



Republic of the Philippines
DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT
BUREAU OF JAIL MANAGEMENT AND PENOLOGY
Juco Building, 144 Mindanao Avenue, Project 8, Quezon City



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BJMP-NHQ

**STANDARD OPERATING PROCEDURES
NUMBER 2010-08**

Use of Force and Weapons

I. REFERENCES

1. Basic Principles on the Use of Force and Firearms as Adapted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba;
2. The Revised Penal Code of the Philippines;
3. The Civil Code of the Philippines;
4. BJMP Decided Cases with Implications on the Use of Force;
5. Memorandum Circular No. 2006-02 dated 28 May 2006 re BJMP Incident Management System (IMS); and
6. Memorandum re: Prohibition of Warning Shots. dated 25 January 2010
7. LAAW International, Inc, 1994

II. CONCEPT

The willingness of jail officers to put their lives at risk is an invaluable trait and it should not be taken for granted but should rather be protected against legal suits that could arise from misuse of force. In most instances, jail officers are ready to confront the hazards connected to their job but face the dilemma of what force is necessary to subdue the threat and the legal repercussions that may follow. Thus, the lack of existing convention and procedure in the use of force could either inhibit the legal conscious jail officers to effectively control the situation, or induce its excessive application due to ambiguous authorized model of unit of measurement to which actions can be referred to.

More often than not, full blown crisis developed from improper application of force. Improper use of force may be attributed to three lapses: a) vague rules of engagement, b) inadequate standards and alternatives in the use of force, or c) misjudgment in the application of rules and standards.

Indeed, the Bureau needs a prescribed specific sequence of levels of force or types of force equipment to be used in all situations. It needs bases in assessing risk or severity of the condition and a continuum of the proper level of force following the principles of necessity and proportionality.

III. PURPOSE:

In the absence of superseding guidance, the policy on the Use of Force establishes fundamental procedures and guidelines governing the actions to be taken by BJMP personnel in case of disturbances that pose clear threat to the security of the personnel, visitors, and the jail facilities.

The Policy aims:

1. To prescribe the standards in the use of force in order to control or preempt the unnecessary escalation of any disturbance/incident into a crisis situation.

2. To provide guidelines for legal and ethical principles in the use of force.

3. To provide means to balance the two competing goals in any engagement, which are; (a) the need to use force effectively to accomplish the objectives and (b) the need to avoid unnecessary force.

4. To establish fundamental rules and procedures governing the actions to be taken by jail wardens or their representatives in the event of an attack from either external or internal enemy forces that will threaten the jail facility.

Nothing in this policy shall prevent further formulation of more detailed guidelines nor will it preclude the formulation of a uniform manual of operations to be promulgated by the Bureau.

IV. SCOPE:

The provision of this policy shall take effect nationwide.

V. DEFINITION OF TERMS:

Deadly Force - is force that a person uses, or that a person knows or should know would create a substantial risk of causing death or serious bodily harm such as firearm. This includes the threatened use of deadly force such as drawing of firearm. Non-deadly force can also escalate into deadly force when directed towards fatal part of the body such as head. Since it is calculated to cause death, it is usually, the last resort in the use of force continuum.

Non-deadly Force - is the use of physical force towards an inmate with any device other than deadly force or firearm designed to temporarily incapacitate an inmate. Non-deadly force can be classified into three: physical contact, chemical/electrical and other inflammatory agents and impact weapons.

Physical contact or weaponless control -

is non-deadly force generally used by jail officers to restrain inmates without the use of any weapon primarily designed to incapacitate or immobilize inmates. This includes restraining holds, come along holds, pain compliance holds and blows with feet and fists. Generally, this requires skill of the jail officer using it, such as martial arts.

Chemical/Electrical/Inflammatory agents (CEI) -

are generally non-deadly force when used appropriately to restrain inmates such as Oleoresin Capsicum (OC) pepper spray, pepper gun, tear gas, aerosol, mace, stun gun, taser etc. They are designed to temporarily incapacitate inmates.

Impact weapons - are non-deadly force generally used to temporarily incapacitate an inmate such as pro-batons and night sticks.

No Force - is a part of the use of force continuum where no force is used simply because the situation does not call for it. It includes the mere presence of the jail officers and verbalization and are usually effective when inmates are not violent.

Presence - is the authority figure of jail officers and their mere presence may be enough to cause compliance from the inmates.

Verbal Containment - act, which includes negotiation, persuasion and/or verbalization that is resorted to when the mere presence of jail officers is not enough to contain the situation requiring him to give orders to ensure compliance by the inmates.

Rescue - is the act of taking away of an inmate or inmates from the custody of jail officers through the use of force, threat or intimidation while said inmate is inside the jail facility or while on transit.

Rescue of inmate inside the jail facility -
this means that the inmate to be rescued is within the jail premises or compound.

Rescue of inmate/s in transit -
this means that the inmate to be rescued is outside the jail premises, while on foot or on board by any means of transportation either moving or stationary.

Lockdown - is a situation where the inmates, whether in whole or in part, control the jail facility.

Lockdown of the whole jail facility -
is a situation where the inmates control the whole facility.

Lockdown of a portion of the jail facility -
is a situation where inmates control a portion of the jail facility.

Noise Barrage - is a situation where inmates create loud, unpleasant sounds in order to express their demands and grievances over issues usually related to the management of jail such as low quality of food, demand for visitation privileges, poor leadership of the jail Warden etc.

Hostile act - A hostile act is an attack or other use of force by an inmate or inmates against other inmate/s, visitor/s, jail personnel, jail properties and facilities, or an attack against jail security.

Hostile intent - the threat of imminent use of force by an inmate or inmates against other inmate/s, visitor/s, jail personnel, jail properties and facilities, or the threat of imminent use of force against jail security.

Immediate Danger - is a situation of high probability that a hazard, condition or activity caused by an inmate or group of inmates which will be injurious to themselves, to jail personnel, visitor/s, or other inmate/s' health and/or safety; or harmful to jail facilities and security is so likely to exist or occur almost immediately and without warning.

Imminent Danger – any condition or practice in a place of employment where such a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the procedures.

Inmate - a person being held for confinement inside the jail either for an offense charged or for safekeeping purposes.

Serious bodily injury- bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of bodily member or organ.

Principle of Necessity - use of only such force as is, or reasonably appears to be, necessary to resist the harm and injury threatened or inflicted by inmate to fellow inmate, jail officer and civilian.

Use of Proportional Force - is the force reasonably necessary in a given situation that is logical and proportionate to the gravity of danger, hostile act or assault.

Riot - is a large scale disorganized brawl or combat between inmates usually due to long standing conflict.

Assault - is a situation where violence, threat and intimidation by inmates is directed against fellow inmate, civilian or any jail personnel.

Hostage/s - a person or persons, who may be an inmate, jail personnel or civilian, held by another inmate or inmates as a guarantee that certain actions or promises will or will not be carried out.

Maximum Tolerance -

highest degree of restraint that the jail personnel shall observe in dealing with hostile inmate/s.

Warning Shot - is the intentional discharge of a firearm with the purpose of causing a positive change in a person's behavior. A warning shot could be fired to cause a person to stop fleeing, to cause a person to drop a weapon, to gain the attention of a potentially violent crowd, etc.

VI. GENERAL RULES

Regardless of the types of functions to be performed and/or jail operations to be conducted, all BJMP units and personnel shall comply with and apply the following rules:

A. Under all circumstances, use of force is justifiable only by virtue of the Doctrines of Self-Defense and Defense of a Stranger.

B. The use of force shall not be resorted to except when strictly necessary for the maintenance of security and order, or when personnel's safety is threatened.

C. The use of force shall not be resorted to except in self-defense or in the defense of others against grave and imminent threat of death or serious injury, or when strictly necessary such as escape of an inmate.

E. As far as possible, non-violent means must be exhausted prior to use of deadly force.

G. Whenever the lawful use of force and firearms is unavoidable, jail officers shall:

1. Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved;

2. Minimize damage and injury, and respect human rights and

3. Ensure that assistance and medical aid are rendered to the injured as soon as possible;

4. Ensure that relatives or close friends of the injured or affected person are immediately notified as early as earliest possible.

H. Where injury or death is caused by the use of force and firearms, the jail officer, he/she shall immediately render a detailed narrative report on the incident to his superiors.

I. The personnel shall be trained on the use of force and firearms.

J. If necessary, stress counseling should be provided to jail personnel who had been directly involved in incidents where force and, or firearms were used.

VII. USE OF FORCE CONTINUUM

The use of force continuum is an escalating level of force commencing from no force, to non-deadly force and ultimately, to deadly force. In dealing with the use of force continuum, the following rules shall be observed:

A. The decision on the appropriateness of the level of force to be used in a given situation depends entirely on the judgment of the Warden or his duly authorized representative or other jail personnel confronted with situation requiring the use of force.

B. NO FORCE CONTINUUM

1. General Principles:

Any Jail Officer in the performance of his duty shall:

- a. Display an authority figure tempered with patience to maximize efforts to listen and discern between institutional and personal issues, demands, and sentiments of the individual or group of individuals;
- b. Use tactful persuasive language to gain willing cooperation to discuss and address the various concerns which triggered the disturbance;

- c. Exhaust all persuasive efforts to settle the issues, demands, and sentiments without compromise to security matters pertaining to escape, attempt of escape, threat of harm or injury to the staff, other inmates, or visitors;
- d. Not, in any instance, use unacceptable language that would demean or antagonize the status of the inmate as a person;
- e. Not, in any instance, draw, un-holster or point any firearm to anyone that may cause reactions that will aggravate the situation or necessarily antagonize anyone; and
- f. Exercise maximum tolerance in dealing with hostile, arrogant taunting inmates.

2. Specific Principles

a. Riot

a. 1 Open Field

a.1.1 Use of negotiation, persuasion and verbalization to contain, pacify, subdue and control incident.

a.1.2 Assess the danger of the situation by considering the number of inmates involved in the riot, whether or not inmates are armed, the violent reputation of apparent leaders, and external factors such as the weather, time, possibility of escalation, and other external threats.

a.2 Close Field

a.2.1 Use of negotiation, persuasion and verbalization to contain, pacify, subdue and control incident.

b. Noise Barrage

b.1 Lock up inmates to ensure perimeter security.

b.2 Dialogue and negotiate with inmates. If inmates are compliant, gather all inmate leaders for further dialogue and open forum.

b.3 Never resort to any use of force as long as inmates are only doing noise barrage and the incident does not escalate into more serious one.

c. Hostage taking

The Warden or his duly authorized representative must consider the following factors before decision making, and regardless of the demands of the hostage takers:

- Whether or not hostage taker/s is/are armed;
- Whether or not the victim is a fellow inmate, jail personnel or civilian;
- Number of inmates involved in the hostage taking;
- Number of hostages; and
- Length of time.

c.1 Maintain and establish communication with the hostage takers. It is imperative that an experienced hostage negotiator be designated as the primary negotiator. The first five (5) minutes is critical, hence the jail officer nearest the incident must apply verbal containment techniques by negotiating with the hostage taker until an experienced negotiator arrives.

c.2 Evacuate inmates who are not involved with the incident into a more secured place to avoid taking advantage of the situation and to ensure their safety. Contain the scene of incident by putting up a security perimeter that will prevent other from entering the scene except the responder.

d. Lockdown

d.1 Immediately contain the controlled facility. If the inmates control only a portion of the facility, immediately evacuate non-participating inmates to the unaffected portion for their safety.

d.2 Immediately conduct a dialogue with the inmates. As much as possible, find out their demands and negotiate surrender of the controlled portion of the facility.

d.3 Ensure tight security of perimeter fence to avoid inmates taking advantage of the situation.

e. Rescue

The Warden or his duly authorized representative must consider the following factors in decision-making:

- the firepower and number of rescuers; and
- in rescue while on transit, presence of civilians and danger of cross-fire.

e.1 Negotiation must be used to pacify, control, and subdue the situation. It is also used to ascertain the goal of the rescuers and may help the Warden or his duly authorized representative into arriving at a better decision.

e.2 Secure the rest of the inmates who are not involved in the incident.

f. Assault

The Warden or his duly authorized representative shall consider the following factors in decision-making:

- whether or not inmates are armed; and
- The victim, whether it is a civilian, jail personnel or fellow inmate.

f.1 Negotiation must be used to pacify, control, and subdue the situation. No use of force is authorized if after the assault, the authorities have regained control of the situation and that there is no possibility that the assaulting inmate may attack again.

E. NON-DEADLY FORCE CONTINUUM

1. General Principles:

The Warden or his duly designated representative or the Team Leader of the Custodial and Security Force or the Team Leader of a task force shall:

a. Ascertain or recognize that there is indeed a need to assert authority over erring inmates after exhaustion of efforts to settle issues, demands and sentiments.

b. Evaluate the situation and decide on the degree of non-deadly force to be employed taking into consideration the following circumstances:

-the possibility that the incident could escalate into a more serious one;

-the skill and experience of the jail personnel who will administer the non-deadly force; and

-the compliance of inmates or their sincerity to negotiate surrender.

c. Continue negotiation notwithstanding the use of non-deadly force. Resume negotiation if inmates show willingness to cooperate.

d. Resort to non-deadly force when the use of words does not control and the use of deadly weapon is inappropriate.

e. Authorize the use of non-deadly force in cases where inmates are non compliant despite verbal containment or the gravity of the situation dictates that verbal containment is not appropriate.

f. Authorized use:

f.1 Physical contact

- **Jail Officers must be adequately and appropriately trained for the purpose.** The height, built and age of the inmate must also be taken into consideration to select the most appropriate jail officer.

- Inmates must not be armed.
- Blows must be directed to non-fatal parts of the body such as hands, legs etc.

f.2 Chemical/Electrical/Inflammatory (CEI) agents

- Resort to use of this kind of weapon only when there are personnel trained for the purpose. Prior to use of CEI agents, a paramedic must be available to provide first aid.
- The use of CEI weapon should be exercised with due diligence since sparks from these weapons are capable of igniting flammable materials likely to cause more serious harm and injury like fire and explosion.
- The health and physical condition of inmates must be taken into consideration in choosing this non-deadly force for this may be fatal for other inmates such as asthmatic and other sick inmates.
- The ventilation of the area should also be taken into consideration.

f.3 Impact weapons

- Only trained jail officers are authorized to use impact weapons.
- Fatal parts of the body must be avoided since these weapons are also capable of inflicting serious and even deadly harm.

g. Authorized use of non-deadly force shall be used only to temporarily incapacitate inmate and bring back the control to the authorities.

2. Specific Principles

a. Riot

a.1 Open Field

a.1.1 With continued use of verbalization. Ascertain whether inmates are armed or not to determine the appropriate force to use.

a.1.2 Isolate and secure non-participating inmates.

a.1.3 If inmates are unarmed but resistant, use impact weapons.

a.2 Close Field

a.2.1 Carefully assess the situation to minimize the risk to inmates and responding personnel.

a.2.2 Physical contact may be discouraged since this is a close field incident and it might endanger the life of the responding jail officer.

a.2.3 Determine whether the use of chemical weapon is appropriate. Consider ventilation and amount of chemical weapon to be used as it may put the lives of the personnel or inmates at risk.

a.2.4 Impact weapons shall only be applied by trained personnel.

a.2.5 Use other means of non-deadly force in a proper and considerate manner.

b. Noise barrage

b.1 At the first stage of violence, non deadly force shall be considered.

b.2 CEI weapons may be used to pacify or subdue inmates only if incident is escalating to violence.

b.3 Non-deadly impact weapons shall be deployed only when there is apparent threat to life and property.

c. Hostage

c.1 If the hostage-taker is unarmed, use of non-deadly force may be authorized. However, try to minimize the risk of injury.

c.2 If the hostage takers are armed, impact weapons might be utilized to subdue the inmates. Careful evaluation of the situation is needed to determine whether impact weapons are sufficient or not.

d. Lock down

d.1 Determine how long do the inmates have controlled the facility. Reasonable time is dependent on each situation and within the discretion of the authorities.

d.2 If inmates are unarmed, physical force is possible by individual restraint. It is also important to consider the number of inmates involved in the incident and the availability of manpower to individually restrain each inmate and eventually pull them out of the facility.

d.3 If inmates are armed, use chemical, electrical and other inflammatory agents to control inmates.

d.4 Notwithstanding the use of non deadly force, negotiation should be continuous.

d.5 Non deadly force shall be immediately discontinued when it is apparent that the inmates are ready to give up the controlled facility.

e. Rescue

e.1 Immediately alert the proper authorities as regards the rescue.

e.2 In case of rescue inside the jail facility and the rescuers are heavily armed, use CEI weapon to incapacitate the rescuers and rescue inmates. The ventilation and the space must be taken into consideration when using chemical weapons.

e.3 Never use CEI weapon in case of rescue while on transit if there are innocent civilians who might be affected.

e.4 As much as possible in case of rescue while on transit, the nearest police station or the jail must be immediately informed of the incident for proper back up.

e.5 Physical force and impact weapons shall be used only when rescuers are armed.

f. Assault

f.1 Use of CEI weapon in order to temporarily incapacitate the assaulting inmate and at the same time, rescue the victim. This may also be used by authorities to control the situation.

f.2 Use physical restraint if the assaulting inmate is not armed.

f.3 Use impact weapons if inmates remain non compliant after several hours of negotiation and only if inmates are unarmed.

F. DEADLY FORCE CONTINUUM

1. General Principles:

The Warden or his superior shall:

- a. Notwithstanding the exercise of deadly force, exhaust efforts of verbalization and persuasion to contain, subdue and control incident;
- b. Resort to use of deadly force only after failure of negotiation or non-deadly force intervention;
- c. Use deadly force only to incapacitate inmates or restrict the mobility of inmates and should not be aimed at any fatal part of the body;
- d. Not authorize the use of deadly force or non-deadly force when no force is needed to resolve the situation and shall immediately order to discontinue the use of deadly force after the necessity of using it has ended;
- e. Include in his repertoire the threat to use of deadly force such as pointing a gun against an inmate;
- f. Employ deadly force only in defense of life or if there is reasonable ground to believe that there is grave and imminent danger to the life of

the jail officer himself, fellow jail officers, inmate/inmates and innocent civilians; and

- g. Exercise the use of deadly force with reasonable care and diligence to justify its use.

2. Specific Principles:

a. Riot

a.1 Open Field

a.1.1 Deadly force shall be used if inmates are armed and uncontrollable or;

a.1.2 When negotiation fails and lives are in grave and imminent danger.

a.1.3 Shall be used only after non-participating inmates are properly isolated and secured.

a.2 Close Field

a.2.1 Deadly force may be used only if despite the use of non deadly force, inmates remain non compliant.

a.2.2 Prior to use of deadly force, the authorities should have properly identified the inmates involved in the riot.

b. Noise Barrage

Deadly force shall be employed if in case a situation escalates into a serious condition or other inmates resort to violence and pose grave and imminent danger to the lives of inmates and jail personnel.

c. Hostage taking

c.1 Deadly force may be used if there is total failure of negotiation and the inmates remain non compliant despite the use of non-deadly force;

c.2 If the hostage takers are armed;

c.3 A hostage or hostages had been killed;

c.4 Immediately discontinue use of deadly force if there are signs that the use of force is not already appropriate such as when hostage takers already show signs of surrender.

d. Lockdown

d.1 When the erring inmates have assaulted fellow inmates who refused to participate in the lockdown.

d.2 If there is a reasonable ground to believe that there is grave and imminent danger to the lives of inmates and personnel in the facility.

e. Rescue

e.1 In case of rescue by outside forces or in any situation during rescue where lives of inmates and personnel are on grave and imminent danger, or when it is established that the rescuers are determined to inflict harm or injury.

e.2 If part of the facility is destroyed or if the jail security is severely jeopardized by rescue attempt.

e.3 Never use firearms in case of rescue while on transit if it possesses a grave and imminent danger to the lives of the people living in the area.

f. Assault

f.1 When use of deadly force is authorized to incapacitate the assaulting party and prevent him from attacking other people.

E. WARNING SHOT

1. Disadvantages of warning shot

- a. Warning shots may pose risks to innocent civilians, inmates and jail personnel.
- b. Warning shots may cause an armed fleeing inmate to fire back believing that the shot was intended to kill him.
- c. Jail personnel could inadvertently shoot the inmate on fatal part of the body resulting to his death.
- d. When exercised negligently, warning shots may cause injury to persons or damage to property.

2. Advantages of warning shot

- a. Warning shots when exercised properly are effective ways to stop a fleeing inmate or vehicle.
- b. It enables to get the attention of other people of the ongoing commotion or incident.
- c. It enables to give caution to other jail officers of the ongoing commotion and to respond immediately.

3. Authorized situations

- a. The shot should not be aimed at fatal parts of the body nor in a particular person.
- b. Since they constitute deadly force, warning shots must be exercised with due diligence and only if the jail personnel reasonably believes that the inmate/inmates pose grave and imminent threat into the lives of innocent civilians, inmates and jail personnel in the area.

c. Warning shots are authorized in open field but not in close field. In giving a warning shot, extra prudence must be exercised to ensure that it will not cause no injury to any person or damage to property.

F. DEPRIVATION OF FOOD, WATER, AND ELECTRICITY DURING JAIL INCIDENTS

1. Advantages

The provision of food, water, electricity can be used by the jail personnel to negotiate to erring inmates and possibly to gain some concessions like release of a hostage in exchange of food.

2. Disadvantages

a. Food and water are basic rights which cannot be deprived in all cases and under any circumstances. To deprive inmates of these rights is a violation of their human rights.

b. Deprivation of food and water is considered as deadly force since continuous lack of these necessities may result to weakening of the body and if for a longer period may result to death.

c. Human rights groups may question the deprivation which may result to unnecessary lawsuit.

3. Authorized use

a. The deprivation is authorized only when there is reasonable ground to believe that there is an imminent and grave danger into the lives of jail personnel who will deliver the food, water or any necessities.

b. It is authorized to cut-off electricity during use of CEI weapon since sparks from chemical weapon are capable of igniting flammable materials which may result to fire and explosion. The cut off, however, must be for a limited time only.

c. Authorized to reduce food and water but not to totally deprive inmates throughout the incident.

VIII. POST ACTION ACTIVITIES:

A. Debriefing

1. *Debriefing of Personnel*

a. All personnel involved in the incident must undergo a thorough physical, medical and psychological check up.

b. After the critical jail incident, all personnel must be briefed on the event, present the evaluation and recognized lessons learned. In this way, personnel may not only learn from the experience but also participate in the investigation.

2. *Debriefing of Inmates*

a. Within 24 hours after the critical jail incident is resolved and the situation is back to normal, the Warden shall gather all inmates for a dialogue, thresh out important issues and settle possible sources of conflict.

b. All inmates involved in the incident must be segregated from the rest.

c. Inmates involved in the incident must undergo a thorough physical and medical check-up. Seriously wounded inmates must be immediately brought to the nearest hospital.

B. Record keeping of the Incident

1. Preserve the crime scene and make sure that all evidences are sealed and protected/untampered.

2. Within 24 hours after the incident, a partial report should be submitted by the Warden to the Regional Director who shall in turn, make a report to the Chief, BJMP.

C. Evaluation of the applicability of the Use of Force

1. After an incident involving the use of force, a thorough investigation should be conducted to determine the appropriateness of the level of force used taking into consideration the following factors:

a. The nature of the incident;

b. The level of force used;

c. Number of inmates involved in the incident;

d. Number of personnel present in the incident; and

- e. Logistical capability of personnel including firearms and equipment.
- f. Damages/casualties caused.

2. Identify lessons learned from the incident.

IX. REPEALING CLAUSE:

All circulars or issuances inconsistent with this directive are hereby rescinded or modified accordingly.

X. EFFECTIVITY:

This policy shall take effect immediately.


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