the incident within 2 hours or before the end of their shift.

Incident reporting is to be carried out according to the Prisons Operations Manual - IR.06 Incident reporting – (note that Health and Safety issues will take priority over the reporting of incidents).

### Use of Force Reviews

All use of force incidents must be reviewed as soon as possible after the incident.

The review is to be carried out by an officer nominated by the Prison Director to consider whether the situation was handled in the most appropriate way, what led to the situation, and what strategies need to be put in place to avoid future situations that lead to the use of force.

The depth of any such review should reflect the seriousness of the incident.

Each incident should be investigated as soon as is practical after it has occurred, and the results of the investigation documented and reported. The outcome must be made available to any subsequent investigation.

## Reference section

### Advanced Control and Restraint (ACR)

ACR Units are made up of Corrections staff specially trained and equipped to respond to serious incidents in prisons where prisoners are acting in a highly threatening, aggressive and violent manner.

These incidents can be highly volatile, physically demanding and beyond the capabilities and training of regular custodial staff.

ACR Units can be deployed at site level by the Prison Director, within regions by the Regional Commissioner or nationally by the National Commissioner.

Members volunteer for ACR Units in addition to their normal custodial position. They receive ongoing specialist training.

More information about ACR units' background, structure, training requirements and operational protocols can be referenced on Tatou and the ACR Manual of Guidance.

### ACR structure

#### Unit Structure

Units are a specialist group under the Principal Adviser Tactical Operations.

Each ACR Unit is made up of a Unit Commander, Section Leaders and Members.

Sections consist of a Section Leader plus six Members. Units range in size from 15 to 43.

Each region has a Regional Tactical Adviser to provide specialist advice, deliver training and support operational deployment.

#### Deployment Protocols

Advanced Control and Restraint (ACR) Units are specialist teams of Corrections staff who can be deployed to help resolve serious incidents or emergencies.

ACR Units can be deployed by:

- a Prison Director at their site
- a Regional Commissioner within their region
- the National Commissioner nationwide.

Prison Directors and Regional Commissioners (or delegated person) are authorised to deploy ACR Units if they reasonably believe that:

- there is a serious threat to prison security or to the safety of any person
- other means of reducing or eliminating the serious threat have been or are likely to be ineffective to restore good order and security
- mutual aid is required.

An ACR Unit can be activated/deployed in full or as a part unit in multiples of seven members (Section Leader + 6 Members). This is at the discretion of the Prison Director and in consultation with the Unit Commander.

## Legislation and the use of force

### Department of Corrections Code of Conduct

Our Code of Conduct outlines the high standards of behaviour we expect of all people who work at Corrections.

Expectations of the Code of conduct

- Behave in a way that reflects the principles & behaviours described in the Code of Conduct
- Encourage others to behave in a way that is consistent with this code
- Report behaviour that is inconsistent with this code.

### United Nations Standard Minimum Rules for the treatment of Prisoners, Rules 47,48, 49

- Instruments of restraint

### Crimes Act 1961, Sections 2, 48 and 62

- Interpretation, Assault
- Self-defence, defence of another
- Excess of force

### Crimes of Torture Act 1989. Section 3

- Acts of torture

### Corrections Act 2004, Sections 83-88

- Use of Force
- Provoking Prisoners
- Use of non-lethal weapons
- Restraint of prisoners
- Reporting of the use of force

### Corrections Regulations 2005, Regulations 118-129

- Use of force,
- conditions attached to use of physical hold,
- Non-Lethal Weapons,
- Mechanical Restraints
- Batons (Advanced Control & Restraint only)

### Corrections Amendment Regulations 2022, Regulations 119a, 123, a,b,d

- Relating to the use of pepper spray

## Department of Corrections, Corrections Services, + Prison Operations Manual (POM)

### Custodial Practice Manual

- Mechanical Restraints
- Writing Reports
- Searching
- Pepper Spray
- Personal Protective Equipment

### Context

All staff working for Corrections (including Community Corrections staff) are covered under the:

#### **Crimes Act 1961 sec 48 - Self-defence and defence of another**

Every one is justified in the defence of him or herself or another, using such force as, in the circumstances as he or she believes them to be, it is reasonable to use.

#### **Crimes Act 1961 sec 62 - Excess of force**

Every one authorised by law to use force is criminally responsible for any excess, according to the nature and quality of the act that constitutes the excess.

Custodial staff work within specific legislation for example:

#### **All Corrections Officers**

#### **Corrections Act 2004 sec 83 use of force.**

(1) No officer or staff member may use physical force in dealing with any prisoner unless the officer or staff member has reasonable grounds for believing that the use of physical force is reasonably necessary -

(a) in self-defence, in the defence of another person, or to protect the prisoner from injury; or

(b) in the case of an escape or attempted escape (including the recapture of any person who is fleeing after escape); or

(c) in the case of an officer:

(i) to prevent the prisoner from damaging any property; or

(ii) in the case of active or passive resistance to a lawful order.

Paragraph (1) (a) and (b) applies to an officer or staff member

Paragraph (1) (c) applies to an officer only

#### **Corrections Act 2004 sec 84 - Provoking prisoners**

(1) No officer or staff member may deliberately act or speak in a manner likely to provoke a prisoner.

(2) To avoid doubt, subsection (1) does not prevent an officer or staff member from issuing any lawful order to a prisoner or providing any information to a prisoner or otherwise carrying out his or her duties

Corrections Act 2004 sec 3 -Interpretation

officer -

(a) means -

(i) the manager of a prison:

(ii) any person appointed or engaged under section 11 to provide custodial services in respect of a prison:

(iii) any person appointed under section 17(1)

(iv) any person appointed or engaged under section 17(2) to carry out the obligations of a security contractor under a contract to undertake escort duties or courtroom custodial duties, or both, but only while that person is carrying out functions set out in section 18(1) or the powers and functions referred to in section 18(2):

(v) any employee of the department who the Chief Executive designates to carry out the powers and functions of an officer in respect of 1 or more prisons:

(vi) in respect of any provision, any employee of the department whom the chief executive designates to carry out the powers and functions of an officer under that provision in respect of 1 or more prisons; but

(b) does not include any employee or independent contractor appointed or engaged to provide non-custodial services in respect of any prison or any prisoner.