

Australian Capital Territory

Corrections Management (Use of Force and Restraint) Policy 2024

Notifiable instrument NI2024-566

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 2024*.

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.

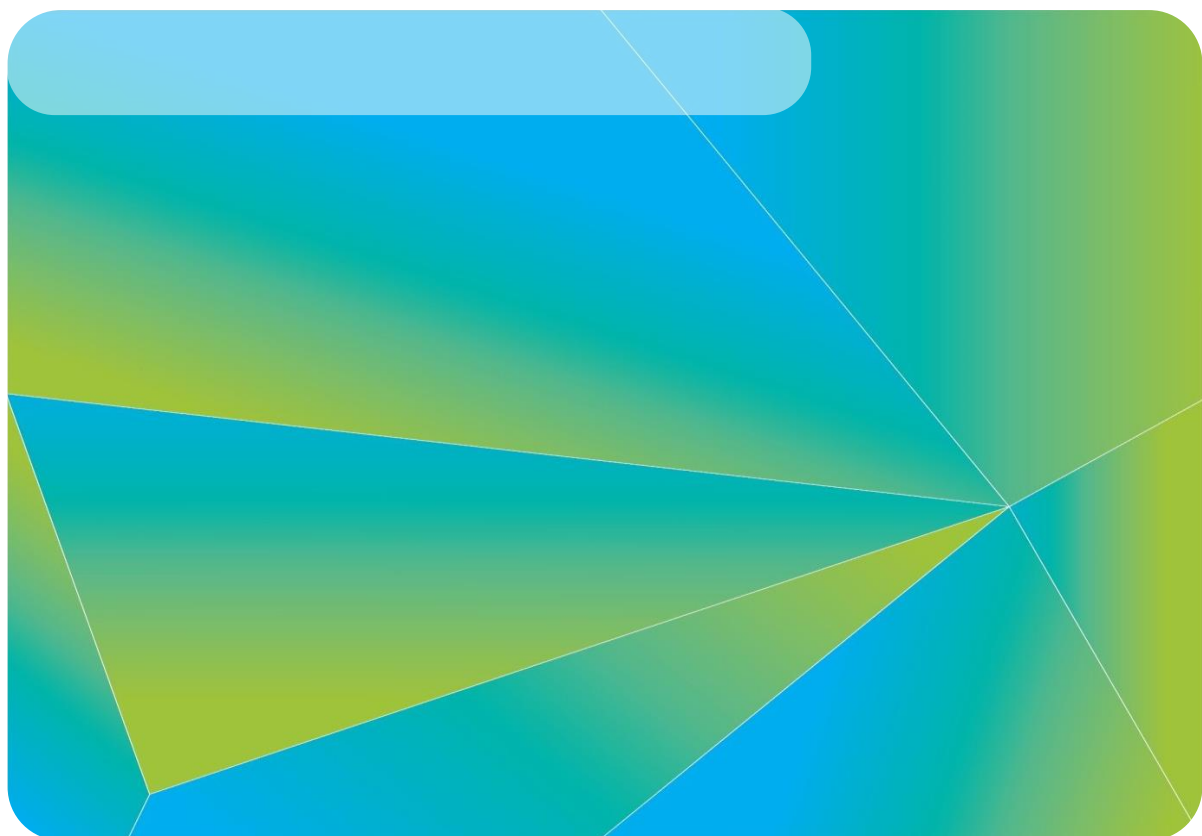
4 Revocation

This policy revokes the *Corrections Management (Use of Force and Restraint) Policy 2022* [NI2022-33] and the *Corrections Management (Use of Chemical Agents) Policy 2021* [NI2021-710].

Bruno Aloisi
A/g Commissioner
ACT Corrective Services
18 September 2024

USE OF FORCE AND RESTRAINT

POLICY NO. 11



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 used as a last resort and is reasonable and proportionate in 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.

2 SCOPE

This policy applies to all ACTCS correctional officers exercising functions under the Corrections Management Act 2007 and Children and Young People Act 2008. All other ACTCS staff members must refer to the Crimes Act 1900 and Criminal Code 2002.

The Assistant Commissioner, Custodial Operations may establish operating procedures under this policy.

3 DEFINITIONS

Chemical agents Chemical substances designed to temporarily distract, disorient and prevent the affected individual from causing harm to themselves or others through physiological and psychological effects, without causing permanent damage and with minimal physical contact on the part of the officer. Responses will vary between individuals and the types of agents used. Also known as riot control agents when used against groups of people rather than individuals.

Daily interactions of life Incidental physical touches, such as brushing against someone while walking or putting a hand out which a person walks into, that are a typical and reasonable part of daily life. Unintentional interactions are not considered a use of force.

Planned use of force A planned use of force is a circumstance where force might be necessary and in which there is time to plan for the use of force, or it is necessary to plan in order to safely conduct the use of force.

Positional asphyxia A condition where the supply of oxygen to a person's body is deficient because their body position prevents them from breathing adequately, usually as a result of an airway obstruction or limitation in chest wall expansion. This can lead to a loss of consciousness or death.

Personal Protection Equipment (PPE)	Equipment utilised by ACTCS staff in line with training, to minimise exposure to hazards. Includes but is not limited to body armour, face masks and shields.
Prone position	A body position in which the person lies flat on their stomach.
Prone restraint or hold	Holding or restraining a person in the prone position.
Restraint	The use of an instrument, such as handcuffs, to restrict a person's movement.
Riot control agents	Chemical agents designed to be used against a larger group of people.
Unplanned use of force	An unplanned use of force is an immediate response to an incident that arises with little or no warning, for a purpose under section 138 of the <u><i>Corrections Management Act 2007</i></u> that cannot be achieved in another way under the circumstances.
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 in accordance with the <u><i>Corrections Management Act 2007</i></u> . May include the application of restraint.
Young person or detainee	<p>a) A young person, who is in custody or detention and is required to be held in the custody of the director-general responsible for the <u><i>Children and Young People Act 2008</i></u>.</p> <p>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 <u><i>Children and Young People Act 2008 (section 95)</i></u>.</p> <p>For the purposes of this policy, a young detainee means a detainee in custody at a Youth Justice Centre.</p>

4 PRINCIPLES

- 4.1 Force must not be used as a means of punishment.
- 4.2 An officer may only use force if the officer believes, on reasonable grounds, that the purpose for which force may be used cannot be achieved in another way under the circumstances. The officer must use no more force than is reasonable and

necessary to achieve the purpose and must seek to resolve the use of force as soon as possible.

- 4.3 Officers must make all reasonable efforts to consider any additional needs that a detainee may have and make reasonable adjustments when using force in accordance with the *Support for Detainees and Offenders with Additional Needs Policy* and this policy.
- 4.4 The use of force, including the use of chemical agents, must be consistent with operating procedures, approved instruments and must be consistent with the principles of correctional officer training.
- 4.5 The duration of any use of restraints must be proportionate to any continued risk to safety of the detainee or any other person.
- 4.6 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.
- 4.7 Following any use of chemical agents, officers must provide first aid in accordance with the *Use of Chemical Agents – First Aid and Cleaning Operating Procedure*.
- 4.8 Any officer who uses force is required to document the reasons for their decisions and actions in accordance with this policy and the *Corrections Management Act 2007*.
- 4.9 Daily interactions of life as defined are not considered uses of force in this policy or associated operating procedures. They should not be reported as such, and any concern or confusion regarding what does and does not constitute a use of force should be discussed with the relevant supervisor/manager. Where a daily interaction of life escalates into a use of force, this must be managed and the initial interactions included in the use of force reporting in accordance with this policy.

5 UNNECESSARY USE OF FORCE AND MISCONDUCT

- 5.1 The unnecessary use of force may constitute:
 - a. misconduct
 - b. a criminal offence under the *Crimes Act 1900* and/or
 - c. a breach of section 10 of the *Human Rights Act 2004* protection from torture, or treatment or punishment in a cruel, inhumane or degrading way, or various other sections of the *Human Rights Act 2004* depending upon the situation.

- 5.2 The Commissioner may refer an allegation of unnecessary use of force to an investigation according to the ACT Public Sector Correctional Officers Enterprise Agreement, or to ACT Policing.
- 5.3 The Assistant Commissioner, Custodial Operations will:
- a. ensure that all correctional staff receive adequate training in the use of force, de-escalation techniques (Human Rights Principles for ACT Correctional Centres), and reducing the risk of a medical emergency
 - b. maintain a list of all correctional officers trained in use of force and in the use of weapons and restraints
 - c. ensure only trained officers use weapons and restraints.
- 5.4 Officers must refer any perceived misconduct under this policy to the ACTCS Integrity Unit as soon as practicable after becoming aware of the activity (Incident Reporting, Notifications and Debriefs Policy).
- 5.5 The use of force and restraints during external movements is outlined in the Approved Absences and Leave Policy.

6 AVOIDING AND LIMITING THE USE OF FORCE OR RESTRAINT

- 6.1 The Commissioner, ACT Corrective Services authorises the types of weapons and restraints that may be used in an ACT correctional centre, in accordance with the Corrections Management Act 2007 and Annex 1 – Approved restraints and weapons of this policy.
- 6.2 Any use of force has a risk of unintended and adverse outcomes. A person who has exerted significant physical effort resisting being restrained may be at risk of sudden, unexpected death related to the exertion. If they are restrained in a way that restricts their breathing the risk of Positional Asphyxia is increased.
- 6.3 Officers must remain mindful of the indicators and behaviours that suggest distress or health impacts in the detainee.
- 6.4 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 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 correctional officer's direction
 - 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.
- 6.5 All reasonable efforts must be made to de-escalate and resolve a situation through effective verbal and non-verbal communication according to this policy and without the use of force.
- 6.6 The use of force does not become necessary simply because a detainee has refused a staff member's direction. The staff member must take into consideration the consequences of the detainee's non-compliance and the risk to the detainee or anyone else.
- 6.7 In accordance with section 139 of the Corrections Management Act 2007, 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.
- 6.8 Officers are not required to comply with section 6.7(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.
- 6.9 When force is being applied to a detainee, or detainees, staff must continue attempts to effectively communicate with the detainee in order to minimise continued use of force.
- 6.10 Further de-escalation should be a priority once control of a situation is established.

Chemical agents (including riot control agents)

- 6.11 Chemical agents must not be used on young detainees.
- 6.12 Officers should 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.
- 6.13 Officers must not use chemical agents in hospitals or medical facilities external to a correctional centre.

- 6.14 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.
- 6.15 Chemical agents may be deployed throughout the ACT Courts precinct if necessary and in compliance with this policy and the *Use of Chemical Agents – Court Transport Unit Operating Procedure*.
- 6.16 Where possible, chemical agents should not be used near Corrective Services Dogs or Police Service Dogs. Staff should advise handlers that chemical agents have been used when handler teams are approaching the location.

Prone position

- 6.17 A detainee may be temporarily placed in a prone position to gain, regain, or maintain control of them and to apply or remove restraints. The detainee must be moved out of the prone position as soon as possible once the restraints have been applied or removed.
- 6.18 When a person is in a prone position, an officer must not intentionally sit, kneel, stand or intentionally apply pressure on a detainee's neck, back or head.
- 6.19 The detainee's breathing must be monitored by attending officers and any sign of breathing abnormality must be addressed as a medical emergency (as per section 12 of this policy).
- 6.20 Restrained persons shall be positioned so that breathing is not obstructed and should be maintained in a standing or upright seated position or placed on their side.

7 PLANNED USE OF FORCE

- 7.1 In a planned use of force, officers must comply with all relevant instructions of the *Use of Force and Restraint Operating Procedure* related to the specific requirements and actions involved with a planned use of force, such as the use of a handheld video camera.
- 7.2 Following verbal briefings from staff, the Officer-in-Charge or Incident Commander will nominate a Tactical Leader to oversee the planned use of force.
- 7.3 The Officer-in-Charge (or Incident Commander if appointed) is responsible for the situation until resolved.

8 UNPLANNED USE OF FORCE

- 8.1 In an unplanned use of force, where officers choose to take action they must take the action that they believe is reasonable and necessary in the circumstances and best protects the safety of themselves and anyone else.
- 8.2 Any known vulnerabilities that the detainee has must be considered if possible.

9 USE OF RESTRAINTS AND WEAPONS

- 9.1 The use of authorised restraints and weapons must only occur consistent with the principles of training and where:
- a. the circumstances are sufficiently serious to justify the use
 - b. the kind of restraint or weapon is appropriate in the circumstances
 - c. the restraint or weapon is used appropriately in the circumstances.

Restraints and weapons

- 9.2 The use of restraints when escorting a detainee is not considered a reportable use of force under this policy if the detainee does not resist.
- 9.3 When escorting a detainee, the use of a standing order to use restraints is not considered to be a use of force under this policy.
- 9.4 Detainees must be constantly observed by a correctional officer while under any restraint.
- 9.5 Officers must only utilise restraints and weapons listed within *Annex 1 – Approved restraints and weapons*.

10 USE OF CHEMICAL AGENTS (INCLUDING RIOT CONTROL AGENTS)

- 10.1 The Assistant Commissioner, Custodial Operations authorises the types of chemical agents and deployment tools that can be used in each ACT correctional centre, in accordance with *Annex 1 – Approved restraints and weapons* of this policy.
- 10.2 The Senior Director, Operations, Alexander Maconochie Centre (AMC) and the Senior Director, Court Transport Unit (CTU), will identify appropriate storage containers and sites for chemical agents suitable to their areas of responsibility in operating procedures.
- 10.3 The Senior Director, Operations, AMC and the Senior Director, CTU are responsible for identifying and authorising posts required to carry chemical agents and respond to incidents within the areas of their control/responsibility.

Training

- 10.4 Only correctional officers who are trained in the safe and appropriate use of chemical agents and use of force, as well as effective first aid and cleaning, and assessed as competent by the ACTCS Organisational Capability Unit are authorised to carry and use chemical agents. The Senior Director, Operations, and the Senior Director, CTU are responsible for ensuring chemical agents are only issued to trained officers.
- 10.5 The Senior Director, Organisational Capability Unit must ensure that staff training in the safe and appropriate use of chemical agents includes appropriate first aid cleaning and recovery techniques.

Management of chemical agents

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

11 PERSONAL PROTECTIVE EQUIPMENT

- 11.1 The Commissioner will authorise PPE to aid the safety of correctional officers during a use of force situation (*Annex 1 – Approved restraints and weapons*).
- 11.2 Officers must use PPE consistent with their training when deploying chemical agents in a planned deployment.

12 HEALTH AND OTHER CONSIDERATIONS

Planning for and during a use of force

- 12.1 Prior to a planned use of force, officers must take reasonable steps to identify whether a detainee has a medical condition or other vulnerability (e.g., age or disability) that could increase their risk of a medical emergency:
- a. if a detainee shows signs of distress or medical emergency during the use of force, staff must immediately initiate a Code Blue and act to address the signs of distress or medical emergency in an appropriate and safe manner
 - b. restraints should only be used for the shortest period necessary, in accordance with section 4.5 and to mitigate the potential increased risk of medical emergency.
- 12.2 The Senior Director, Organisational Capability Unit must ensure that staff training in use of force includes awareness of signs and symptoms of distress or potential medical emergency.

Pregnancy

- 12.3 Officers must not use force, including chemical agents, against a pregnant detainee unless all other efforts 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.

Young detainee

- 12.4 Correctional officers acting as escort officers under the *Children and Young People Act 2008* must act in accordance with that Act.
- 12.5 If a planned use of force is necessary in relation to a young detainee, ACTCS staff must always coordinate with Bimberi staff to attend and carry out the use of force if operationally possible, as well as to source relevant information to consider before a planned use of force as per the *Children and Young People Act 2008*. This would include the young person's age, sex, physical and mental health, any known history of abuse, as well as the physical and developmental capacity of the young person.
- 12.6 As far as possible, ACTCS will ensure that other young detainees cannot observe a use of force.
- 12.7 In an unplanned use of force ACTCS staff must act in accordance with this policy and the *Use of Force and Restraint Operating Procedure* to ensure the use force is undertaken with consideration of the *Children and Young People Act 2008* as well as the Bimberi *Children and Young People (Use of Force) Policy and Procedures*.
- 12.8 Officers must consider if using restraints is necessary and reasonable with consideration of the *Children and Young People Act 2008*.
- 12.9 If at any time restraints are required when working with a young detainee, officers may only use handcuffs or body belts, unless exceptional circumstances, such as to preserve life.
- 12.10 Officers must ensure that they liaise with Bimberi staff prior to approving the use of a body belt for escorting a young detainee.
- 12.11 Officers must ensure that at no time chemical agents, batons, ankle cuffs or escort chains be used on a young detainee.

Health assessment and recording of injury after a use of force

- 12.12 A detainee subject to use of force should be examined by a Justice Health Doctor or Registered Nurse within two (2) hours of a use of force, or as soon as practicable in accordance with the *Use of Force and Restraint Operating Procedure*.

- 12.13 Any injured staff member must be assessed in accordance with the Use of Force and Restraint Operating Procedure.

13 USE OF FORCE ON PERSONS OTHER THAN DETAINEES

- 13.1 Force must only be used on a person other than a detainee in accordance with section 4.2.
- 13.2 Officers must only use force on a person other than a detainee at the CTU to maintain safety and security for the detainee, officers and/or other individuals within the courtroom.
- 13.3 Force must not be used on any person who is not a detainee to compel the person to submit to a search.
- 13.4 The Officer-in-Charge can authorise the use of reasonable and necessary force to remove a person who is not a detainee from an ACT correctional centre under sections 148 and 149 of the Corrections Management Act 2007 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 the 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.
- 13.5 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.
- 13.6 The Officer-in-Charge, or at the CTU the CTU Area Manager or delegate, will take charge of the situation as soon as practicable, including managing the incident response in compliance with this policy, the Incident Reporting and Notifications Policy, Visits Policy and (Use of Force Checklist).
- 13.7 As far as practicable, the use of force under this section must be a planned use of force according to section 7.

14 EXTERNAL DETAINEE ESCORTS

- 14.1 Officers escorting a detainee outside a correctional centre must only use force that is reasonable and necessary to:

- a. ensure the safety of the detainee or any other person
- b. maintain custody of a detainee
- c. conduct a search of a detainee in accordance with the Searching Policy
- d. achieve any other purpose approved under this policy.

15 REPORTING

15.1 Following any use of force, the following reports must be completed by the responsible officer according to the timeframe and the requirements of the Incident Reporting, Notifications and Debriefs Policy:

Report	Responsible officer	Purpose	Timeframe
CORIS Incident Report	All staff who applied force, including restraint, to a non-compliant detainee.	To provide ACTCS with a contemporaneous record of a use of force by a correctional officer.	During the shift in which the incident has occurred, unless a staff member has been approved to leave the correctional centre, in which case as soon as practicable after the incident.
F11.5: Use of Force and Restraint Health Assessment	Justice Health Doctor or Registered Nurse.	To document the completion of a health examination of a detainee injured by a use of force, according to section 141 of the <u>Corrections Management Act 2007</u> .	As soon as practicable following a health assessment after a use of force.
F11.6: 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, in which case as soon as practicable after the incident.
CORIS Incident Summary Report	To be completed by the Officer-in-Charge after a use of force.	To provide ACTCS senior management with a contemporaneous 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, in which case as soon as practicable after the incident.
Use of Force Register	Must be completed by the Compliance Team Leader for any use of force.	Compliance with section 142 of the <u>Corrections Management Act 2007</u> .	As soon as practicable following completion of the <u>CORIS Incident Summary Report</u> .

F11.7: Assistant Commissioner's Monthly Report	Must be completed by the Assistant Commissioner, Custodial Operations each month.	To summarise uses of force against a detainee.	On the 7 th day of each month.
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- 15.2 The CORIS Incident Report must be factual and contain:
- a. as much detail as possible on the circumstances (including the lead up to the incident)
 - b. reasons for the use of force, including the reasons that the force was considered reasonable and necessary
 - c. all attempts at de-escalation and any directions given by correctional officers.
- 15.3 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 (CORIS Incident Report, CORIS Incident Summary Report).
- 15.4 All reports under this policy must be completed individually and independently of any other staff member and must declare this independence.
- 15.5 A staff member must not view any video recording, or read reports of the incident prior to submitting their report/s.
- 15.6 The Assistant Commissioner, Custodial Operations will refer any alleged or substantiated:
- a. collusion between staff members, and/or
 - b. deliberate omission of material facts, and/or
 - c. addition of inaccurate or misleading statements
- in reports under this policy directly to the ACTCS Integrity Unit.
- 15.7 All reports must be submitted to the ACTCS Integrity Unit for appropriate storage.

16 REVIEWS

- 16.1 In accordance with the Use of Force and Restraint Operating Procedure, the Assistant Commissioner, Custodial Operations (ACCO) and Use of Force Review Committee 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 Commissioner and copied to the Quality Assurance and Risk Unit via email

ACTCSQualityandRisk@act.gov.au (*F11.7: Assistant Commissioner's Monthly Report*).

- 16.2 The ACCO or above should ensure that all uses of force involving chemical agents are subject to a review within two (2) business days.
- 16.3 All documents under this policy must be retained in accordance with the *Territory Records (Records Disposal Schedule – Corrective Services Records) Approval 2006 (No 1)*.

17 RELATED DOCUMENTS

- ACT Public Sector Correctional Officers Enterprise Agreement
- Annex 1 – Authorised restraints and weapons
- Approved Absences and Leave Policy
- Children and Young People Act 2008
- Children and Young People (Use of Force) Policy and Procedures
- Code Black (Personal Threat) Operating Procedure
- Code Blue (Medical Emergency) Procedure
- Controlled Items Policy
- CORIS Incident Report Form
- CORIS Incident Summary Form
- Corrections Management Act 2007
- Crimes Act 1900
- Criminal Code 2002
- F11.5: Use of Force and Restraint Health Assessment
- F11.6: Use of Force Checklist
- F11.7: Assistant Commissioner's Monthly Report
- Escorts Policy and Procedure
- Hand-Held Video Cameras Operating Procedure
- Human Rights Act 2004
- Human Rights Principles for ACT Correctional Centres
- Incident Reporting, Notifications and Debriefs Policy
- Incident Reporting, Notifications and Debriefs Operating Procedure
- Searching Policy
- Staff Peer Support Policy
- Support for Detainees and Offenders with Additional Needs Policy

- Territory Records (Records Disposal Schedule – Corrective Services Records) Approval 2006 (No 1)
- Use of Force and Restraints Operating Procedure
- Use and Storage of Chemical Agents Operating Procedure
- Use of Chemical Agents – Court Transport Unit Operating Procedure
- Use of Chemical Agents First Aid and Cleaning Operating Procedure
- Visits Policy

Bruno Aloisi
Acting Commissioner
ACT Corrective Services
18 September 2024

Document details

Criteria	Details
Document title:	<i>Corrections Management (Use of Force and Restraint) Policy 2024</i>
Document owner/approver:	Commissioner, ACT Corrective Services
Date effective:	The day after the notification date
Review date:	Five (5) years after the notification date
Compliance with law:	This policy reflects the requirements of the <i>Corrections Management (Policy Framework) Policy 2024</i>
Responsible officer:	Assistant Commissioner, Custodial Operations

Version Control			
Version no.	Date	Description	Author
V5	August-24	Revised and updated	E Gregor
V4	July-23	Major review and incorporation of the <i>Use of Chemical Agents Policy</i> .	S Viereck
V3	November-21	Updates to align with Use of Chemical Agents Policy and Corrections Management Act	S Viereck
V2	November-20	Minor update	L Kazak
V1	December-18	First Issued	L Kazak

USE OF FORCE AND RESTRAINT POLICY

Annex 1 – Approved restraints and weapons

Restraints

1. Handcuffs
2. Flexi-cuffs
3. Escort chains
4. Ankle cuffs
5. Body belts

Personal Protective Equipment and Weapons

1. Body armour
2. Helmets
3. Shields
4. Batons and extendable batons
5. Chemical agents and riot control agents
6. Chemical agent deployment devices
7. Further prescribed weapons or articles of personal protective equipment under the *Corrections Management Regulation 2010*.

NOTE: This annex must not be amended without the express approval of the Commissioner.