



## Ohio Administrative Code

### Rule 5120-9-02 Use of force report and investigations.

Effective: June 5, 2020

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(A) Following any reported use of force, the shift supervisor shall ensure that the following reports have been completed:

(1) Each staff member who used force or who witnessed any part of the use of force shall complete an incident report which accurately and completely describes what he or she observed, what led up to the incident and what was done to resolve the matter, and what force was used by the staff member. The report form shall list the inmates on whom force was used, the staff members who used force and any staff, inmate or other witnesses known. The report shall be completed prior to the end of the shift, unless the staff member, for good cause, is unable to do so.

(2) The shift supervisor shall obtain a written statement from each inmate against whom force was used describing the inmate's version of the event, and identifying any witnesses to the event. This statement shall be taken as soon as possible after the incident. The shift supervisor shall determine what additional witness statements are needed and, in making this determination, shall take into consideration both the nature of the incident and any injuries received. The inmate may refuse to make such a statement, but shall make his refusal in writing and shall acknowledge that he knowingly waived his opportunity to make a statement.

(3) In the event that the inmate is placed in restrictive housing and suspected of committing a criminal offense, the warden, warden's designee, or highest ranking official on site shall consult with the Ohio state highway patrol prior to interviewing the inmate to coordinate the administrative investigation with any criminal investigation.

(4) Medical staff shall examine all individuals upon whom force was used, and any individual who used force on an inmate. Medical staff shall prepare a written assessment of each individual examined. Whenever a person is injured and needs medical care a shift supervisor shall collect and report the names of staff and inmate witnesses. If the shift supervisor was directly involved in the force incident, statements shall be obtained by another supervisor not directly involved in the



incident.

(5) The shift supervisor shall consider making a videotape or photographic record of any individual, whether staff or inmate, who was or claims to have been injured during the incident. In deciding to make such a record, the shift supervisor shall consider:

(a) The extent of the injuries;

(b) The nature of the incident, even if the individual is uninjured; and

(c) Whether the injury is visible or capable of being photographed.

(6) The record of injuries may be made at the time of the medical assessment if doing so will not interfere with or delay the delivery of necessary medical care. Such record must not include any medical information apart from a description or depiction of the injury.

(B) The shift supervisor shall prepare a packet containing each of the documents listed in this rule together with any other witness statements or information considered relevant. The shift supervisor should save any available recordings, including all security cameras and any hand-held recordings that capture the incident and post-incident escorts. The shift supervisor shall prepare a report on the appropriate form to attach to the relevant documents referenced in paragraph (A) of this rule. The shift supervisor shall deliver this packet to the chief of security, and/or other designee who will review the packet for accuracy, consistency and completeness. The completed packet will then be delivered to the designated deputy warden as soon as all reports are completed.

(C) The designated deputy warden shall review the use of force packet prepared by the shift supervisor. The designated deputy warden may order or collect additional statements or other information as needed. The deputy warden shall determine the following:

(1) Are the factual circumstances described sufficiently in the record to enable an evaluation of the amount of force used;

(2) Are the factual circumstances of the situation in dispute;



(3) Was the type and amount of force appropriate for the circumstances as the deputy warden of operations believes them to have occurred;

(4) Was the type and amount of force reasonable under the circumstances as the responding staff perceived them; and

(5) Were applicable administrative rules, departmental policies, institution policies and post orders followed.

(D) The designated deputy warden shall send his or her determinations as described above to the warden for review or further action. The warden may:

(1) Accept the findings of the deputy warden;

(2) Direct that the deputy warden or other appropriate staff conduct further inquiry into the situation;

(3) Refer the matter to a use of force investigation; or,

(4) Refer the matter to the chief inspector, pursuant to paragraph (K) of this rule, for investigation.

(E) The warden may refer any use of force to a use of force investigation at any time. The warden is required to refer the use of force for further inquiry if any of the following apply:

(1) The factual circumstances are not described sufficiently in the record to enable an evaluation of the propriety of the amount of force utilized;

(2) The incident involved serious physical harm to any person;

(3) The incident constituted a significant disruption to the normal operation of the institution; or

(4) Weapons, PR-24 strikes, or less-lethal munitions were used during the incident, whether by staff or by inmates.



(F) The use of force investigator shall be assigned by the warden or designee. The use of force investigator shall conduct a review of the use of force incident and the matters surrounding the incident. The investigator shall not be any person involved with the incident under investigation, nor such person's direct supervisor, nor any person who reviewed some other aspect of the incident, such as the hearing officer or a member of the rules infraction board. The person appointed to investigate a use of force incident must complete training for that position.

(G) The use of force investigator shall review all materials in the use of force packet and any findings previously made. The investigator shall also interview each inmate and staff member directly involved, and any other relevant witnesses. These interviews shall be completed within twenty working days of the date the matter was referred to the investigator. Any extensions must be approved by the warden. The investigator shall review any other relevant evidence.

(H) The investigator shall prepare a report which contains findings of fact and conclusions as to whether the level and degree of force used was appropriate for the circumstances. The investigator shall submit to the warden a report, a summary of the statements received, the use of force packet, and any other information received by the investigator within thirty working days after being assigned. The warden must approve any request for an extension of the deadline for the report.

(I) The warden shall review the record and report presented by the investigator. If the warden believes that further investigation or clarification is necessary the warden may return the matter to the assigned investigator, another investigator, or the chief inspector for additional investigation or review. When the warden is satisfied that the matter has been thoroughly investigated, the warden shall take such actions as he or she deems appropriate.

(J) The warden shall supplement the report with any relevant information about other actions taken as a consequence of the conclusions of the report. The complete investigative record shall be stored in a secure area designated by the warden. A copy of the cover sheet and report prepared by the investigator, minus any attachments, shall be placed in the offender's unit file and in the designated employee file.

(K) The chief inspector may initiate an investigation of a use of force incident either upon his or her



own initiative or upon the request of the director, assistant director, regional director, or the warden of the institution in which the incident took place. In such cases the chief inspector may utilize other departmental staff to assist with the investigation or hearing as may be necessary or appropriate, notwithstanding other provisions of this rule to the contrary.

(L) A use of force investigation report generated under this rule shall also serve as the administrative investigation into conduct which may be in violation of departmental policies, procedures, and/or rules. The use of force investigation may be used to support employee disciplinary action.