

Australian Capital Territory

Corrections Management (Use of Force and Restraint) Policy 2020

Notifiable instrument NI2020-562

made under the

Corrections Management Act 2007, s14 (Corrections policies and operating procedures)

1 Name of instrument

This instrument is the *Corrections Management (Use of Force and Restraint) Policy 2020*.

2 Commencement

This instrument commences on the day after its notification day.

3 Policy

I make this policy to facilitate the effective and efficient management of correctional services.

4 Revocation

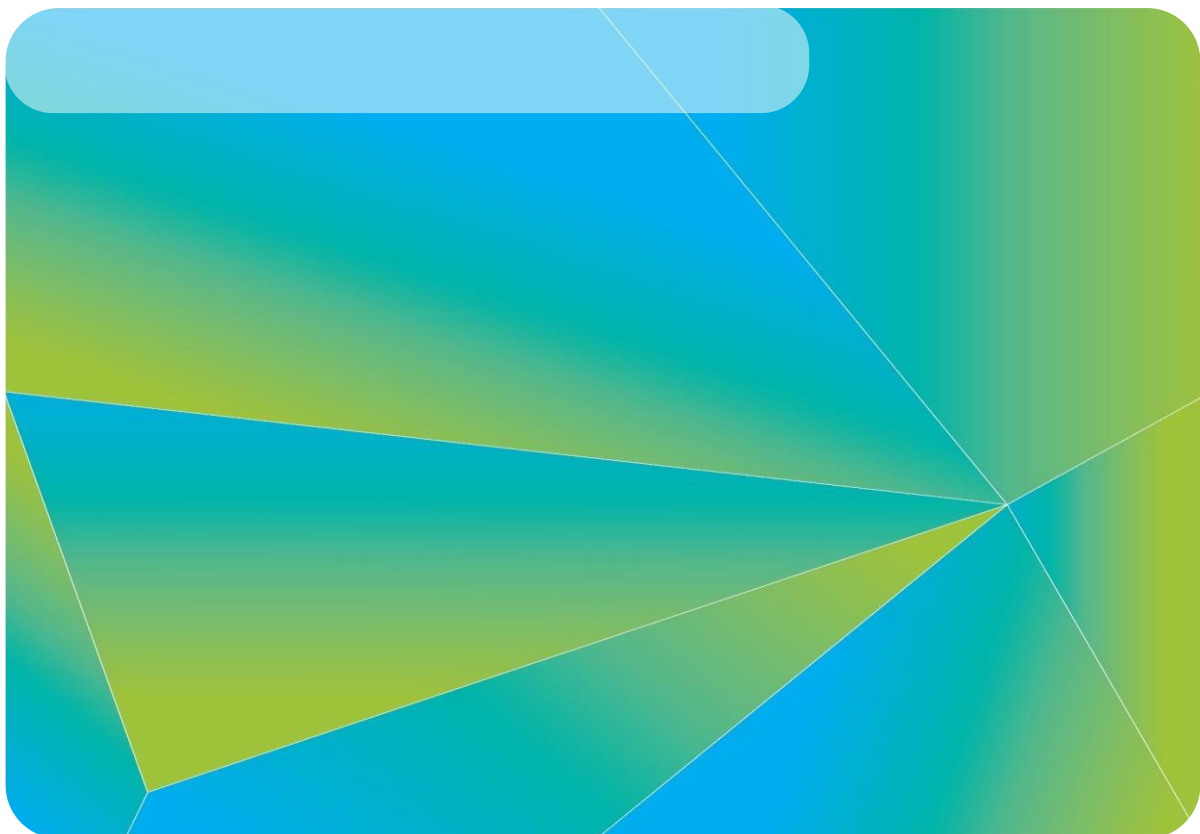
This instrument revokes the *Corrections Management (Use of Force) Policy 2012* [NI 2012-278], *Corrections Management (Use of Force) Procedure 2012* [NI 2012-277], *Corrections Management (Use of Restraints) Policy 2011* [NI 2011-132], and *Corrections Management (Use of Restraints) Procedure 2011* [NI2011-133].



Jon Peach
Commissioner
ACT Corrective Services
04 September 2020

USE OF FORCE AND RESTRAINT

POLICY NO. D6



ACT
Government

Justice and Community Safety

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1 PURPOSE

ACT Corrective Services (ACTCS) is committed to ensuring that force and restraint is only ever used as a last resort where strictly necessary and with only the minimum amount of force that is reasonable and proportionate according to the circumstances.

This policy establishes instructions for the use of force and restraint in a humane, safe and legal manner in accordance with part 9.7 of the Corrections Management Act 2007 (ACT).

2 SCOPE

This policy applies to all ACTCS custodial officers exercising functions under the Corrections Management Act 2004 (ACT). All other ACTCS staff members must refer to the Crimes Act 1900 (ACT) and Criminal Code 2002 (ACT).

The Deputy Commissioner Custodial Operations will establish operational procedures under this policy.

3 DEFINITIONS

Restraint

The use of mechanical instrument to restrict a person's movement where the person is at immediate risk of self-harm, or causing harm to anyone else.

Use of force

A physical effort in order to compel a person to comply with a direction, or in order to prevent immediate risk of self-harm, harm to others, or to the security and good order of a correctional centre. May include the application of restraint.

4 PRINCIPLES

- 4.1 Force must not be used as a means of punishment.
- 4.2 Staff must only use the minimal amount of force necessary where there are reasonable grounds to believe that the purpose for using force cannot be achieved in another way under the circumstances.
- 4.3 Any use of force must cease as soon as safety and security have been restored.
- 4.4 The use of force must be consistent with operating procedures, approved instruments and custodial officer training (Use of Force and Restraint Operating Procedure, Annex 4 – Operational Safety Principles).

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- 4.5 The duration of any use of mechanical restraints must be justified according to any continued risk to safety of the detainee or any other person.
- 4.6 Any staff member who uses force is required to justify their decisions and actions in order to meet reporting requirements under section 16.
- 4.7 The misuse of force may constitute:
- a. misconduct;
 - b. a criminal offence under the *Crimes Act 1900 (ACT)*; and/or
 - c. a breach of section 10 of the *Human Rights Act 2004 (ACT)* protection from torture, or treatment or punishment in a cruel, inhumane or degrading way.
- 4.8 The Commissioner may refer an allegation of unlawful use of force to an investigation according to the *ACT Public Sector Correctional Officers Enterprise Agreement*, or to ACT Policing.
- 4.9 The Deputy Commissioner Custodial Operations will:
- a. ensure that all custodial staff receive adequate training in the use of force, de-escalation techniques, and reducing the risk of a medical emergency (*Human Rights Principles for ACT Correctional Centres*); and
 - b. maintain a list of all custodial officers with current training in use of force (*Controlled Items Policy*).
- 4.10 Staff must refer any perceived misconduct under this policy to the Intelligence and Integrity Unit as soon as practicable after becoming aware of the activity (*Incident Reporting, Notifications and Debriefs Policy*).
- 4.11 The use of force and mechanical restraints during external movements is outlined in the *Authorised Absences Policy*.

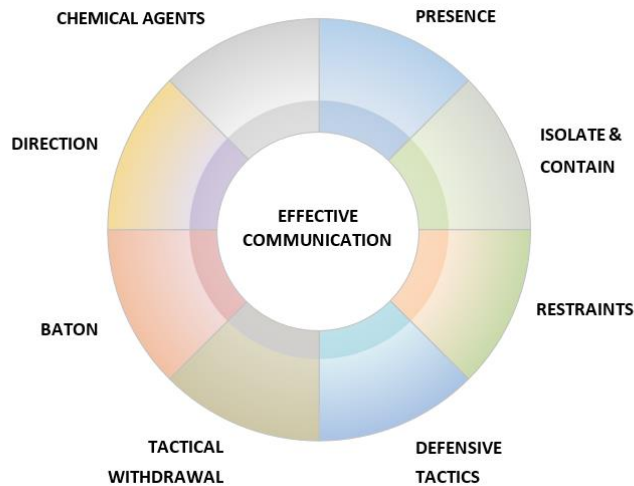
5 AVOIDING AND LIMITING THE USE OF FORCE OR RESTRAINT

- 5.1 Incidents in a correctional centre environment are diverse, and circumstances in which the necessary and reasonable use of force may be authorised as a last resort under section 138 of the *Corrections Management Act 2007 (ACT)* include:
- a. to defend a staff member or anyone else;
 - b. to prevent a detainee from self-harming;
 - c. to prevent a detainee from escaping;
 - d. to prevent or stop the commission of an offence or disciplinary breach;
 - e. to compel compliance with a custodial officer's direction;

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- f. to prevent unlawful damage, destruction or interference with property;
 - g. to search a detainee according to the Searching Policy and section 126 of the Corrections Management Act 2007 (ACT).
 - 5.2 All reasonable efforts must be made to resolve a situation through dialogue according to section 6 without the use of force.
 - 5.3 The use of force does not become necessary simply because a detainee has refused a staff member's direction to do something. The staff member must take into consideration the consequences of the detainee's non-compliance and the risk to the detainee or anyone else according to section 8.
 - 5.4 The use of force must only occur according to section 139 of the Corrections Management Act 2004 (ACT) when—
 - a. a clear verbal warning of the intended use of force has been given; and
 - b. there has been sufficient time for the warning to be observed; and
 - c. the force is no more than what is necessary and reasonable in the circumstances; and
 - d. force is used in a way that reduces the risk of causing grievous bodily harm or death.
 - 5.5 Staff are not required to comply with section 5.4(a) and (b) in urgent or spontaneous circumstances where doing so creates a reasonable risk of injury to the detainee or anyone else (refer to section 7).
 - 5.6 When force is being applied to a detainee, or detainees, staff must continue attempts to de-escalate the situation in order to minimise continued use of force.
 - 5.7 De-escalation should be a priority once control of a situation is established.

Situational use of force model

- 5.8 The ACTCS situational use of force model represents use of force options and is a decision-making guide to assist staff when responding to a use of force incident (Annex 4 – Operational Safety Principles):



- 5.9 Effective communication is central to this model and represents the most important option available to staff.
- 5.10 This model is not restrictive and staff will still have regard to the specific circumstances when determining the most appropriate response (Annex 4 – Operational Safety Principles).

6 DE-ESCALATION

- 6.1 Staff members must attempt to de-escalate each situation and respond to aggressive behaviour in a controlled and non-threatening manner.

Verbal communication

- 6.2 As far as practicable, staff must speak slowly, calmly and confidently to explain the purpose or intention of resolving the situation.
- 6.3 When communicating with a detainee, staff must use clear, brief, assertive instructions and attempt to identify reasonable options for resolving a situation.
- 6.4 To minimise communication problems, staff must attempt to use language appropriate to a detainee and have regard to any communication barriers such as intellectual disability or English comprehension. This may include the use of an interpreter where necessary and practicable.

Non-verbal communication

- 6.5 Staff must be aware of their non-verbal behaviour and utilise the techniques taught in training to avoid escalating the situation.
- 6.6 Staff must also maintain situational awareness and position themselves in as safe a location as possible in case of any escalation.

7 UNPLANNED USE OF FORCE

- 7.1 An unplanned use of force has no warning and requires an urgent or spontaneous response due to serious risk to a person, or to the security of a correctional centre.
- 7.2 If an unplanned use of force is required and fewer than three (3) custodial officers are present, they must only use force when delaying until more custodial officers arrives would present an unreasonable risk to the safety of a person.
- 7.3 Under section 7.2, custodial officers must only use what force is necessary and reasonable to protect themselves and anyone else from immediate danger until more custodial officers arrive, or until they are able to tactically withdraw.

8 COMPLIANCE USE OF FORCE

- 8.1 A compliance use of force occurs in response to a detainee's non-compliance with directions and warnings according to sections 5.4 and 5.5 where circumstances are sufficiently serious to justify the use.
- 8.2 Circumstances in which a compliance use of force may become necessary includes, but are not limited to:
 - a. searching a detainee in accordance with section 126 of the *Corrections Management Act 2004 (ACT)* and *Searching Policy*; or
 - b. ensure attendance before court (*Authorised Absences Policy*); or
 - c. transferring a detainee to a health facility outside a correctional centre (*Authorised Absences Policy*).
- 8.3 Staff must have regard to sections 5 and 6 when deciding to use force to ensure a detainee's compliance with directions.

9 PLANNED USE OF FORCE

- 9.1 A planned use of force occurs when an immediate response is not required and there is time to plan for the use of force without increased risk to the detainee or anyone else, or to the security of a correctional centre.
- 9.2 Following verbal briefings from staff, the Officer-in-Charge will attend the situation, or nominate a local commander to oversee the planned use of force.
- 9.3 The Officer-in-Charge is accountable for the management of a planned use of force until the situation is resolved (*D6.F3: Use of Force Checklist*).

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- 9.4 As far as practicable, a Justice Health Doctor or Registered Nurse must attend a planned use of force to provide clinical advice to the Officer-in-Charge, or local commander in their absence. All clinical advice must be taken into consideration when making decisions.
- 9.5 The Officer-in-Charge must ensure:
- a. all attempts have been made to resolve the situation through de-escalation;
 - b. that the use of force is the minimal amount necessary according to the risks;
 - c. that the Duty Manager is informed of the planned use of force;
 - d. that there is an adequate number of staff and personal protective equipment for the situation;
 - e. that operational orders have been communicated to all staff involved where applicable;
 - f. that personal protective equipment is in an appropriate state of wear;
 - g. compliance with section 5.4; and
 - h. that a hand-held video camera records the incident.
- 9.6 Where the Officer-in-Charge has attended the situation under section 9.2, they must remove themselves from the location of the planned use of force prior to commencement and until the situation has concluded.

10 VIDEO RECORDING

- 10.1 The Officer-in-Charge is responsible for ensuring that all CCTV camera footage of a use of force is downloaded and logged according to the CCTV Policy (D6.F3: Use of Force Checklist). The downloaded footage must also include both the lead-up and aftermath of the incident.
- 10.2 Where multiple CCTV cameras have partial or complete coverage of the location of a use of force incident, the footage from each CCTV camera must be maintained according to section 10.1.
- 10.3 A hand-held video camera must be used to record all planned uses of force according to section 9.5(h), and include:
- a. any preliminary briefings by the Officer-in-Charge;
 - b. uninterrupted recording until the situation has concluded; and
 - c. all communication between the detainee/s and staff.

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- 10.4 The Officer-in-Charge is responsible for ensuring that all hand-held video camera footage related to a planned use of force incident is downloaded and logged according to the CCTV Policy (D6.F3: Use of Force Checklist).

11 USE OF MECHANICAL RESTRAINTS AND INSTRUMENTS OF FORCE

- 11.1 The Commissioner will authorise mechanical restraints and instruments of force for use by custodial officers in accordance with section 140 of the Corrections Management Act 2004 (ACT) (Annex 2 – Authorised mechanical restraints and instruments of force).

Mechanical restraints – handcuffs and escort chains

- 11.2 The use of handcuffs and escort chains under this policy must only occur to secure a detainee following an incident or where their application is otherwise necessary and proportionate to the circumstances.
- 11.3 Detainees must be constantly observed by a custodial officer while under mechanical restraint.

Instruments of force

- 11.4 The use of authorised instruments of force, including batons, must only occur in accordance with training and where the circumstances are sufficiently serious to justify the use (Annex 2 – Authorised mechanical restraints and instruments of force).

Advanced use of force

- 11.5 Chemical agents are only authorised for use by custodial officers who have received training in advanced use of force techniques (Annex 2 – Authorised mechanical restraints and instruments of force).
- 11.6 Chemical agents must only be deployed when the General Manager, or Duty Manager in their absence, has approved their use in an incident under this policy or the ACTCS Emergency Management Framework.

12 PERSONAL PROTECTIVE EQUIPMENT

- 12.1 The Commissioner will authorise personal protective equipment to aid the safety of custodial officers during a use of force situation (Annex 2 – Authorised mechanical restraints and instruments of force).
- 12.2 Personal protective equipment is only authorised for use as a defensive aid.

13 HEALTH ASSESSMENT AND TREATMENT

- 13.1 Within two (2) hours of a use of force under section 8, a detainee should be assessed by a Justice Health Doctor or Registered Nurse (*D6.F2: Use of Force or Restraint Health Assessment*).
- 13.2 Detainees will be placed on a 15 minute observation routine, or in accordance with any current observation routine of less than 15 minutes, until an assessment has been completed under section 13.1.
- 13.3 Staff must notify Justice Health after each unplanned or compliance use of force under section 7, and detail the force applied and any detainee injury or claim of injury.
- 13.4 Staff must record any visible injury, or claim of injury by a detainee, on the *D6.F1: Use of Force Report*.
- 13.5 The Senior Director Operations will ensure that any detainee injury or claim of injury is photographed as soon as practicable (*D6.F3: Use of Force Checklist*).
- 13.6 Photographs must be taken by a staff member of the same gender as the detainee. Transgender detainees and detainees born with variations in sex characteristics must be asked to choose the gender of the staff member to take the photographs.
- 13.7 Detainees are unable to choose the staff member who will take the photographs.

Staff

- 13.8 If a staff member requires medical attention following an incident, they must be immediately relieved from their role and transported to a hospital or medical centre for treatment.
- 13.9 Justice Health will only administer first aid to a staff member who has sustained a life threatening injury or requires urgent medical assistance.
- 13.10 Any staff injury must be reported to the Injury Prevention Team using the RISKMAN register in accordance with the *ACT Public Sector Accident/Incident Reporting and Investigation Policy*.
- 13.11 The General Manager of a correctional centre or delegate will ensure that all staff who witnessed or participated in a use of force incident are offered support through the Staff Peer Support Program (*Staff Peer Support Policy*).

14 MEDICAL CONSIDERATIONS

- 14.1 Staff must be alert to the signs and symptoms of distress or potential medical emergency when applying force to a detainee (*Annex 1 – Medical warnings on the use of force and restraint*).
- 14.2 Staff will take steps, as far as practicable, to verify whether a detainee has a medical condition that places them at greater risk of a medical emergency prior to a planned use of force.
- 14.3 Medical conditions that put a detainee at greater risk of a serious medical complication include:
- sickle cell disease
 - obesity
 - cardiac conditions, including heart disease, enlarged heart, and high blood pressure
 - respiratory conditions, including asthma, bronchitis, lung cancer, pulmonary disease
 - pregnancy (refer to section 14.7)
 - advanced cancer
 - acute behavioural disturbance (*Annex 1 – Medical warnings on the use of force and restraint*).
- 14.4 Staff must immediately initiate the *Code Pink (Medical Emergency) Procedure* and release a detainee from any restraint if at any time during the use of force, a detainee-
- a. is in physical distress (laboured breathing, coughing, foaming at the mouth); or
 - b. changes colour in any part of the body (blue/purple, very pale); or
 - c. collapses; or
 - d. ceases to move or respond; or
 - e. displays acute behavioural disturbance (*Annex 1 – Medical warnings on the use of force and restraint*).
- 14.5 If at any time during the use of force a detainee complains that they are:
- a. unable or struggling to breathe; or
 - b. feeling faint; or
 - c. have strong pain,

staff must call immediately initiate the Code Pink (Medical Emergency) Procedure and assess the risk to any person in the location prior to releasing the detainee from any restraint.

- 14.6 Prolonged use of restraint must be avoided due to the increased risk of medical emergency (Annex 1 – Medical warnings on the use of force and restraint).

Pregnancy

- 14.7 Staff must not use force against a pregnant detainee unless every effort to resolve a situation has failed and there is an urgent need to respond.
- 14.8 Any use of force against a pregnant detainee must only ever require the detainee to adopt a standing, or upright kneeling position.

15 USE OF FORCE ON PERSONS OTHER THAN DETAINEES

- 15.1 Force must not be used on a person other than a detainee to submit to a search.
- 15.2 The Officer-in-Charge can authorise the minimal amount of force necessary to remove a person other than a detainee from a correctional centre under sections 148 and 149 of the Corrections Management Act 2004 (ACT) only if:
- a. there are reasonable grounds to suspect that the person is intoxicated, or has possession of a prohibited thing; or
 - b. the direction to remove a person other than a detainee is necessary and reasonable to ensure safety, security and good order at the correctional centre; or
 - c. a person contravenes a direction not to enter a correctional centre, or to leave a correctional centre if the person is already in the centre.
- 15.3 Following the use of force, staff must ask the person if they have any injury or require medical assistance. If there has been an injury or request for medical assistance, staff must immediately call an ambulance.
- 15.4 The Officer-in-Charge will attend and take charge of the situation as soon as practicable, including managing the incident response in compliance with this policy, the Incident Reporting, Notifications and Debriefs Policy, and Visits Policy (D6.F3: Use of Force Checklist).
- 15.5 As far as practicable, the use of force under this section must be a planned use of force according to section 9.

16 DETAINEE ESCORTS

- 16.1 Escort officers must only use what force is necessary and reasonable in order to:
- ensure the safety of the detainee or any other person;
 - maintain custody of a detainee;
 - conduct a scanning, frisk or ordinary search of a detainee in accordance with the *Searching Policy*; or
 - for any other purpose under this policy.

17 REPORTING

- 17.1 Following any use of force, the following reports must be completed by the responsible officer according to the timeframe:

Report	Responsible officer	Purpose	Timeframe
D6.F1: Use of Force Report	All staff who applied force, including restraint, to a detainee.	To provide ACTCS with a contemporaneous and detailed record of a use of force by a custodial officer.	During the shift in which the incident has occurred, unless a staff member has been approved to leave the correctional centre.
D6.F2: Use of Force and Restraint Health Assessment	Justice Health Doctor or Registered Nurse.	To record the assessment of any injury to a detainee according to section 141 of the <i>Corrections Management Act 2007</i> (ACT).	As soon as possible following a health assessment after a planned use of force.
D6.F3: Use of Force Checklist	To be completed by the Officer-in-Charge after a use of force.	To ensure that all required documentation is recorded and retained.	During the shift in which the incident has occurred, unless a staff member has been approved to leave the correctional centre.
D6.F4: Use of Force Summary	To be completed by the Officer-in-Charge after a use of force.	To provide ACTCS senior management with a contemporaneous and detailed overview of a use of force incident and any outcomes.	During the shift in which the incident has occurred, unless a staff member has been approved to leave the correctional centre.
Use of Force Register	Must be completed by the Compliance Team Leader for any use of force.	Compliance with section 142 of the <i>Corrections Management Act 2007</i> (ACT).	As soon as practicable following completion of the <i>D6.F4: Use of Force Summary</i> .
D6.F5: General Manager's Monthly Report	Must be completed by the General Manager each month	To summarise uses of force against a detainee.	On the 7 th day of each month.

- 17.2 The *D6.F1: Use of Force Report* must be factual and contain as much detail as possible on the circumstances and justifications for the use of force, including all

attempts at de-escalation (*Annex 3 – Guidelines for use of force or restraint report writing*).

- 17.3 For the purposes of reporting on the use of force, the circumstances include the lead-up to the incident.
- 17.4 A staff member's reporting on a use of force or restraint must include any and all types of force or restraint used against a detainee (*D6.F1: Use of Force Report, D6.F4: Use of Force Summary*).
- 17.5 All reports under this policy must be completed individually and independently of any other staff member.
- 17.6 A staff member must not view any video recording, or read reports of the incident prior to submitting their report/s.
- 17.7 The General Manager will refer any alleged or substantiated:
- a. collusion between staff members; or
 - b. deliberate omission of material facts; or
 - c. addition of inaccurate or misleading statements,
- in reports under this policy directly to the Commissioner.

18 REVIEWS

- 18.1 The General Manager will:
- a. monitor and review uses of force in a correctional centre;
 - b. refer any incidents of concern directly to the Commissioner; and
 - c. produce a monthly report to the Manager Quality Assurance via email to ACTCSOperationalCompliance@act.gov.au and CC'ed to the Commissioner before close of business on the 7th of each month (*D6.F5: General Manager's Monthly Report*).
- 18.2 All documents under this policy must be retained in accordance with the *Territory Records (Records Disposal Schedule – Corrective Services Records) Approval 2006 (No 1)*.

19 RELATED DOCUMENTS

- A – Annex 1 – Medical warnings on the use of force or restraint
- B – Annex 2 – Authorised mechanical restraints and instruments of force
- C – Annex 3 – Guidelines for use of force or restraint report writing
- D – Annex 4 – Operational Safety Principles

- E – A2.F1: Incident Report Form
- F – D6.F1: Use of Force Report
- G – D6.F2: Use of Force and Restraint Health Assessment
- H – D6.F3: Use of Force Checklist
- I – D6.F4: Use of Force Summary
- J – D6.F5: General Manager’s Monthly Report
- K – A2.F2: Incident Summary Form
- L – Controlled Items Policy
- M – Authorised Absences Policy
- N – Incident Reporting, Notifications and Debriefs Policy
- O – Incident Reporting Operating Procedure
- P – Searching Policy



Jon Peach
 Commissioner
 ACT Corrective Services
 04 September 2020

Document details

Criteria	Details
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Responsible officer:	Deputy Commissioner Custodial Operations

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