

# Corrections Management (Use of Chemical Agents) Policy 2021

Notifiable instrument NI2021-710

made under the

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

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## 1 Name of instrument

This instrument is the *Corrections Management (Use of Chemical Agents) Policy 2021*.

## 2 Commencement

This instrument commences on the day after its notification day.

## 3 Policy

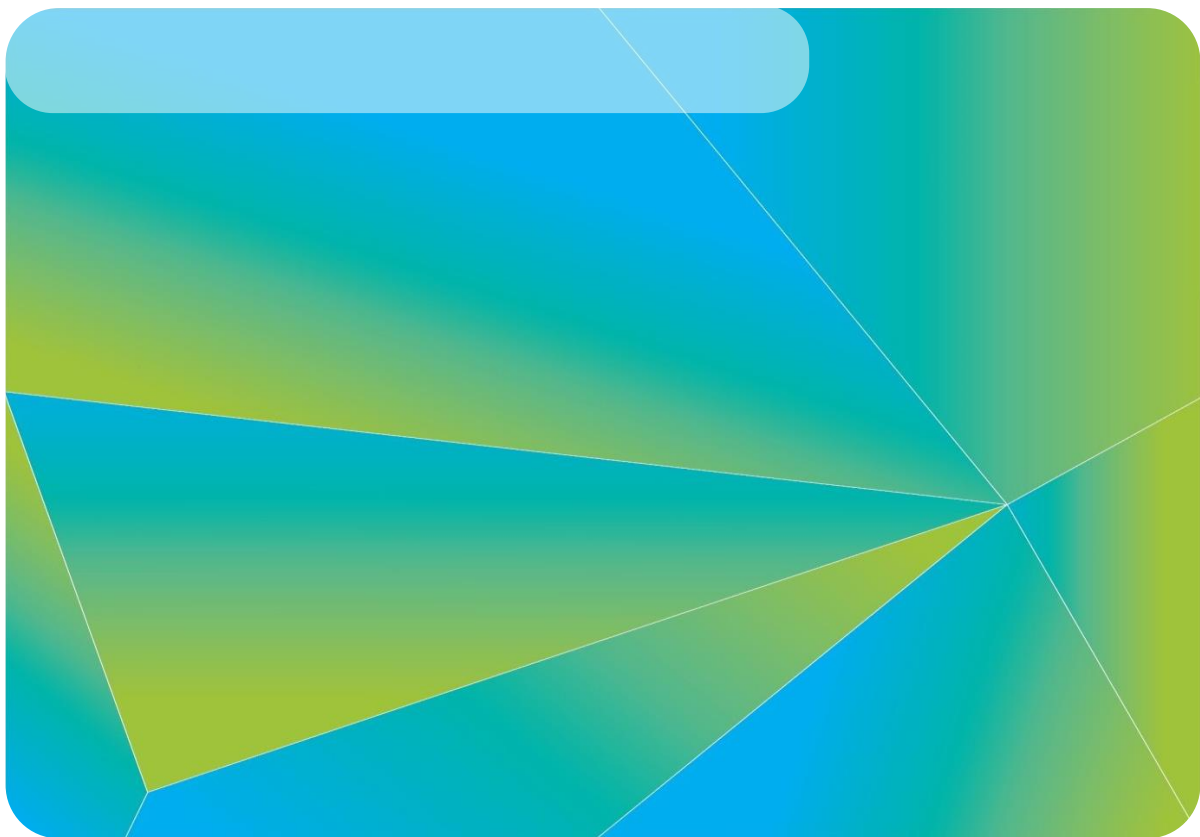
I make this policy to facilitate the effective and efficient management of correctional services.

Ray Johnson APM  
Commissioner  
ACT Corrective Services  
25 November 2021

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# USE OF CHEMICAL AGENTS POLICY

POLICY NO. D7



**ACT**  
Government

Justice and Community Safety

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## 1 PURPOSE

ACT Corrective Services (ACTCS) is committed to ensuring that chemical agents are 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 chemical agents in a humane, safe and legal manner in accordance with part 9.7 of the Corrections Management Act 2007 (ACT). The use of chemical agents is a form of use of force and compliance with the Use of Force and Restraint Policy is required when using chemical agents.

## 2 SCOPE

This policy applies to all ACTCS custodial officers exercising functions under the Corrections Management Act 2007 (ACT). All other ACTCS staff members must refer to the Crimes Act 1900 (ACT) and Criminal Code 2002 (ACT).

The Deputy Commissioner Custodial Operations authorises the types of chemical agents and deployment tools that can be used in each correctional centre in accordance with the Corrections Management Act 2007 and the Controlled Items Policy – Annex A.

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

## 3 DEFINITIONS

### Chemical agents

Chemical agents are chemical substances intended to restrain, control or incapacitate people through the agents' physiological and psychological effects. The agents are designed to distract, disorient, disperse and disable without causing permanent damage and with minimal physical contact on the part of the Officer. Chemical agents disable through physical reactions including: lacrimation (crying), closing of the eyelids due to dilating capillaries, swelling in the lining of the throat, paralysis of the larynx, uncontrollable choking, gagging, gasping for breath, swelling of mucous membranes, a burning sensation and inflammation of the skin. Responses will vary between individuals and the types of agents used.

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## Use of force

A physical effort to compel a person to comply with a direction, or in order to prevent an immediate risk of self-harm, harm to others, or to the security and good order of a correctional centre in accordance with the Corrections Management Act 2007 section 138.

Use of force may include the application of restraint.

Use of force must only be used as a last resort and in accordance with the Use of Force and Restraint Policy and Use of Force and Restraint Operating Procedure.

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.

## Young detainee

A young detainee is:

- a) a child or young person, who is in custody or detention and is required to be held in the custody of the director-general responsible for the *Children and Young People Act*.
- b) a person who is at least 18 years old, but under 21 years old, who is in custody or detention and who is required to be held in the custody of the director-general responsible for the *Children and Young People Act 2008*.

As defined in the Children and Young People Act 2008, section 95.

For the purposes of this policy, a young detainee means a detainee in the custody of a Youth Justice Centre.

## 4 PRINCIPLES

- 4.1 Use of chemical agents is a use of force. All principles and requirements of the Use of Force and Restraint Policy apply equally to the use of chemical agents.
- 4.2 Chemical agents must only be used where the circumstances are sufficiently serious to justify the use and the use must be proportionate to the circumstances.
- 4.3 The use of chemical agents must be consistent with operating procedures, approved instruments and custodial officer training, including training in the use of chemical agents.

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## 5 LIMITS ON THE USE OF CHEMICAL AGENTS

- 5.1 Use of Force is a last resort. All reasonable efforts must be made to resolve a situation through dialogue and without the use of force in accordance with the Use of Force and Restraint Policy.
- 5.2 In accordance with section 139 of the Corrections Management Act 2007 (ACT), use of force must only occur 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.
- 5.3 An officer is not required to comply with section 5.2(a) and (b) in urgent circumstances where the officer believes, on reasonable grounds, that doing so would create a risk of injury to the detainee or anyone else.
- 5.4 Chemical agents must not be used on young detainees, i.e., detainees from a youth justice centre, in the custody of the Court Transport Unit.
- 5.5 Officers must only use a chemical agent that is appropriate for the space or environment in which force is to be used and consistent with reducing the risk of injury or bodily harm.
- 5.6 Officers must not use chemical agents in hospitals or medical facilities external to a correctional centre.
- 5.7 Chemical agents must not be used in a moving escort vehicle. Chemical agents may be deployed into a stationary vehicle as a part of an extraction of a detainee.
- 5.8 Chemical agents must not be deployed in the ACT Courts courtrooms. Chemical agents may be deployed in other ACT Courts premises if necessary and in compliance with this policy.
- 5.9 Where possible, chemical agents should not be used near Corrective Services or Police Service Dogs.

## 6 ACCESS AND AUTHORITY

- 6.1 The General Manager, Alexander Maconochie Centre (AMC) and the Director, Court Transport Unit (CTU), will identify appropriate storage containers and sites

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for chemical agents appropriate to their areas of responsibility in operational procedures.

- 6.2 The Director CTU and General Manager AMC are responsible for identifying and authorising posts required to carry chemical agents and respond to incidents within the areas of their control/responsibility.
- 6.3 The Senior Director Operations and Director CTU are responsible for ensuring chemical agents are only issued to custodial officers who are trained in the safe and appropriate use of chemical agents and use of force.

### **Training**

- 6.4 Only officers who are trained in the safe and appropriate use of chemical agents and use of force and assessed as competent by the ACTCS Organisational Capability Unit are authorised to carry and use chemical agents.
- 6.5 During initial training in the safe and appropriate use of each chemical agent students are encouraged to be exposed to the chemical agent and undertake decontamination. Exposure to chemical agents in training is contingent on students providing informed consent, confirming their fitness to participate and providing medical clearance for declared injuries or medical issues where appropriate.
- 6.6 The degree of exposure necessary for each type of chemical agent and decontamination practices will be determined in the training materials and based on the manufacturers' advice and relevant Work, Health and Safety advice.

### **Storage of Chemical Agents**

- 6.7 Chemical agents must be stored, issued and returned in accordance with the Controlled Items Policy.

### **Renewal of Chemical Agents**

- 6.8 Chemical agents must be replaced prior to their expiration date in accordance with the Controlled Items Policy.
- 6.9 Expired units may be used for training purposes as the expiry date relates to the propellant of the unit, not the active ingredient.
- 6.10 Chemical agent aerosol units that have been partially used may be kept for use in planned uses of chemical agents, in circumstances where limited contents or propellant does not affect officer safety.

### **Disposal of Chemical Agents**

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- 6.11 The stock of chemical agents will be regularly audited, and any unserviceable or expired items disposed of as per the Controlled Items Policy.

## **7 UNPLANNED USE OF CHEMICAL AGENTS**

- 7.1 An unplanned use of chemical agents is the result of an incident that arises with little or no warning and requires an immediate response due to the officer's belief on reasonable grounds that the circumstances pose a serious risk to a person, that the circumstances are sufficiently serious to justify the use of chemical agents, and that the purpose of the use of force cannot be achieved in another way.
- 7.2 In an unplanned use of force officers must take the action that they believe is reasonable and necessary in the circumstances and best protects the safety of themselves and anyone else.

## **8 PLANNED USE OF CHEMICAL AGENTS**

- 8.1 A planned use of chemical agents is a planned use of force and must comply with section 9 of the Use of Force and Restraint Policy.
- 8.2 Use of chemical agents may be appropriate in a planned use of force involving one or more detainees, where:
- a. the circumstances are sufficiently serious to justify the use of chemical agents;
  - b. the chemical agent is appropriate to the circumstances; and
    - i. the use of chemical agents is the least restrictive use of force capable of being deployed effectively; or
    - ii. the use of chemical agents minimises the risk of injury to the detainee or others; or
    - iii. the use of chemical agents is the only practicable way to prevent, control or stop a serious threat to the security or good order of the prison.
- 8.3 When attending a planned use of force, one or more officers may be issued chemical agents in preparation for the possibility that circumstances may arise in which 8.2 applies.



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## 9 VIDEO RECORDING

- 9.1 A hand-held video camera must be used for planned uses of force, including the planned use of chemical agents as per the Use of Force and Restraint Policy and Hand Held Video Cameras Operating Procedure.
- 9.2 Video recording, including CCTV recordings must be managed as outlined in the Use of Force and Restraint Policy and CCTV Policy.

## 10 PERSONAL PROTECTIVE EQUIPMENT (PPE)

- 10.1 Officers must utilise PPE consistent with their training when deploying chemical agents.

## 11 DECONTAMINATION AND HEALTH ASSESSMENT

- 11.1 The Senior Director Organisational Capability must ensure that staff training in the safe and appropriate use of chemical agents includes appropriate decontamination techniques.
- 11.2 Officers must ensure persons exposed to chemical agents are provided with appropriate decontamination advice, assistance and opportunities immediately or as soon as safe to do so.
- 11.3 In circumstances where it is not safe to begin decontamination of an exposed detainee, that detainee must be placed on constant observations until decontamination can be safely commenced.
- 11.4 Following the use of chemical agents, all detainees who have, with reasonable likelihood, been exposed to the chemical agent (including but not limited to detainees directly exposed or adjacent to a detainee, who was directly exposed) must be managed in accordance with section 13 of the Use of Force and Restraint Policy.
- 11.5 All detainees who have been exposed to the chemical agent must be placed on regular observations for a period of one (1) hour after decontamination has commenced, or, if seen by a Justice Health Doctor or Registered Nurse, such a period as directed by the Doctor or Nurse.

### Staff

- 11.6 Staff who have been affected by a chemical agent are to be assisted to self-decontaminate and then be on regular observations for a period of one (1) hour after decontamination commenced.

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- 11.7 Where a staff member who has been exposed to a chemical agent continues to experience symptoms after decontamination, their supervisor should consider temporarily changing their duties.

**Continuing or extraordinary symptoms**

- 11.8 Any exposed person who is still experiencing significant symptoms arising from the use of chemical agents (e.g., unable to open eyes) 45 minutes or more after decontamination processes have commenced, must be referred for medical assessment.
- 11.9 Where the person in 11.8 is a detainee, the request will be submitted to and triaged by Justice Health Services.
- 11.10 Any exposed person must be placed on constant observations by ACTCS staff for medical signs/symptoms that indicate extraordinary effects from exposure to a chemical agent until decontamination processes commence, and then on regular observations in accordance with sections 11.5 and 11.6. Signs/symptoms that indicate extraordinary effects may include:
- a. Rapid breathing rate (more than 20 breaths per minute)
  - b. Shallow, restrained or difficult breathing lasting more than 2 to 3 minutes
  - c. Audible wheezing or noisy breathing
  - d. Blue discolouration of lips and tongue (cyanosis)
  - e. Deteriorating consciousness
  - f. Chest or neck pain
  - g. Profuse sweating
  - h. Vomiting or severe dry retching.
- 11.11 If an exposed person exhibits, complains of or, in the officer's opinion, appears to be suffering from any of the signs or symptoms in 11.10, staff must 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.

## 12 MEDICAL CONSIDERATIONS

- 12.1 Staff must be alert to the signs and symptoms of distress or potential medical emergency in accordance with section 14 of the *Use of Force and Restraint Policy* when using chemical agents.

### Planned use of chemical agents

- 12.2 Prior to a planned use of chemical agents, staff must take reasonable steps to identify whether a detainee has a medical condition or other vulnerability (e.g., age or disability) that places them at greater risk of a medical emergency.
- 12.3 Prior to a planned use of chemical agents in the Hume Health Centre, ACTCS staff must identify as far as reasonably possible any detainees in the area who may be adversely impacted by the use of chemical agents. Evacuation of the area will be considered.

### Pregnancy

- 12.4 Staff must not use chemical agents on a pregnant detainee unless all reasonable efforts to resolve the situation through dialogue and without the use of force (as per clause 5.1) have failed and the detainee's behaviour presents a serious and imminent risk to the safety of a person or the security of the correctional centre.

## 13 USE OF CHEMICAL AGENTS ON PERSONS OTHER THAN DETAINEES

- 13.1 Chemical agents must only be used on a person other than a detainee in exceptional circumstances in which the officer believes on reasonable grounds that the circumstances are sufficiently serious to justify the use of chemical agents, and that the purpose of the use of force cannot be achieved in another way. Use of force on a person other than a detainee must be in accordance with section 15 of the *Use of Force and Restraint Policy*.

## 14 REPORTING

- 14.1 Following any use of chemical agents, the following reports must be completed by the responsible officer in accordance with the required timeframe:

Report	Responsible officer	Purpose	Timeframe
<b>D6.F1: Use of Force Report</b>	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.

<b>D6.F2: Use of Force and Restraint Health Assessment</b>	Justice Health Doctor or Registered Nurse.	To document the completion of a health examination of a detainee injured by use of force, according to section 141 of the <u>Corrections Management Act 2007 (ACT)</u> .	As soon as practicable following a health assessment after a planned use of force.
<b>D6.F3: Use of Force Checklist</b>	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.
<b>D6.F4: Use of Force Summary</b>	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.
<b>Use of Force Register</b>	Must be completed by the Compliance Team Leader for any use of force.	Compliance with section 142 of the <u>Corrections Management Act 2007 (ACT)</u> .	As soon as practicable following completion of the <u>D6.F4: Use of Force Summary</u> .
<b>D6.F5: General Manager's Monthly Report</b>	Must be completed by the General Manager each month	To summarise uses of force against a detainee.	On the 7 <sup>th</sup> day of each month.

- 14.2 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 chemical agents, including all attempts at de-escalation (Use of Force and Restraint Policy, Annex 3 – Guidelines for use of force or restraint report writing).
- 14.3 For the purposes of reporting on the use of chemical agents, the circumstances include the lead-up to the incident.
- 14.4 A staff member's reporting on a use of chemical agents 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).
- 14.5 All reports under this policy must be completed individually and independently of any other staff member.
- 14.6 A staff member must not view any video recording, or read reports of the incident prior to submitting their report/s.
- 14.7 The General Manager AMC or Director CTU (as appropriate) must refer any alleged or substantiated:
- collusion between staff members
  - deliberate omission of material facts

c. addition of inaccurate or misleading statements  
in reports under this policy directly to the Commissioner.

## 15 REVIEWS

15.1 The General Manager AMC or above must ensure that all use of force involving chemical agents is subject to a review within two business days.

## 16 RELATED DOCUMENTS

- A – Use of Force and Restraint Policy & Annexes 1-4
- B – D6.F1: Use of Force Report
- C – D6.F2: Use of Force and Restraint Health Assessment
- D – D6.F3: Use of Force Checklist
- E – D6.F4: Use of Force Summary
- F – D6.F5: General Manager’s Monthly Report

Ray Johnson APM  
Commissioner  
ACT Corrective Services  
25 November 2021

### Document details

Criteria	Details
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