POLICY ISSUES RELATED TO THE

USE OF RESTRAINTS AND DISABLERS

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QUOTES

- "…the ACA standards have become our industry's standards, and should litigation result from a use of restraint incident, officers and managers will be judged with the ACA standards used as the basis."

- "Often the use of force policy is applicable to the law enforcement side of the sheriff's office but not to the jail."

- Litigation often uncovers real management flaws including invented methods of use of devices which are contrary to the manufacturer's safety recommendations.

- "…effective and comprehensive training in use of force devices can only be accomplished by use of several methods."

- "Training provided by a state academy is often inadequate for the use and application of restraints and disablers, as different devices are often used in different jails."

TEXT

As the saying goes: If the only tool you have is a hammer, you tend to see every problem as a nail. Turning the phrase to controlling inmates: If you give your officers electronic devices or restraints, they are likely to use them too often and inappropriately if not controlled through policy, training and incident review. One only needs to review litigation nationwide to prove this point.

There are many policy issues related to the use of restraints and disabling devices or disablers. While the use of deadly force is regulated in most states by law, and the general use of force is regulated by most correctional agencies, the control of specific restraints and disablers is often a vague area of correctional operations. The result is a lack of direction to staff through written policy, training, monitoring of their use of and critical incident review.

The standards of the American Correctional Association (ACA) can be most helpful to the correctional administrator for the development of policy regarding the use of restraints and disablers. Unfortunately, many correctional administrators dismiss the

standards as not applicable to them. However, the standards have become our industry's standards, and should litigation result from a restraint incident, officers and managers will be judged with the ACA standards as the basis. If this is so, then the standards need to be examined by all correctional administrators for policy development regardless of the size of the facility.

Many jails and prisons are governed by policy and procedure but they are not adequate to guide and direct staff in the use of restraints or disablers. Often the use of force policy is applicable to the law enforcement side of the sheriff's office but not to the jail. The result is that correctional staff are provided restraint equipment and disablers but are not guided by policy regarding the "when" and "how" of their use and they are not trained in their use. Often when incidents occur, incident reports are not written (or if they are, they are done poorly), and there is a failure to provide critical incident review of the incident to determine if policy and training was adequate.

In many of the more egregious uses of force, where significant injury occurs, litigation has discovered real management flaws in the areas of policy, training, monitoring and incident review. Such may include:

- failure to have a stated and specific policy on the use of restraints or disablers;
- confusion as to the appropriate use of the devices;
- invented methods of use of the devices which are contrary to the manufacturer's safety recommendations;
- failure to train officers on the policy, use and application of the devices;
- failure to follow up with medical care; and,
- inadequate or even non-reporting of the incident.

POLICY ISSUES

Correctional agencies need to develop and implement written policy and procedures in the use of devices. Any such policies and procedures need to be reviewed by all key management staff as well as undergo a legal review. ACA standards and local laws should be reviewed in their entirety as a basis for the written policy and procedure and should be cited as a reference.

Comprehensive, clear and well written policy provides many advantages including:

- consistency of operation;
- clear directions to staff;
- clear standards for reviewing uses of force;
- a basis for developing training programs; and,
- a basis for establishing the agency's constitutional duty to protect its inmates.

Written policies and procedures for the use of devices should include the following elements which are generally included in the ACA Standards.

- Legal definition of force.
- Statement that force will not be used as punishment.
- Definition of the continuum of force and where the devices fit in.
- Definition or description of the devices.
- Approved devices.
- Approved methods of use.
- Storage and inventory.
- Who may authorize the use of devices.
- Who is authorized to use the devices.
- Use of response teams.
- Planned and unplanned use of force.
- Whether or not to videotape each use of planned use.
- Completion of incident reports by the conclusion of the shift.
- Internal Affairs investigations for determination of legitimacy of use.
- Critical Incident Review for determination of adequacy of the policy, training and supervision of the using officers.
- Medical involvement, if any, in the approval, use, or continued use.
- Medical response to both staff and inmates.
- Counseling of staff in cases of death.
- Training in application of the policy and the devices.
- Annual review of the policy and procedure.

TRAINING

An essential part of policy development is communicating the policy down the line. Roll call training is usually one method of dissemination of new policy, and while it would be appropriate to issue a policy this way, it calls for additional training before the policy is implemented.

Additional effective and comprehensive training in use of force devices can only be accomplished by several methods. One method would be a classroom presentation on:

- the policy itself citing all of the procedural issues noted above including the continuum of force, nomenclature, authorized devices, approval of use, etc.;
- definitions;
- safety concerns as noted by the manufacturer;
- legal issues related to the use of the devices; and,
- liability for improper use of the devices.

Another method should be hands-on training where officers demonstrate the proper use and application of the devices after being presented certain scenarios. Where officers are deficient remedial training should be provided. Video taping of the training is valuable as it would provide feedback to the officers.

Training provided by a state academy is often inadequate for the use and application of restraints as different devices are often used in different jails. Any state academy training must be augmented by training at the jail or prison on the specific policy and procedure in effect for that facility.

Any training must include scoring using a performance checklist of each trainee's proficiency in applying or use of the various devices, and written tests to demonstrate knowledge of the policy itself. Documentation of the training must be kept to verify the officer's proficiency in use and application of the devices.

MONITORING

Monitoring is an element of oversight which extends to all levels of management to ensure that the policy is working from the highest to the lowest levels of the organization. It requires managers and supervisors to oversee the uses and application of devices so that they can determine whether or not they were used in accordance with policy, that their use was justified, that the inmate was not abused in the incident, that all participants including staff and inmates received medical care, and that all incident reports are competed by the end of the shift and are reviewed for sufficiency.

In addition, one or more of the following may be necessary depending on the seriousness of the incident:

- a criminal review of officer conduct;
- a criminal review of inmate conduct;
- crime scene protection;
- preservation of evidence;
- referral to internal affairs for investigation if appropriate;
- referral of officers to the Employee Assistance Program should a death or seriousness injury occur; or,
- referral to a grand jury.

CRITICAL INCIDENT REVIEW

In each and every incident involving the use of restraints or disablers some level of management review is required. While the degree of review may depend on the seriousness of the case it should consider if policy adequately guided staff in the use of force in each instance or if it needs to be modified, if training was adequate, and if supervisors and managers adequately monitored the use of force.

CONCLUSION

The use of disablers or restraints is a legitimate area of inmate control but it is subject to abuse and misuse. It requires the highest level of management attention in the areas of development and implementation of policy, training of staff in the policy and the specific application of the devices, monitoring of each use of force incident to ascertain if

officer conduct was legitimate and a management review of the incident to determine if policy was effective in governing officer conduct in the incident.

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