NDOC Response to Item V. 10-13-15

Response/Corrective Action Plan to the Use of Force Policy, Practices and Staff Training Regarding the Use of Shotguns in Nevada Prisons

Submitted to:

Board of State Prison Commissioners

By the:

Nevada Department of Corrections

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RESPONSE/CORRECTIVE ACTION PLAN

Department's response/corrective action plan to the Use of Force Review received from the Association of State Correctional Administrators (ASCA) on September 21, 2015. This report was commissioned by the Director of the Nevada Department of Corrections (NDOC) on May 20, 2015. NDOC specifically contracted with ASCA to provide the following:

- A review of the NDOC Use of Force Policy, AR 405 entitled "Use of Force Standards"
- A review and assessment of all use of force incidents that have occurred within the last 3 years within the NDOC that involved the discharge of a firearm.
- An analysis and recommendations of the use of force pre-service training programs delivered to employees of the NDOC. Additionally the request included that the review must provide a complete evaluation of the NDOC Administrative Regulation 405, Use of Force Standards from a legal and practical application.

This review makes numerous good and sound recommendations related to cleaning up some language between Administrative Regulations and Institutional Operating Procedures.

The attached Response/Plan of Action details specific points of concern with the report and the NDOC's response and plan of action to improve the NDOC's Use of Force Administrative Regulation and Institutional Operational Procedures.

This response also includes a plan to improve the training, staffing and equipment needs as outlined in ASCA's report.

NDOC is appreciative of the information/suggestions and ideas provided by ASCA which will help the NDOC to improve the ability to continue to follow our mission which is to "Protect the Public, Protect the Employees and Protect the Offenders".

NDOC RESPONSE/CORRECTIVE ACTION PLAN TO THE ASCA USE OF FORCE POLICY REVIEW

The Nevada Department of Corrections has reviewed section by section of the ASCA Use of Force policy review, and our specific areas of concern are detailed in this addendum. The ASCA statements taken directly from the report are in italics directly above each NDOC response or concern.

NDOC Policies and Procedures Compared to National Standards and Widely Accepted Practices.

ASCA Statement

Conclusion: Key elements of the Departments Use of Force Policy are not consistent with nationally accepted Correction Standard and currently accepted best practices. The following findings were instrumental in drawing this conclusion.

Unclear Policy: The base policy in the Department regarding use of force is AR 405 - Use of Force Standards, which was last updated as a temporary AR on December 14, 2011 and subsequently approved with an effective date of January 5, 2012. This Administrative Regulation is somewhat misleading. For instance, paragraph 2.A states, "...this regulation is used as the operational procedure when the "use of force" is required." This statement would indicate that AR 405 is to be used as the local operating procedure (LOP) at all institutions. Further direction to support this statement is presented on page 5, paragraph 1, under the heading "APPLICABILITY," which reads: "This regulation is required for use at each institution/facility. No operating procedure is required." In actuality, each institution visited had written a fairly detailed Use of Force Operating Procedure. While the institutions acted appropriately in writing those detailed LOP's, their actions are contrary to AR 405.

NDOC Response:

The NDOC "Use of Force Policy" AR 405, does indicate that this regulation is to be used as the Operational Procedure when use of force is required. ASCA's team member states that this statement is somewhat misleading. This statement is included at the beginning of the AR under the heading of Responsibility. The intent of this statement is to advise the Warden of each institution/facility. This policy is to ensure that in all use of force actions, this regulation must be followed above all other procedures. The wording, NDOC agrees that the Administrative Regulation can be better explained and improved. The paragraph just below the one mentioned also explains to the Warden, that all staff are trained in this regulation and that they have a signed acknowledgement stating they have read and understand this regulation. Also stated in this section entitled unclear policy, refers to page 5, paragraph 1, under the heading "Applicability" which reads: "This regulation is required for use at each institution/facility. No operating procedure is required."

To understand this statement, the reader of this report must understand how Administrative Regulations work in conjunction with Operating Procedures. Within all the Administrative Regulations a statement is included which advises the Warden of each institution/facility whether an operating procedures is required or not required for that particular Administrative Regulation. However, that does not prohibit the Warden from developing an Operating Procedure if they have a specific need for an Operating Procedure to help clarify or guide the staff in a particular circumstance for an individual location.

Administrative Regulations are the approved regulation of a particular subject for the governing of the agency. An Operational Procedure is many times needed for individual institutions to clarify or address the particular needs of an institution/facility, based on factors such as physical plant issues, custody level, geographical location, or any other unique circumstance that face that institution or facility.

NDOC agrees that this AR probably should have required all institutions to have an operational procedure requirement and that the AR could be changed to reflect that change. This would clarify the confusion over these statements in the AR.

Imprecise Policy: The ASCA report indicates that AR 405 content is not clear and quotes AR 405.01.2 only. What must be understood is this Administrative Regulation must be read in its entirety to have a clear understanding of when a staff member can use force. It would be an unfair assessment to apply the AR Section mandating the type of devices to be used when applying force to resolve every possible situation, as an explanation all parameters of the use of force. The AR further explains the definition of "use of force", the appropriate levels of force, the type of non-deadly force equipment, and types of deadly force equipment that can be utilized in certain circumstances as detailed in (Attachment #1 - AR 405.01, 405.02, 405.03 & 405.04).

It is the position of NDOC, based upon relevant experience, that the policy of how and when to use force is legally defensible. It should also be noted that this particular Administrative Regulation has been reviewed and approved by Deputy Attorney Generals in regard to content and legality.

The ASCA report indicates that when deadly force may/should be used is missing from AR 405.

NDOC again will state that AR Use of Force, page 1, section 405.01, Heading Use of Force, #1 and 2, listed above clearly defines when and how a staff member can use force and the information is explained and discussed in more depth with the training staff receive prior to being placed in a position where they might be utilizing force.

ASCA Statement:

Local use of force procedures:
The ASCA study examines local use of force procedures and points out *what they define as serious inconsistencies with the Departments policy.* This statement is confusing because the operating procedures do not affect the Department AR's. They further state that some of these inconsistencies could adversely impact the intent of the Departments policy. They have listed these described inconsistencies and this report will respond to each one listed.

ASCA Statement

ESP's Operational Procedures: For the most part, ESP's OP 405 is comprehensive; but two key items need clarification. Page 6 contains a paragraph, "Non-Deadly Use of Firearms." While the Department considers the 12-gauge shotgun with 7-1/2 birdshot to be "non-deadly," the 12-gauge shotgun is not mentioned nor referenced in this section of the OP. If this paragraph is intended for the 12-gauge shotgun, then it should be explicitly written to preclude anyone from concluding that a mini-14 may have non-deadly uses.

NDOC Response:

The NDOC agrees that this Operational Procedure should include the above listed section 12-gauge shotgun and indicate the non-lethal manner in which it can be used, including utilizing blank rounds/popper rounds/rubber stinger rounds and 7.5 birdshot. It should be noted however, that when Correctional Officers receive training on the use of firearms, Officers are instructed that 12-gauge shotguns loaded with "blank rounds", rubber projectiles and 7.5 birdshot are the only non-deadly use for a firearm.

ASCA Statement:

On page 11, the second paragraph reads, "...where the inmate does possess a deadly weapon or serious bodily injury and/or death is imminent..." The very next sentence reads, "The mini-14 will only be used when a weapon is being, or is about to be used." This statement should be clarified, as the first phrase would indicate that if an inmate were down and unable to defend himself and another inmate(s) were kicking him in the head, deadly force might be legal and justified. The second sentence seems to argue otherwise. ESP's OP 405 is the only procedure that directs staff to use the mini-14 to "shoot to stop," which is consistent with range training and qualification processes.

NDOC Response

The Operating Procedure for ESP can easily be revised to indicate when deadly force should be used and add "if a person is assaulting another, either with a weapon or an extended part of their body, such as hands, feet, fists, elbow, etc.", as stated in the Administrative Regulation. However, it should be noted that this language is included in

AR 405 on page 3, paragraph B and that the ASCA writer concludes that ESP's Operating Procedure is consistent with training.

ASCA Statement:

HDSP's Operational Procedures: HDSP's OP 405 is also comprehensive; however, it too contains inconsistencies. On page 2, paragraph 405.2.2, it cites that deadly force may be used "To prevent an inmate from escaping from custody who is classified as medium, maximum, or closed (sic) custody." This statement seemingly differentiates between a minimum custody inmates living in a minimum-security support facility from an inmate living within the perimeter of the main institution. If that is the case, this point should be clearly stated. The OP leaves the question unaddressed as to whether it is the Department's intent for staff not to fire their weapon because they don't know the classification level of an escaping inmate. Repeatedly, throughout this procedure references on the use of the mini-14 to, "shoot to disable," or "shoot at the lower extremities" are written.

NDOC Response:

NDOC agrees that the HDSP OP 405 is comprehensive but can be clarified. Referenced on page 2, paragraph 405.2.2 does refer to medium, maximum or close custody. This statement will be removed from the OP. In the NDOC, a standard rule regarding classification, is that regardless of an individual's classification status, rules will be enforced, based on the institution in which the inmate is housed. HDSP is a medium/max institution and regardless of how the inmates' classifications are determined, rules regarding escapes can only be enforced based on the designation of the institution.

ASCA Statement:

On page 3, paragraph 4, the procedure in one sub-paragraph reads, "...inmate does not possess a deadly weapon, but is committing an act, which could result in death or serious bodily injury...shoot to disable by shooting at the lower extremities." The next sub--paragraph states that if an inmate does possess a deadly weapon or serious bodily injury/death is imminent, the policy is to shoot (we believe this means shoot to stop) at the torso. We wonder why the difference, if both scenarios are likely to result in death or great bodily injury? This is confusing and places pressure on who are already charged with making split second life/death decisions. It is also inconsistent with how staff are trained. Both at the Department's training academy, and at institutional range qualifications, staff firing the mini-14 are trained to shoot at a torso target not at legs. They are trained to shoot to stop, not to disable. This is also the national standard in law enforcement for the use of deadly weapons.

NDOC Response:

This statement on page 3, paragraph 4, was reviewed with the ASCA Team member and has been revised. The current OP states, on page 4, paragraph 6, referencing Escape Attempts, "The officer, after firing a warning shot shall "shoot to stop" and the third bullet point states:

> Should the situation arise in which the inmate attempting to escape is not noticed until after clearing the inner perimeter fence, the officer shall fire one (1) warning shot if, in their opinion, there is still sufficient time to be able to "shoot to stop" before the inmate could clear the outer perimeter fence. If there is not enough time for a warning shot after the inmate has cleared the inner fence, then shots may be fired directly at the escaping inmates to shoot to stop.

ASCA Statement:

Page 9 of the procedure references the escalating use of the 12-gauge shotgun from warning shot to 7-1/2 birdshot. It reads, "If the threat increases to include: more than two inmates involved ... you can then progress to: Firing of the 7 1/2 birdshot. Skip shot only." We read this to mean that if only two inmates are fighting the staff member may only fire a warning shot ("popper") or a rubber stinger round. However, we have seen several incident reports, which included only two combatants, yet 7 ½ birdshot was fired at the inmates.

NDOC Response

The reference on page 9 is again the ASCA statement claiming the above must be read in the entire section. At HDSP due to changing the Operating Procedure to include the use of the rubber "stinger" round, this reference is in relationship to including procedures on how to use the rubber stinger rounds and refers to the progression from the warning shot to the rubber stinger and then to the 7.5 birdshot. It states:

- **The progression from the warning shot to the rubber stingers and to 7 ½ birdshot shall be dictated by the amount of the threat.**
  - **Firing of a warning shot if the conduct or activity does not stop then you can progress to;**
  - **Firing of the Rubber Stinger round. Skip shot only.**

  If the threat increases to include;
  - **More than two inmates involved**
  - **One inmate being over taken to the point where serious injury may occur**
  - **Groups of inmates forming and being non-compliant**

  You can then progress to:
  - **Firing of the 7 ½ birdshot. Skip shot only.**

The ASCA report did not include the reason this progression was listed this way. *This ASCA report also states that the writer reviewed several incident reports which included only (2) two combatants, yet 7.5 birdshot was fired at the inmates.* The reason the

writer discovered that 7.5 birdshot had been used in the previously occurring incidents is HDSP had not been utilizing the rubber stinger round prior to this OP 405 dated 6-16-15, being issued and prior to staff receiving training on the use of the rubber stinger round. It should also be noted that the NDOC required the HDSP Warden to rewrite the OP and implement the use of the rubber "stinger" round as a pilot project in an effort to provide for another less than lethal alternative to protect inmates and staff during fighting incidents.

ASCA Statement:

On page 13, paragraph 405.08, a Firearm Discharge Review is described. (The current and future versions of this section of AR 405 should be reviewed and approved by the Attorney General's Office) The concern is how this process might impact any investigation or legal or disciplinary action. The HDSP Warden has recently started to review each live fire incident with the officer who fired the shot(s). While this review is not yet written into HDSP procedures, the Warden credits this review with reducing the number of actual live rounds fired during 2015. (In the first six months of 2015, 14 use of shotgun incidents were reported – 11 poppers only and 3 poppers and birdshot as compared to the first half of 2014 when 27 use of shotgun incidents were reported – 22 poppers only and 5 poppers and birdshot.)

NDOC Response

NDOC agrees that a review process needs to be included in the AR as well as institutional OP's. The process for review has been placed into the HDSP 405 procedure as listed below:

405.08 FIREARM DISCHARGE REVIEW

- Any time a weapon is discharged (other than training) the officer shall be referred to a committee for a review of the discharge.
- The committee shall consist of an Associate Warden and a shift supervisor.
- The review will require the officer to explain the circumstances under which the weapon was used.
- A review of HDSP OP 405 will be conducted. The officer will sign an acknowledgement that he understands the contents of the OP 405.
- A decision will be made as to the appropriateness of the discharge and if disciplinary action or further training is required.
- If the discharge resulted in persons being injured the officer will be offered counseling services through the Employee Assistance Program.
- The officer cannot be assigned to an armed post until the Review committee has received concurrence from the Warden.
- The Review Committees interaction with the officer shall be documented on a Performance Card.

ASCA Statement

With regard to firing 7.5 birdshot, staff acknowledge Department policy is that if there is no ability to skip the shot, then live rounds will not be fired. The only written reference to this, however, is contained in HDSP's OP 405, which states, "If there is no ability to skip shot, then live rounds will not be fired unless the inmate possesses a deadly weapon or serious bodily injury and/or death is imminent." Range masters indicate that during semi-annual live firing qualification, staff is instructed not to fire live rounds if they cannot skip the shot, although Department Policy AR 405 is silent on this point.

NDOC Response:

NDOC agrees that the statement "if there is no ability to skip the shot, then live rounds will not be fired" but it should be noted that ASCA and the NDOC Training Division agree that all staff are instructed in the knowledge of when staff cannot skip fire a live round.

ASCA Statement:

LCC Operational Procedures: LCC also has an unnumbered Use of Force Procedure, which is part of their Emergency Response Manual. When using the mini-14, this OP repeatedly directs staff to "shoot to disable" or "shoot to disable by shooting at the legs." This guidance is not consistent with training or nationally accepted standards for the use of deadly force. Another troubling point, which is almost verbatim in the HDSP's OP, is the sentence "Every effort should be made to direct the round into the attacker and not the victim." While the intent of this sentence is understandable, its implication is disquieting. More consistent with the trending national law enforcement norm is language such as, "A firearm shall not be discharged if there is reason to believe that persons other than the intended target will be injured." Such guidance with accompanied training reduces the chances of unintended victims being hit.

NDOC Response:

NDOC agrees that LCC did not have an approved Operational Procedure for use of force standards, but it was not required if LCC chose to utilize the AR 405 as their procedure.

The unnumbered and unnamed reference to use of force in the document found in their Emergency Response Manual was not authorized or approved for use at LCC as a Use of Force Operational Procedure. This reference refers to the beginning of this report on page 5. The ASCA team indicated that they were unclear as to the requirement of an OP as it states in AR 405, that an OP is not required at each institution as previously explained, the OP

was not required and the document that was audited was not correct, it did contain incorrect information. NDOC agrees that the issue regarding OP's should be clarified in the AR and an OP should be written to cover the issues referenced in this section about LCC.

Prison Practices - LEADERSHIP AND STAFF IMPLEMENTATION OF DEPARTMENT USE OF FORCE POLICY:

ASCA Statement:

Conclusion: Prison leadership and staff at each prison are working in good faith to implement the Department Use of Force policy.

NDOC Response:

The NDOC agrees that NDOC Administrators and staff are in compliance with the Use of Force Policy. However, it should be noted that a few incidents have occurred in which staff did not follow the use of force policy. As in all use of force incidents, a review and investigation were conducted and appropriate steps were taken to prevent the action from taking place again by the offending staff member and further action was taken to improve and develop or enhance procedures to prevent the action from being repeated.

ASCA Statement:

Control Booth Officers: When interviewed, control booth officers generally knew the protocols for using the shotgun. When presented with the typical scenario of inmates fighting on the ground floor or yard, they all confidently described how they would skip shot the rounds into lower extremities - after appropriate preliminary warnings. However, when presented with less typical scenarios, such as second tier incidents, incidents where inmates are on the ground, or floor, or incidents in which ground staff are actively involved, at least half of the interviewed officers were hesitant or less confident in what constituted an appropriate response.

NDOC Response:

Control Room Officers are trained in the use of the shotgun in regard to use of force incidents. The NDOC agrees that providing scenario training in regard to use of force situations should improve the confidence of the officers placed in those types of situations. A training plan will be developed with the assistance of the National Institute of Corrections (NIC) and implemented within the NDOC.

ASCA Statement:

Tower Officers: Officers posted in coverage towers were interviewed and asked when it would be appropriate to use the shotgun and when it would be appropriate to use the

mini-14. One officer said he could not imagine any situation in which he would use a mini-14. One officer said he could not imagine any situation in which he would use a mini-14. When presented with the scenario of an inmate with a clearly visible knife stabbing another inmate directly under his tower, the officer said he was not a doctor and didn't necessarily know that the knife would be deadly. Therefore, he wouldn't use deadly force. Another officer at a different institution was asked: When is it appropriate to use the mini-14 or shotgun? The officer said if it was an inmate-on-inmate altercation, she would use a shotgun, but if it were an inmate-on-staff incident, a mini-14 would be used. The lack of knowledge regarding when and where to use different weapons is troubling. For the most part, however, staff assigned to perimeter and watch-towers could clearly and correctly articulate when to deploy a mini-14.

NDOC Response:

When reading these comments regarding Control Room Officers and Tower Officers, it appears that the ASCA team believed that "for the most part" the Officers could clearly and correctly articulate when to use the appropriate action. It does also indicate that additional training should have more of an impact on the staff working these assignments. The need for more on-site, in-service training has already been identified by this agency. Currently the Training Division has been given instruction on developing a new Field Training Officer Program. The Employee Development Manager and his team have attended a Field Training Officer (FTO) curriculum training program and are in the process of writing a training plan along with an Operational Procedure on how the FTO program will provide more intensive, hands on the job training for the line staff. Once this program is developed and implemented, it will further provide training in policy protocol with the staff that will know how to act and respond to the more difficult scenario questions.

All officers including officers assigned to towers are trained in the use of all weapons assigned to their locations. However, NDOC agrees that scenario training in regard to uses of force required incidents should improve the tower officer's confidence. This training will be developed with the assistance of the National Institute of Corrections (NIC) and the NDOC's Training Division and will be implemented within all institutions.

ASCA Statement:

Extent and Type of Use of Shotguns in Nevada Prisons: The extent to which shotguns were used in 2012, 2013, and 2014 at six prisons are summarized in Table 1 According to the type of firing (popper only, or popper plus bird shot). From January 1, 2012 through December 31, 2014, there were 208 incidents in which officers fired a shotgun in six Nevada prisons. In alphabetical order, they are ESP, HDSP, LCC, NNCC, SDCC, and WSCC.

NDOC Response

In this section of the ASCA report tables were used to compare the use of shotgun firing incidents. The key points of the tables are listed below:

- Table #1 indicates a steady increase of the use of blank rounds/popper from 59% of the time in 2012 to 74% of the time in 2014. The results show that officers were able to stop the incident by only utilizing the blank rounds/popper.
- Information in all tables indicated that most of the incidents involving the shooting of the 12 gauge occurred at High Desert State Prison. It should be noted that HDSP has a significantly larger number of inmates, so the percentages of incidents compared to the population of inmates would naturally be increased.
- This report explains on page 12, the differences of the 3 institutions in regard to the number of incidents where shots were fired, HDSP were significantly higher than the other institutions.
    1. HDSP houses several transitional populations
    2. Protective custody population.
    3. HDSP houses several units of inmates involved in gangs and violent behavior.
    4. The mission is to transition these type of inmates back into general populations
    5. Several Segregation units are located at HDSP
    6. Reception centers by their very nature tend to have more violent encounters because many of the new inmates are unknown to staff and an inmate's intentions for assimilation into the prison environment is equally unknown. In other words, reception centers may hold a number of inmates who are intent on using violence to gain notoriety.

NDOC agrees for these reasons, that HDSP has more violent behavior type incidents that give rise to use force to protect inmates and staff while living and working in this facility.

ASCA Statement:

Department Staffing Levels and Use of Shotguns: Because the Department operates at very low staffing levels, it relies heavily on the use of shotguns to protect inmates and staff from harm. In fact, Nevada has the highest prisoner to staffing ratio (12.28 prisoners for every one security staff person) of any state department of corrections in the country, and nearly twice the national average of 6.27 prisoners to one security staff member.

The lack of staff to deter inmates from attacking other inmates or staff and the lack of staff to respond quickly to incidents have placed the Department in the position of relying heavily and almost exclusively to the use of weapons to maintain order.

NDOC Response:

NDOC institutions use shotguns to protect inmates and staff from harm. In fact, NDOC entire training, agency policies, supervision, written administrative regulations and operating procedures are utilized at all times to protect the public, employees and the offenders from harm.

This report states a figure of prisoner to staff ratios but it does not provide the information as to where those figures came from or how they determined those ratios.

The American Correctional Association (ACA) develops and provides a Standards Manual which includes the National Standards to be adhered to for all aspects of correction institutions/facilities. In section C entitled "Personnel", explains that these are standards which are a written body of policy and procedure establish the institutions staffing, recruiting, promotions, benefits and review procedures.

For employees in Standard 4-4051, it states:

- The institution uses a formula to determine the number of staff needed for essential positions. The formula considers at a minimum holidays, regular days off, annual leave and average sick leave,

In Standard 4-4052:

- Requires the Warden to document staff positions authorized to work directly with inmates.

NDOC has calculated staff that work directly with inmates and have determined its offender to staff ratio to be 5.08:1. To compare our staffing ratios to the national averages listed in the ASCA report which is reported as 6.27.1.
(See Attachment #2)

ASCA Statement

Review of Incidents in which Shotguns were Fired: Supervisory and management staff reviewing use of force incident reports is essential for ensuring compliance policy and procedures, and ensuring that training keeps pace with staff needs. Currently, all Department institutions do some form of review concerning firing of live rounds. Most institutions are reviewing the use of "popper" rounds, as well. However, less common is the routine review of uses of physical force. While the current reviews are helpful in identifying abuses, they are less helpful in verifying that all uses of force are in compliance with policy, procedure and training.

As part of this assessment, a number of incident reports were reviewed, including reports by individual staff members. While most individual reports were acceptable (some really excellent), a number of reports indicated staff were self conscious about using force. Phrases such as, "I assisted inmate Jones to the floor." were not uncommon. A conversation with an IG investigator confirmed that it is not uncommon for Department staff to be self conscious about using force. Individual use of force

reports written by staff members frequently lack substance. Staff appear reluctant to talk (or write) about exactly what occurred during a use of force incident, in part, because they may have doubts about what is authorized by policy, procedure and training.

NDOC Response:

NDOC completes a review of every incident to include where shots were fired. The ASCA Team member who made this report was provided with all of the incident reports which involved the discharge of a firearm. In this section of the report he refers to the need to provide a review process of each use of force incident. Attached is the process and procedures for all reviews within the NDOC. NDOC recognizes that a serious incident review process should occur with all incidents by Administrative and Investigative staff and NDOC does review all incidents using the process attached. (See Attachment #3)

ASCA Statement:

Alternative Approaches and Options: Staff expressed at least mild anxiety about becoming involved in a physical confrontation with an inmate and having a control booth officer fire bird shot in their direction. In general, staff at LCC and HDSP relayed that they tend to hold back intervening in inmate altercations and depend on the shotgun to stop the action, whether by mere show, use of a "popper," or actual firing of bird shot. Some thought it unsafe to intervene by themselves, as they were the only floor staff in the building. Some were reluctant because they wanted to see what the control booth officer was going to do and they didn't want to be hit by bird shot.

NDOC Response:

The NDOC Use of Force Policy and Practice for staff observing and making every effort to protect offenders when they are involved in a physical confrontation is and has been for at least 30 years, to follow a use of force continuum in the following manner:

When staff observes offenders in a physical confrontation, staff use verbal commands instructing the violators to stop the fighting. If the verbal command does not stop the offenders from fighting then the next step is to fire a blank (popper) round in the air to give the fighters audible warning to allow for them to have time to stop the fight and separate, preferably on the ground, so they can be separated and controlled by staff. If they do not comply after an additional set of verbal instructions by stopping, then the 12 gauge shotgun utilizing a 7.5 birdshot fired by using a skip round technique (firing into the ground in front of the fighters utilizing a ricochet effect into the fighters) is to be used. This non-lethal use of force technique has been used successfully and has stopped and prevented serious injury and escalation of additional offenders from being involved in larger group disturbances. Staff does respond to these incidents and in many cases have been able to, within a short period of time, arrive on the scene and take physical control of the offenders at different stages of the use of force continuum.

ASCA Statement:

Custody staff at ESP, HDSP, and LCC do not carry OC, batons, handcuffs, or handcuff keys. Line staff at SDCC carry OC. Staff do not carry whistles nor do they have personal alarm devices. If they deem it necessary, supervisors may draw OC, batons, and Tasers. In cases of emergencies, staff depend on the use of radios and telephone off-hook alarms. Many civilian employees who work with inmate crews do not have radios and rely solely on off-hook alarms in case of an emergency.

Custody staffing levels in housing units and on yards is extremely low. The lack of staff resources and safety equipment reinforces the need for and use of 12-gauge shotgun as the default means of controlling inmates. While contributing factors were not specifically mentioned, interviews with staff generally confirmed that controlling inmates went from verbal to the shotgun with little or no physical intervention by floor staff. The main exception to this was at ESP, which mostly uses hands on double escorts of restrained inmates.

Unit floor staff and yard staff were asked their opinions on being issued and carrying OC and batons. About two-thirds of the staff said they would appreciate having those options available to them. About one-third of the staff queried said they would not want to carry OC or a baton. Most were vague in their reasons why, but a few said they were fearful that inmates would take it away from them and use it on the staff member. When asked if they could recall an instance when that actually happened, they could not.

- The implementation of purchasing training and carrying of OC/chemical agent at HDSP began prior to this ASCA report being completed. HDSP has purchased, trained and certified correctional officers to carry OC/chemical agent on their person.
- Handcuffs and handcuff keys are issued to staff at all of the institutions. Handcuffs and handcuff keys have always been available for staff to carry and use as needed according to policy.
- Personal alarm devices are present at LCC. Any staffs who desire to carry a personal alarm device can check them out when they arrive on duty at the institution.
- All civilian employees who work with inmate crews do have portable radio access either by the officer assigned to their immediate area, such as the culinary, PI or infirmary. Maintenance staff all carry radios.
- In general this report did not provide any evidence or documentation that would indicate that OC/chemical agent, handcuffs, handcuff keys, batons, or radios, would have helped or changed the outcome of a use of force incident.

No incidents have occurred where these items were needed and not available.

Staff Training: STAFF TRAINING COMPARED TO NATIONAL CORRECTIONS STANDARDS AND WIDELY ACCEPTED PRACTICES

Conclusion: The Department's central academy pre-service training meets national corrections standards, including firearms training; but its prison-based in-service training is minimal, varying between 16 and 24 hours per person, as opposed to nationally accepted standards for 40 hours of training per person. Further, annual ongoing firearms training does not meet widely accepted best practices nor the Department's own policy mandate in section 362.03 of AR 362 – because there is no classroom training on use of firearms policy and procedures and no scenario training. In addition, while the Department counts the time spent qualifying with weapon as training hours, in reality it is only time spent qualifying in the use of firearms by achieving a passing target score.

NDOC Response:

The ASCA report clearly concludes that the NDOC's training provided at our academy meets National Standards including the firearms training. They go on to say that the in service training is less than the nationally accepted standards can be ascertained by reviewing the ACA Standards Manual. To be clear, there are three different areas of training pertaining to this report that are covered by the ACA Standards. Each is discussed below.

USE OF FORCE
4-4090
(Ref.3-4087) **All security and custody personnel are trained in approved methods of self-defense and the use of force as a last resort to control inmates.**

Comment: All security and custody personnel should be trained in the techniques of using physical force to control and/or move inmates with minimal harm and discomfort to both inmates and staff.

All staff are trained in use of force. This standard does not have a time requirement. This training is conducted at the academy pre-service level and a review of this training is conducted when all officers attend their semi-annual firearms training and range qualifications.

USE of Force
4-4091
(Ref. 3-4088) **(MANDATORY) Written policy, procedure, and practice provide that all personnel authorized to use firearms receive appropriate training before being assigned to a post involving the possible use of such weapons.**

Firearms training cover the use, safety, and care of firearms and the constraints on their use. All personnel authorized to use firearms must demonstrate competency in their use at least annually.

Comment: Firearms training should be thorough, conducted using a systematic curriculum, and documented. The work annually in the standard refers specifically to a 12-month period rather than a calendar year.

In the NDOC all correctional officers per Peace Officers' Standards Training (P.O.S.T.) requirements are required to demonstrate competency twice per year which exceeds this standard. The report claims NDOC does not meet the wildly accepted best practice because there is no in classroom time spent on this training. Our firearm training is completed on the firearms range. We cannot find any published standard that the training is required to be held in a class room. Our firearms training exceed the ACA standard by completing the 2 times per year.

Correctional Officers
4-4084
(Ref. 3-4081) **Written policy, procedure, and practice provide that all new correctional officers receive an added 120 hours of training during their first year of employment and an added 40 hours of training each subsequent year of employment. At a minimum, this training covers the following areas:**

- **Security procedures**
- **Supervision of offenders**
- **Signs of suicide risks**
- **Suicide precautions**
- **Use-of-force regulations and tactics**
- **Report writing**
- **Offender rules and regulations**
- **Rights and responsibilities of offenders**
- **Fire and emergency procedures**
- **Safety procedures**
- **Key control**
- **Interpersonal relations**
- **Social/cultural lifestyles of the offender population**

All new correctional officers receive 370 hours of certified P.O.S.T. and correction practice, policy and procedure training which exceeds the ACA standards.

The staff training listed for in-service training is noted by ACA standards as being required to 40 hours of in-service training per year. In the report it is listed that NDOC officers only receive 16 – 24 hours per person. The in-service training required by P.O.S.T. for correctional officers to maintain their P.O.S.T. certification is 12 hours of

NDOC curriculum training and firing range qualification and proficiency training in defensive tactics. If one compiles all the P.O.S.T. training, NDOC provides along with the D.T. training and firearms training two times a year at the range, the total training hours per year are 32 hours. NDOC agrees that the training hours per employee per year should be increased to 40 hours per year, with coordination with P.O.S.T. and the training staff. It would be a positive improvement to increase this training to include scenario training on shooting/use of force type situations.

ASCA Statement:

Funding: According to the EDU Manager, the EDU annual budget is $186,000. EDU supplies all ammunition used to train staff at all institutions. EDU instructors have all completed Basic instructor Development (BID), which is required by Nevada POST. If any other institution desires to have a training officer they must do so by redirecting a staff member from his/her existing budgeted position. As a consequence, that post is shut down to provide funds to cover the cost of the newly created training officer position. This practice was discussed in some detail in the 2014 ASCA staffing study.

NDOC Response:

NDOC, in fact, does redirect staff to attend (BID) training but NDOC does not shut down a post to provide that training. Each institution has a staffing plan which allows for relief of positions when staff must be away from their post to attend training.
In the last legislative session, the NDOC was successful at receiving an upgraded Relief Factor management percentage which allows the institution to have an increased number of staff to relieve officers who are away from their post for training requirements. The NDOC approved Relief Factor hiring schedule shown in (Attachment #4).

ASCA Statement:

Pre-Service Training: Pre-service training for correctional officers consists an eight-week academy. This training is completed prior to the new correctional officer reporting for duty at their assigned institution. However, Nevada state law permits putting a correctional officer to work after a 40-hour (5-day) orientation period. These officers are sometimes referred to as "FAMS" short for familiarization. They are not peace officers and must complete the eight-week academy training program within the first year of their employment. This hiring practice is regularly used at several NDOC institutions (and Nevada sheriff's departments) to help with recruiting efforts.

Familiarization Orientation for Staff (FAMS): Difficulties in recruiting and retaining staff have resulted in hiring staff to work in the prisons with only 40 hours of orientation/training. The 40-hour orientation they receive is generic in nature and does not cover use of force issues or firearms familiarization. Unlike academy graduates who complete eight weeks of training, these staff are not peace officers and are not supposed to work by themselves in a posted position. Instead, they are supposed to

shadow experienced staff. While the use of FAMS may increase staffing levels, it does not help fill security posts. However, because of staff shortages in the prisons, some institutions assign FAMS employees to positions where they work alone, although none appear to have been assigned to a gun post. (These employees do receive a 2.5-hour block of instruction in Emergency Response/Escape Procedures.) If a FAMS staff person wants to continue employment with the Department, she/he must complete the eight-week basic academy training program within one year.

NDOC Response:

The concept and practice of hiring new correctional officers and allowing them to receive 40-hour orientation training, then assigning them to work with a certified trained correctional officer until he can then be sent to the academy. This process has improved our recruiting and retention of new correctional officers. The ASCA report states that these new officers do receive 40 hour orientation training and that this training does not cover use of force or firearms training. That information is correct but what is not mentioned is that the orientation training that they receive is in compliance with the National ACA standard. It is listed below.

Training Requirements
Orientation
4-4082
(Ref. 3-4079) **Written policy, procedure, and practice provide that all new full-time employees must complete a formalized 40-hour orientation program before undertaking their assignments. At a minimum, the orientation program should include instruction in the following: the purpose, goals policies, and procedures for the facility and parent agency; security and contraband regulation; key control; appropriate conduct with offenders; responsibilities and rights of employee; universal precautions; occupational exposure; personal protective equipment; bio hazardous waste disposal; and an overview of the correctional field.**

The new employees who begin within the orientation training receive all of the training listed above. Please note that use of force or firearm training is not required in the ACA standard.

ASCA Statement:

Curriculum: The Academy curriculum meets the minimum hours of pre-service training established by the American Correctional Association (ACA). The curriculum is established to incorporate POST requirements, provide instruction relative to Department policies, and provide basic skills to start work as a correctional officer. As is the norm in other departments of corrections, on-going training is provided at the prison itself. During the pre-service training at the Academy, based on the AR 405, cadets are

instructed on the use of force, defensive tactics, and responding to emergency situations.

Firearms Training: Custody staff also receive eight hours of firearms familiarization with the Ruger mini-14, Glock .22, and Remington 870 12-gauge shotgun, along with eight hours in which to qualify on the use of these weapons. Cadets are taught to skip fire 7-½ bird shot from the shotguns, as well as firing 00 buckshot at center of mass. They are taught to shoot center of mass with the mini-14 and Glock .22. There is no scenario training.

NDOC Response:

The training provided by the NDOC meets all known correctional standards of training. NDOC agrees that improved scenario training can better serve to improve decision making and refine skills to officer, especially as it relates to the use of the 12 gauge shotgun to prevent and stop altercations between inmates.

ASCA Statement:

Training in the use of specialty weapons, such as the 37mm launcher, is not provided at the Academy. The central Academy does certify cadets in the use of OC. The satellite academies do not certify staff in the use of OC. Only line staff at SDCC are issued OC. All other institutions allow prior OC certifications to lapse since OC is not issued to line staff at their institutions.

NDOC Response:

The certification of staff to use OC/chemical agents is completed at each institution in order to accommodate operational procedures dictates, for example, officers at SDCC are certified because they carry the chemical agent on a routine basis. HDSP now has certified officers and has developed a procedure to allow them to carry the OC/chemical agents. At ESP supervisors and correctional emergency response team members are trained and certified to carry OC/chemical agents based on the way inmates are escorted at ESP. At LCC supervisors and sergeants, lieutenants, transportation officers and range masters are certified and trained to use OC/chemical agents. The NDOC is in the process of purchasing training and requiring officers at institutions to have the use of OC/chemical agents for safety and security reasons.

ASCA Statement:

In-Service Training: Ongoing training at the institutions consists of Corrections Employee Refresher (CER), semi-annual range qualification, and OJT. CER is 16 hours of training covering a variety of subjects, much of which is required, such as PREA updates. ACA Standard 4-4084 requires, "...new correctional officer receives 120 hours of training during their first year of employment and an added 40 hours of training each subsequent year of employment." Nevada CER falls 16-hours short of meeting that ACA

annual in-service training standard. Semi- annual firearms qualification consists of firing rounds at a stationary target. Semi-annual qualification at only this level is simply not sufficient. Two range masters indicated their job is to "get people through the qualification," not to "train them."

In addition to the CER, peace officer staff must qualify semi-annually on the shotgun, mini-14 and Glock .22. Each qualification period lasts approximately four hours during which the staff member fires 10 rounds from the shotgun, 10 rounds from the mini-14 and 25 rounds from the Glock. The 10 rounds fired from the shotgun are: four rounds of 7-½ bird shot skipped into a target, two rounds of buckshot fired at center of mass and four more rounds of bird shot. Department staff qualify on the use of firearms twice a year, rather than once per year as required by ACA Standards.

NDOC Response:

The in-service training issues were addressed on pages 18 & 19 of this response. The NDOC agrees that in an effort to improve our use of force incidents utilizing the National Institute of Corrections (NIC) and our training division, a scenario based training program will be developed and implemented.

ASCA Statement:

Firing Ranges: The ranges used at ESP and HDSP are adequate. They have raised shooting areas from which to fire the mini-14 and shotgun, and they have fabricated a skip shooting area for the shotgun. Both of these ranges do have some electricity and running water.

On the other hand, the range at LCC is unacceptable. There is no electricity, no running water, no usable raised shooting area, no area under which participants can get relief from the elements, no toilet facilities, and the terrain is uneven and largely unimproved. Much of the improvements made at the ranges have been done through donations and volunteer efforts.

NDOC Response:

NDOC agrees that providing an upgrade to the firing range at LCC is needed and a plan is being developed for this improvement. However, it should be noted that the academy at LCC has not been utilized on a continuous basis. Prior to the relocation of a training sergeant to be assigned to LCC the academy for LCC officers were conducted in Carson City. In the Carson City academy, they utilize the firing range at NNCC. This range is FBI approved and used by DPS, FBI and other state and federal law enforcement agencies in Northern Nevada. With this recommendation to improve the LCC range we will have our LCC staff utilize the NNCC range until additional improvements can be accomplished at the LCC firing range.

ASCA Statement:

On the Job Training (OJT): OJT is a vital element in any Department's training plan. Basic training academies and ongoing institutional classroom training can only provide so much for the employee. It is up to the first line supervisor, whose primary job is to train line staff, to help the employee apply that classroom knowledge to the actual job environment. As detailed in the 2014 Staffing Study, Department supervisor numbers are very low and the existing supervisor's span of supervision far exceeds accepted norms. This is to the detriment of line staff who are then deprived of the coaching and training they need to reconcile policy and procedure with job practices.

NDOC Response:

The NDOC agrees with an OJT program. This training component, the need for this program was identified several months ago and plans are underway to develop an OJT program. The Training Development Manager and an academy instructor were enrolled in a training program to teach them how to develop a department OJT program. The Administrative Regulation on how this program will work is under construction at this time. The guidelines for implementation of this OJT program are being developed and will begin very soon.

ASCA Statement:

Senior Correctional Officers: The Department at one time sought to ameliorate this lack of budgeted supervision by adding a Senior Correctional Officer job classification. The primary essential job function of the Senior is to, "...Serve as lead workers for subordinate correctional staff by training." However, as often as not, Seniors are required to fill a Sergeant vacancy; and in the case of ESP, Seniors are assigned to control booths. In short, OJT is a rarity in the Department. This is not because staff don't want to provide or receive OJT, but the lack of staffing prevents them from overcoming this deficiency. Interestingly, one of the essential functions of the Senior job classification position reads, "...Must qualify on a quarterly basis with a score of 70 or better with a firearm." While this should be the requirement for all peace officer staff assigned to armed posts, the lack of training funds limits qualifications to twice per year.

NDOC Response:

The Senior Correctional Officer (Senior CO) position has existed for a long period of time (30 +years) within the NDOC. The Senior CO position was reduced in the 2011 legislative session for budget savings and reinstated in the 2013 session because the NDOC needed senior officers to manage key posts at each institution. Senior officers are lead workers in housing units and perform functions that require specialized skills and training.

The OJT is needed within the agency and is being developed as mentioned earlier in this report. All correctional officers are required to achieve a qualifying score twice a year on the firing range.

ASCA Statement:

Training Guides: Training in the use of firearms is guided by the May 10, 2012 "Use of Force Policy Nevada Department of Corrections," document in which a variety of use of force equipment - both authorized and unauthorized - are described and discussed. Much of the language contained in the document is written into Institutional use of force procedures, which are not always consistent with the Department's Use of Force Policy.

On page 10 of this document, subparagraph "c." states, "The general rule in any situation where the inmate does possess deadly weapon shall be to "Shoot to Disable" by shooting at the legs (except in escape situations; and, "d." In any life threatening situation where the inmate does possess a deadly weapon, the policy shall be to "Shoot to Stop" by shooting at a vital portion of the body, such as the torso." (sic). That the document purports to be department policy and its language is incorporated in institution operating procedures is of concern. Range masters report that this is not what is being taught at the range classes, yet this document is represented as current Department training. Such discrepancies between policy and training must be reconciled.

NDOC Response:

The section listed as a training guide references an unknown, unauthorized document that was possibly used in some training class in some past time. This document, which was not provided for review was not an approved or accurate training guide. The NDOC Training Academy approved lesion plans teach officers to shoot to stop in cases where force is used with a firearm, and they are taught to skip round the 12 gauge projectiles when using the non-lethal use of force.

ASCA Statement:

Defining Less than Lethal: On page 43 of the "Nevada Department of Corrections, Use of Force Method & Overview, Administrative Regulation 405" PowerPoint, a less than lethal weapon "...means a weapon that is designed and manufactured with the intent that it not create a substantial risk of causing death or serious bodily injury when a person with appropriate training uses the weapon in accordance with the instructions of the manufacturer. The Department identifies "less than lethal weapons" as "non-deadly force equipment per AR 405.03." That the Department uses the language in NAC to classify the Remington 870 shotgun with 7-½ birdshot as non-deadly force equipment is of concern.

NDOC Response:

The use of the Remington 870 shotgun with 7.5 birdshot or the rubber (stinger) round is a "less than lethal weapon". The 9th circuit in 1994 Carpino v Demonsthenes, et al, case no. 93-15694 concluded that the use of shotguns loaded with birdshot, did not represent excessive use of force and that the practice of using 7.5 birdshot was acceptable.

ASCA Statement:

Training Resources and Equipment: The Department's training efforts are severely underfunded and well below national correctional funding levels. A viable training program is vital to any organization's successful implementation of its policies and procedures. Department employees deserve credit for achieving what they have in spite of the lack of training resources. Without augmentation the effectiveness of staff training in the appropriate use of force and deadly force will not be achieved.

Beyond verbal orders and physical control, the Department does have a variety of equipment items, which can be used to control inmates. These items generally fall into one of five categories. They are firearms, chemical agent delivery systems, electrical control devices, impact or striking devices, and handcuffs or restraint gear.

NDOC Response:

The NDOCs' training resource and budget are monitored and managed to achieve the necessary training required to meet the P.O.S.T. certification standards and to achieve the training needed to ensure staff know the policy requirements. As the ASCA team member referred to in an earlier section, the NDOC staff attend firing range 2 times a year to qualify which exceed the ACA standard requirements and most status best practices only annually.

ASCA Statement:

The Department deploys the Ruger Mini-14 in most of its housing unit control booths, perimeter towers and interior watch-towers. Custody staff qualify semi-annually with the mini- 14. While the mini-14 is considered a deadly force option, the Department has stated in its policy that this deadly weapon should be used in some circumstances to achieve non- deadly results ("shoot to disable" and "aim for the legs"). This is a dated concept not in keeping with modern criminal justice use of firearms. It is universally accepted in United States criminal justice agencies that deadly force is the most extreme force used to stop criminal activity when that activity must be immediately stopped. Therefore, when firearms are deemed necessary, criminal justice range masters train peace officers to "shoot to stop." The Department's deadly force policy is not consistent with this tenet, but the actual training conducted by the Department range masters is consistent with "shoot to stop."

NDOC Response:

AR 405 is the policy that regulates use of force with all NDOC employees. This section says "The Department has stated in its policy that this deadly weapon should be used in some circumstances to achieve non-deadly results." The regulation does not make that statement. See Attachment #1 AR 405.01, 405.02, 405.03 & 405.04.

ASCA Statement:

The Glock .22 is a 40mm semi-automatic pistol, which is the standard sidearm within the Department. While all custody staff must qualify with this weapon semi-annually, only selected staff (i.e., CERT, transportation) are authorized to draw it for use.

The Remington 870 12-gauge shotgun loaded with 00 buckshot is also routinely posted in perimeter towers and some interior watchtowers. This is a deadly force option and is almost always posted along with the mini-14.

NDOC Response:

The Remington 870 12 gauge shotguns are loaded with 00 buckshot only in locations for tower and perimeter vehicles to prevent escapes over the fence.

ASCA Statement:

While firearms are usually considered deadly force, the Department has designated the 12-gauge shotgun skip firing 7-½ bird shot as a non-deadly force weapon. This particular use of the shotgun was first introduced for Departmental use in 1984 and has been in widespread use since that time. This weapon is posted in nearly all housing unit control booths and most interior armed over watch positions. As previously stated and for the reasons cited, this has long been the primary means of controlling inmates. This use of force option is of concern. By its very nature bird shot is indiscriminate; and when skipped off a surface, the pellets can be very unpredictable in their trajectory. Pellets could hit uninvolved- inmates or staff in the vicinity of an incident. Within the last year, one inmate died in a shooting incident; and in another incident, an uninvolved inmate was blinded as a result of bird shot wounds. Over the last three years, bird shot pellets injured three staff members, as well as several other uninvolved inmates.

NDOC Response:

The 12 gauge shotgun utilizing 7.5 birdshot is not the primary means of controlling inmates. Inmates in the NDOC are controlled through various means by rules and regulations that are enforced by our staff.

The NDOC classification system, the NDOC level system and all staff performing their duties, the only time that the 7.5 birdshot is utilized is when offenders are in a confrontation and all other available resources have been exhausted, verbal orders and

warning shots have failed to stop the assault. The use of the shotgun to quell disturbances has been evaluated and an additional step has been put in place at HDSP. The use of a rubber stinger round has been included in the use of force continuum, which now requires verbal warning, a blank round, second verbal warning, a rubber stinger round, a third verbal warning then only if the violators have still not stopped will the 7.5 birdshot be utilized to stop the assault.

Regardless of what type of equipment is utilized, if the person does not follow the Administrative Regulation or the training that they have received, the results of the incident would be inappropriate.

ASCA Statement:

Court Involvement: In 1984 and 1994 the courts heard claims involving the use of firearms in Nevada prisons. In 1984 in Buckner v. State of Nevada, et al, No. CV-R-83-400-ECR the case dealt with the discharge of buckshot at an inmate. Plaintiff contended that an officer was improperly assigned to an armed post without adequate training and supervision. The court found in favor of the Department. The case did not address the use of shotguns or the use of bird shot to control inmates. In 1994 in Carpino v. Demonsthenes, et al, No. 93-15694, the 9th Circuit addressed the constitutionality of the contention that excessive force was used when birdshot was discharged at an inmate. The 9th Circuit concluded that under the Constitution the use of birdshot did not represent excessive use of force.
The court found that the Department's use of force practices were not unconstitutional in two limited instances 20 and 30 years ago. This current review examines the use of shotguns with bird shot in the context of 2015 widely accepted correctional practices in the control of inmates. Since 1994, there have been several less than lethal and non-lethal technological improvements along with policy and procedure advances, which form the basis for what constitute current widely accepted best practices.

NDOC Response:

The NDOC's use of the 12 gauge shotgun loaded with a 7.5 birdshot as a use of force tool has been upheld by not only the 9th Circuit Court of Appeals but this method has been continuously challenged, reviewed and examined by both State and Federal courts. In all of these challenges, the courts have continued to rule the use of the 7.5 birdshot is constitutional. The NDOC has supporting documentation that this use of force method has saved countless lives and serious injuries to both offenders and employees while living and working in our states prisons.

ASCA Statement:

Chemical Agents and Equipment: Chemical agents including OC, a 37mm delivery system for CN/CS, and dispersion grenades are available but rarely employed by Department staff. OC is not issued routinely nor carried by staff. The exception to this practice is at SDCC. HDSP is in the process of certifying its custody staff to draw and

carry OC. The 37mm is viewed as a very useful tool in open yard situations but this weapon largely remains in institution armories and very few staff are certified in its use. Grenades are available to CERT teams and custody supervisors. Tasers and Nova Shields are available but their use is typically restricted to CERT and supervisors who must draw the items from a central location.

The PR-24 side handle baton is typically stored in a central location and may be drawn only with a shift commander's approval. Only staff with current certification can draw and use this baton. Given the lack of training time and funds there seems to be rare occasions for annual certifications with the PR- 24. For that reason and the fact that the shift supervisor must first approve drawing the baton (and OC) it seems unlikely these implements can be drawn for early intervention in a volatile situation. As a result, because of the availability of the shotgun, staff rely on the shotgun to control inmates and to break up fights between inmates.

Correctional officers do not carry handcuffs on their person. They are available to staff when checked out from a secure area, but a supervisor must approve this action. This practice makes it a bit cumbersome to get inmates restrained once a situation has been contained. It must be remembered that a situation is not truly under control until the inmates are under control.

NDOC Response:

The NDOC agrees that the purchasing, training, and implementation of allowing officers to carry OC/chemical agents is a level of force that staff could use to allow an additional method to quell disturbances and provide for officer safety.

The use of the PR-24 baton is a device staff can use to help quell disturbances or physically restrain inmates. NDOC officers are trained in the use of the baton and they are available for staff to use if the situation presents itself.

The statement that officers do not carry handcuffs on their person is an incorrect statement and the issuing of restraints do not require a supervisors approval.

All correction officers at all NDOC facilities do have the ability to access and carry wrist restraints, waist restraints, and leg restraints with keys. In addition, at some locations specialized restraint equipment, such as the Black Box restraint or the RACC Belt, is also available for staff trained in its use.

All correctional officers receive an eight (8) hour Pre Service Training (P.S.T.) Training course in restraint equipment, its application and use during movement and transportation. Restraint equipment is also utilized in its' practical application during Defensive Tactics and Chemical Agents courses in P.S.T. Training.

RECOMMENDATIONS

In this report a number of factors, which hamper the Department's efforts to meet widely accepted corrections standards with regard to Use of Force policy, procedures and practices have been cited. This section contains a number of recommendations, which if implemented would enable the Department to meet or exceed those widely accepted corrections standards.

This report does not cite or provide evidence that the NDOC does not meet "widely" accepted corrections standards with regard to the Use of Force Policy, Procedures and Practices. However, in this response, the NDOC has referenced National Standards in the form of ACA Standards which does explain that the NDOC is in compliance with all know accepted standards.

Below, the NDOC has reviewed the recommendations of this report and has provided a review and analysis of each recommendation contained.

They are:
1. Continue implementation of the 2014 Staffing Needs Study recommendations. In order for the Department to come into line with national use of force standards in corrections, its institutions must be appropriately staffed. The 2014 Staffing Study details those staffing requirements. This will also help the Department's efforts to train and mentor line staff by ensuring appropriate levels of supervision. This is the foundational piece on which successful implementation of the remaining recommendations depends.

The NDOC has received the 2014 Staffing Needs Study and the implementation has already begun. The study was provided in two (2) distinct phases; one being the relief factor analysis and two, the ASCA recommendations for the need of additional staff. The first phase of the study has been approved by the Budget Office and State Legislature and the positions will begin being filled in October 2015 and will be subsequently filled in January 2016, October 2016 and January 2017.

The second phase of recommended positions is being developed and is included in future NDOC budget proposals.

2. Revise AR 405 to establish clear policy guidance for staff to follow. At a minimum the revised AR 405 should contain:
a. Definitions of deadly force, non---deadly force, and physical force, as well as definitions of reasonable force, unnecessary force, excessive force, great bodily injury, and nonconventional force;
b. The parameters under which each type of force may be used;
c. The options for using each type of force, i.e., mini-14, shotgun, OC, etc.;
d. Restrictions on the use of any implement or option;
e. Requirements for medical evaluation of wounds of inmates and staff;
f. Reporting requirements on uses of force; and

g. Monitoring all uses of force through an executive review process.

a. The NDOC AR 405 will be revised and to clarify and have more detail in the listed areas.
b. The NDOC AR 405 will include more specifics as to the parameters defining more clearly how each type of force is to be used. Currently these definitions are included in the Operational Procedures for Training.
c. The NDOC may be able to be more specific as staff options for each type of force. However, it must be understood that it is not possible to write specific options for every conceivable use of force situation and the policy must still be written so the person applying the needed use of force to make the decision as the situation dictates.
d. AR 405 already contains restrictions on use of implementation and options. However, the NDOC will request and obtain staff input on the construction of the AR 405.
e. The requirements for medical evaluation of wounds of inmate and staff are defined in clear detail in other AR's currently included and would not be appropriate to place in AR 405.
f. Report requirements on use of force are currently included in the regulation. However, additional clarification could be added if needed.
g. The monitoring process and review, which is currently in affect, could be placed in the Use of Force Policy.

3. The AR 405 revisions should be done using the Informational Bulletin process in order to expedite implementation.

3. AR Revision Procedure is dictated by Administrative Regulation and is approved by the Board of Prison Commissioners. The Regulation can be approved in a timely manner by utilizing our current procedures.

4. Augment the Department's training budget to improve range conditions, increase CER annual in-service training to the ACA Standard of 40 hours per year, and enable quarterly qualification for all staff assigned to armed positions. Well-written policies and procedure are of little value without comprehensive and ongoing training to implement and sustain them. Training should not only be based on Department policy and procedures per AR 362, it should include scenario training to help staff internalize policy intent. Training facilities – including ranges – should be safe and have the basic amenities to ensure that a meaningful learning environment is provided.

4. The NDOC will coordinate with P.O.S.T. to increase requirements and provide a 40 hour per year in-service training program for all Correctional Officers which would include scenario training in regard to use of force situations.

5. Train and certify all custody staff in the use of OC and require issuance of OC to all custody staff who may be in direct contact with inmates. Staff supervising inmates must have requisite tools with which to do their jobs as peace officers without having to depend on guns as the primary means of controlling inmates.

5. The NDOC will purchase, train and implement a policy requiring officers who have direct contact with inmates to carry OC to be used as a tool to help prevent the escalation of force and self-defense.

6. Require issuance of either PR-24 batons or ASP collapsible batons to all uniformed staff. Again, staff must have requisite peace officer tools to control recalcitrant inmates without depending on guns or having to physically restrain inmates.

6. The issuance of PR-24 batons or ASP collapsible batons to all uniformed staff will be evaluated for the need and use all uniformed staff would have direct contact with inmates. The cost of the batons will be studied and included in the NDOC budget request.

7. Issue handcuffs to all custody staff. Peace officers must have the tools to do their jobs. Controlling unruly inmates is the ability to safely restrain them.

7. All custody staff are issued handcuffs and additional restraint devices. Recommendation has always been a procedure within the NDOC.

8. Ensure all staff assigned to armed post are qualified in the use of the 37mm launcher and assign that launcher and appropriate projectiles to all posts covering inmate movements. This is a valuable tool in the Department's use of force inventory and when deployed properly can be instrumental in ensuring that some violent situations don't have the opportunity to escalate.

8. The use of the 37mm launcher is a weapon that can only be used outdoors and only for very specific applications such as, moving a crowd in a riot situation. It deploys several types of chemical agents that are either barricade piercing or muzzle dispersing. This report did not describe any incidents that could have been resolved with the use of the 37mm launcher. A policy will be developed for the training and use of this weapon additionally; a more specialized training will be implemented.

9. Establish a formal Executive Use of Force Review process at each institution. This process is critical in achieving a truly viable use of force policy. It forces the Department to frequently review its policy, procedures, and training in the context of actual use of force. This process enables the Department to make procedural and or training adjustments as necessary to ensure a sound policy is implemented as intended by determining if actual staff actions are in compliance with the policy. By determining policy compliance as opposed to determining if the action was either "right or wrong," the Department can validate its policy, procedures and training. Another important sub-part of this Review is a process for individual Wardens to identify issues, which need investigation and request that those investigations be completed without undue delay.

9. The NDOC currently has a use of force review process in place which reviews all incidents that occur. This procedure will be enhanced and formally placed in the

revised Use of Force Policy. The reviewing and determining of the actions of staff following all incidents is imperative.

10. Discontinue the routine deployment of the 12-gauge shotgun with 7-½ bird shot on armed posts. Implementing this recommendation can only be done after the Department has implemented Recommendations #1 through #7. Once appropriate numbers and properly equipped correctional officers are in place, along with sound procedures and comprehensive training, there will be no need for the Department to continue the use of the 12-gauge shotgun with 7-1/2 bird shot to deter or respond to incidents. To move that process forward, the Department should write an implementation plan that over time will create a safer environment in which staff to work and inmates to live.

10. The NDOC agrees that a plan should be developed to implement the accepted recommendations of this report. This plan will include a clarification of the Use of Force Policy. The implementation of the increase in training and the addition of use of force tools will improve officer's ability to stop inmates who are assaulting each other. Once this training is implemented hopefully the need to utilize the shotgun with 7.5 birdshot will be reduced. We have also added an additional step including the rubber stinger round in the Use of Force Continuum to hopefully reduce the use of the 7.5 birdshot. However, we know that having the capability of utilizing the 7.5 birdshot in the 12 gauge shotgun we have stopped countless incidents that would have resulted in serious injury or death to offenders and staff. The use of the 7.5 birdshot to quell inmate assaults and disturbances has been upheld as being legally the right thing to do in severe circumstances. The implementation of the recommendations listed in this report should drastically reduce the need for the shotgun.

ASCA Statement:

Summary Conclusion:
We have listed the recommendations in our suggested order of implementation. For example, adequate staffing and requisite supervision must be in place and staff must have a comprehensive policy in place before they can be successful with the remaining recommendations. However, training and equipping staff as recommended can certainly be done simultaneously.
Use of force in criminal justice agencies and especially use of deadly force has gained significant attention across the United States. It would be imprudent to believe this scrutiny will subside in the near future. It would be equally imprudent to expect corrections will be immune from that scrutiny. With that in mind we believe implementation of these recommendations will put the State of Nevada and the Nevada Department of Corrections in significantly more sustainable use of force policy posture, and, as a result, better able to withstand legal challenges to it.

We also understand that resources are finite and implementation of the recommendations will certainly require more money than might be appropriated in one budget cycle. Therefore, we suggest the Department develop a timeline for a phased implementation of all recommendations. In making this suggestion we recognize there

are a number of models for implementing a phased approach. One model might call for slowly phasing in the recommendations simultaneously in all prisons as resources become available. A second model might be to phase in all the recommendations, one prison at a time, by concentrating first on those prisons with the greatest need perhaps based on the frequency of incidents in which shotguns were fired. In the first example, the Department would likely see a more gradual benefit from the effect of implementing the recommendations in all of its prisons, while In the latter example the Department might see a great impact sooner, but in fewer prisons.

For example, were HDSP to be selected first for complete implementation of all recommendations before moving to the next institution, positive results would be achieved more quickly but only in that one prison. While full Departmental implementation would also require time, it would allow for resourcing the most problematic prisons first. We believe there are advantages to each model and we recognize there are a number of other models, which may be examined including a hybrid of the two mentioned here. In any event, the Department should adopt a strategy and implement the recommendations.

NDOC Response:

The NDOC agree that the recommendations that were accepted should be implemented through a planning process, policy revision and implementation in a reasonable time frame. All staff should have input on the recommended changes and how the training and implementation should be completed.

NEVADA DEPARTMENT OF CORRECTIONS
ADMINISTRATIVE REGULATION
405

USE OF FORCE STANDARDS

Supersedes: AR 405 (Temporary, 09/09/11)
Effective Date: 01/05/12

AUTHORITY

NRS 209.131, 209.171, 212.090 and 212.190

RESPONSIBILITY

1. The respective Warden/Division Head is responsible for the overall operation of this regulation. Direct supervision of this regulation is the responsibility of the Shift Supervisor (institutions/facilities) and/or the Transportation Lieutenant/Sergeant in regards to Central Transportation Division.

2. The Warden at each institution will:

   A. Ensure that this regulation is used as the operational procedure when the "use of force" is required.

   B. Ensure that all staff are trained in this regulation and that they have signed an acknowledgement stating they have read, know and understand this regulation. A copy of this acknowledgement will be maintained in each staff members personnel file.

405.01 USE OF FORCE

1. The Nevada Department of Corrections (NDOC) defines the use of force as the authority of staff to intervene to resolve conflict, prevent certain actions or dissuade a particular course of action by offenders.

2. Staff may exercise the use of verbal orders, physical contact or, as a last resort deadly force in instances of justifiable self-defense to:

   A. Protect persons from imminent death or serious bodily harm,

   B. Protect state property,

C. Prevent escapes and/or capture escapees.

Under no circumstances is physical force justifiable as punishment of an offender.

3. Physical Force.

A. Physical force involves physical contact in confrontational situations, which enable staff to obtain compliance and/or control disruptive/violent offender(s).

B. Physical force is not:

(1) Verbal commands.

(2) The routine use of physical restraints as a security measure.

(3) During transportation of offenders, or the restraining of offender(s), to control movement for internal facility security.

(4) Show of force.

405.02 APPROPRIATE LEVELS OF FORCE

1. Level of force used and type of equipment used is dictated by the assessed risk presented and the severity of the conditions of the situation.

A. When force is necessary it will be limited to the minimum degree necessary to resolve the situation.

B. When possible, verbal commands will be used prior to any use of force.

C. When planned uses of force are authorized all staff participating will wear appropriate protective equipment.

2. A show of force will be used when possible prior to any use of force. A show of force is the demonstration to an offender that sufficient numbers of staff and resources are available to subdue the offender who is disruptive. A show of force will not be made without sufficient staff and equipment to control the situation and a commitment to use that force.

3. Two types of authorized non-deadly force are to be used as the situation dictates. Non-deadly force is not designed to or likely to cause death or serious bodily injury.

A. With authorized equipment; Use of Force with equipment is defined as the use of any physical force utilizing a device designed for defensive purposes or to temporarily incapacitate, immobilize or disorient a person.

B. **Without authorized equipment:** use of force without equipment would include a trained staff member's hands, fists, elbows, feet, etc. against an offender to gain control of or defend against an assault by an offender.

4. Deadly force is defined as force used against a human being that is likely to cause death or serious bodily injury. The type of deadly force authorized is the use of firearms.

405.03 TYPES OF NON-DEADLY FORCE EQUIPMENT

1. Physical restraint devices items such as handcuffs, leg irons, belly chains, four or five point restraints, etc. These devices are designed to immobilize or incapacitate an offender.

2. Chemical/Inflammatory agents items such as 'tear gas' (CS) or pepper spray (OC) designed to temporarily immobilize or incapacitate the offender through temporary discomfort caused by a chemical action.

3. Electronic technology to include items such as a Taser/electronic stun gun or electronic shield designated to temporarily immobilize or incapacitate the offender by delivering a non-lethal electronic charge.

4. Stun guns and pepper ball launchers are devices designed to launch or hurl a bean bag, rubber baton, a water or pepper ball (OC) cartridge or similar device designed to temporarily incapacitate or immobilize the offender.

5. Batons, PR-24's or similar weapons designed to temporarily incapacitate an offender by striking or applying a controlled take down of the offender.

6. 12-gauge shotguns loaded with a blank round or 7.5 birdshot round designed to skip shoot the birdshot into the offender(s) and striking the offender(s) in their lower extremities to temporarily incapacitate or immobilize the offender(s).

405.04 TYPES OF DEADLY FORCE EQUIPMENT

1. 870 Remington pump action 12 gauge shotgun loaded with double-ought (00) buck rounds or slugs.

2. Mini 14 .223 caliber rifle loaded with 55 grain soft point rounds.

3. 40 caliber Glock semi-automatic handgun loaded with jacket hollow point 180 to 185 grain round – approved through FBI protocols/specifications.

4. Specialized weapons may be authorized for emergency situations with approval from the Director/designee.

405.05 AUTHORIZATION FOR THE USE OF FORCE

1. Authorization for the use of force to protect self and others from imminent harm or response to an incident presenting an immediate threat does not require prior approval.

405.06 STAFF TRAINING INVOLVING USE OF FORCE

1. All personnel will receive training prior to being assigned to a position involving possible use of force, prior to being authorized to use any force related equipment such as physical restraints, firearms, chemical agents (CS), inflammatory agents (OC), taser or similar technology or batons. The staff member will receive training in the correct use of that equipment; annual refresher training and semi-annual firearms qualification is required for those staff employed in positions that are authorized to use force-related equipment.

405.07 DOCUMENTATION OF PLANNED USE OF FORCE

1. Audiovisual cameras will be maintained in all maximum and medium custody institutions. All planned incidents will be filmed to include the medical examination of involved offender(s) and placement of offender(s) in secure housing.

A. Audiovisual cameras will be used by trained personnel to record all instances where a planned use of force, or a planned action where it is probable that force will be necessary and to record all major disturbances or group insubordinations.

(1) In instances of spontaneous use of force, such equipment will be immediately produced upon notification and recording will continue through medical examination and placement in secure housing.

B. Institutions with video cameras will ensure that sufficient staff are trained to operate the equipment and are available 24 hours per day. Additionally staff will ensure that video tapes or discs are available and that camera batteries are on hand. All video equipment must be sufficiently charged at all times for use in properly recording incidences as they occur.

405.08 MEDICAL CARE AFTER USE OF FORCE

1. Medical care which includes medical treatment and examinations will be conducted by institutional medical staff when a use of force incident has occurred. When order has been restored, the offender(s) who has been subjected to physical use of force will be examined by medical staff. All refusals will be documented and included in the use of force reports utilizing NDOC form 2523 – Refusal of Medical Treatment. Any staff member involved in the use of force will also be examined.

405.09 REPORTING OF USE OF FORCE

1. Reporting of Uses of Force must be accomplished before leaving the institution. Any use of force will be reported to the shift supervisors who will ensure, once order has been restored and the involved offender(s) are placed in secure housing, that written reports from all staff involved are completed. This includes custody officers, institutional staff, medical staff, volunteers or any persons that witnessed the use of force.

   A. These reports will be entered into NOTIS for review by the appropriate supervisors.

APPLICABILITY

1. This regulation is required for use at each institution/facility. No operating procedure is required.

2. This regulation requires an audit.

REFERENCES

ACA Standards: 4-4206, 4-4204, 4-4203, 4-4202, 4-4201, and 4-4191.

James G. Cox, Director

12/14/11
Date

Attachment #2

Department of Corrections

Inmate to Staff Ratio Calculations

B/A #	Facility or Agency	Total FTE FY 16 Leg Approved	Qty Admin	Total Staff Trained In Supervising Inmates
3706	Medical Division	288.62	46	242.62
3710	Director's Office	188.51	124	64.51
3711	Programs	89.51	5	84.51
3751	Ely State Prison	328	11	317
3762	High Desert State Prison	546	13	533
3717	N. NV Correctional Center	287	6	281
3738	S. Desert Correctional Center	262	8	254
3759	Lovelock Correctional Center	272	10	262
3715	S. NV Correctional Center	1	0	1
3716	Warm Springs Correctional Center	116	3	113
3761	Florence McClure Correctional Center	150	6	144
3760	Casa Grande Transitional Housing Center	28	1	27
3724	N NV Transitional Housing Center	11	0	11
3722	Stewart Conservation Camp	15	0	15
3723	Pioche Conservation Camp	16	0	16
3725	Three Lakes Valley Conservation Camp	24	0	24
3739	Wells Conservation Camp	12	0	12
3741	Humboldt Conservation Camp	12	0	12
3747	Ely Conservation Camp	12	0	12
3748	Jean Conservation Camp	15	0	15
3752	Carlin Conservation Camp	12	0	12
3754	Tonopah Conservation Camp	12	0	12
3708	Offender Stores	57	18	39
3763	Inmate Welfare Account	19	3	16
3719	Prison Industries	19	5	14
3727	Prison Ranch	5	0	5
	Total:	2,807.64	259.00	2,548.64
	Total Inmates 9/11/15			12,948
	Inmate to Staff Ratio			5.08

STATE OF NEVADA
DEPARTMENT OF CORRECTIONS
Office of the Inspector General

MEMORANDUM

TO: E.K. McDaniel, Interim Director **DATE:** September 22, 2015

FROM: Pamela Del Porto, Inspector General

Re: Incident based Reporting and Review

In accordance with our discussion, this morning, please see below related to incident reviews, to include use of force and use of force that include shots fired and the processes the Inspector General's Office and the Department have put in place and utilize on a daily basis related to reviewing the unusual occurrences and/or incident. These reviews are done in order to ascertain if there is: (this list is not limited to the ones listed here, but a general guide)

- Any perceived, believed or suspected staff, volunteer or contractor misconduct;
- Any criminal conduct by staff, volunteer, contractor, visitor, or other party related to the Department's jurisdiction or interest;
- Was force used and if so was the amount of force justified and within policy;
- Was force used that involved shots fired, if so was it blank round(s), Rubber Buckshot Round(s) and or Live Round(s);
- Any interest to the Department such as gang activity that impacts the Department's institutions and/or facilities and/or local law enforcement; and
- Security breaches, other types of institutional concerns and if staff is implicated, what level of response should be initiated (IE: work performance or misconduct).

According to Administrative Regulation (AR) 332, all employees must make timely notifications concerning incidents, activities or events of immediate interest or concern that are within the jurisdiction of or which can impact NDOC. The AR includes a list of events that are identified; however notification is not limited to these types of events. Those specifically listed though include Security breaches, criminal activity or acts of violence, escapes or attempted escapes, Use of Force, on duty accident, injuries or illnesses, Deaths, health, safety or risk management issues or significant property damage, off duty law enforcement contacts, suspension or revocation of professional licensure to include driver's license, any type of outside agency assist, employee misconduct, judicial or legislative contacts, and/or PREA related allegations.

The notification should be made as soon as it is safely practicable for on duty staff and in all instances before the end of their shift. Off duty staff should make the notifications as soon as possible but not longer than 24 hours following the occurrence or beginning of next regular shift.

AR 332 then also prescribes how the Chain of command should notify the institutional or facility manager or administrator, who then has the responsibility make all other appropriate notifications. **Refer to Attachment 1** The Institution/Facility administrators then should make sure that an

Incident Report (DOC 019) is completed using the Nevada Offender Tracking Information System (NOTIS) staff reports function. This will be done for any unusual or serious incident, activity or event, which include but are not limited to those referenced in paragraph one of this memo and the list in AR 332.01. Each unusual occurrence or incident report will have a separate and auto generated Incident Report (IR) number. **Refer to Attachment 2 Sample of NOTIS Incident Details Screen,**

In conjunction with the NOTIS entry (IR) for every unusual occurrence or serious incident, the designated institution/facility supervisory staff member will enter the following information into the IR, to include answering related incident, offender and staff involvement questions:

- Incident Questions on the first tab on the bottom of the Screen, which include information as to whether or not the incident was videotaped, if force was used, was the force planned and was a Fire Marshall report submitted. **Refer to attachment 3, Copy of NOTIS IR related to reporting of a Drill reported under IR-2015-LCC-001050.**
- All inmate identification number will be entered under the Offender Involvement Tab to include their level of participation in the unusual occurrence or incident (if any inmates are involved. In this case because it was a drill no inmates were associated with the drill) Participation list of values (LOV) includes participant, suspect, victim, witness, reporting and decedent. If applicable, this is the location was an Offense In Custody (OIC) begins. **Refer to attachment 4, Copy of NOTIS IR related to the same IR number. (Because no inmates were listed in the drill, IG Del Porto added two inmate identifiers in order to facilitate completion of this memorandum)**
- Associated with every involved inmate is Offender Incident Details tab where information related to that inmate is entered and the information is related to the level of injury if any down to whether or not handcuffs were used. **Refer to attachments 5 and 6, copies of NOTIS IR related to the same IR, outlining the information related to each of the involved inmates, one offender incident details screen per inmate.**
- All involved staff member names will be documented under the Staff Involved tab, last name first, first name and their level of participation, which includes the same as an inmate (offender) except decedent. Some facilities/institutions use the comment area to document what the assigned duty station was or the person's response to and with the unusual occurrence or incident. **Refer to attachment 7, Copy of NOTIS IR related to the same IR number, documenting staff members involved with or in the drill and their participation level.**
- Each staff member should then enter their report against the IR (for the IR) utilizing the Staff Member Report tab at the bottom of the Staff Involvement screen. The types of reports available for staff to make their reports under are a 028, 019, Use of Force, Addendum and Resolution. Each staff member will enter the details of their action associated with or in the IR in the Report Details text field. As with Offender Incident Details, there is a field for entry for Staff Incident Details. This area contains a list of questions related to the staff member and their involvement in the incident if the incident involved a Use of Force. **Refer to attachments 8 through 13, copies of NOTIS IR Staff Incident Details questions for the same IR.**
- If applicable, civilian names can be entered into the IR. **Refer to attachment 14, Copy of NOTIS IR related to the same IR number related to the civilians involved.**
- Referring back to **Attachment 3**, contained within every IR is the ability to "Lock" the IR so that the details under the Description text box cannot be altered, only appended. The lock should occur once the final institutional/facility administrative review is done. Additional

tabs available in every IR, dependent upon the user role of the user making the entry are Append, Refer to IG, Evidence, Assoc to STG, Repair Details and Investigations. Most of these tabs have a specific role associated with the IR.

- Append would be used to add additional text to the Description of the IR;
- Refer to IG would be used when an institutional/facility Manager, or Division Head, Director, Deputy Director, member of the Inspector General's Office (IG) or other authorized person would refer the IR for review for assignment for investigation;*
- Evidence could be used to document evidence taken in conjunction with the IR;
- Assoc. to STG, when applicable, IG staff associate the IR to a specific Security Threat Group, for evaluation for group and/or inmate assessment;
- Repair Details could be used by or for Risk Management issues or incidents; and
- Investigations tab is used specifically and only in relation to assignment of investigations.

*Related to the Refer to IG tab, an authorized user, or other person can refer an IR for review should information contained anywhere within IR indicate that the incident or unusual occurrence should be reviewed. **Refer to attachment 15, which is a sample IG referral.** Once the Refer to IG button is marked and the entry saved, this will lock in the referred by person and the date and time the IR was referred. Any additional information related to the referral can be placed into the Referral Detail area through an Append to the screen.

Multiple NDOC Administrators and Inspector General staff reviews the Incident Reports on a daily basis, depending upon the work schedule. Within the IG's office, there is an administrative assistant who has an assigned duty of reviewing on a daily basis the IRs in order to bring to an IG Supervisor's attention something that may be of interest to our Division. The institutions and facilities can monitor their own IRs and IG and other central staff members can view all institutions and facilities. So that even if an incident hasn't been referred to the IG's office by the institution or facility, the IG's office itself can refer any IR so that it can be reviewed.

According to AR 405 and in practice, every use of force will be documented within NOTIS because it is an unusual occurrence. In accordance with practice, as established by Deputy Director McDaniel, the Warden will create an incident file so that all staff member and related reports are available for immediate review, not only by the Warden but any person who has a need to know such as investigators or the Director or Deputy Directors. Additionally contained within every IR, under the Staff Member Report area, the List of Values (LOV) for the type of Staff Report there is Use of Force report. This report should document the type of force used, where, when, who, why and how. **Refer to attachment 16, for an example of the list of values and details that can be entered related to the use of force.** Once saved against the record, the information cannot be changed, only appended or another staff member report added for that staff member. As previously pointed out in this memo, the Staff incident Details are also available for insertion of information related to the use of force.

NEVADA DEPARTMENT OF CORRECTIONS
ADMINISTRATIVE REGULATION
332

EMPLOYEE REPORTING RESPONSIBILITIES

Supersedes: AR 332 (03/19/13); and AR 332 (Temporary, 05/06/14)
Effective Date: 09/16/14

AUTHORITY

NRS 209.131, 42 U.S.C. § 15601, *et seq.* and 28 C.F.R. § 115

RESPONSIBILITY

It is the responsibility of every employee to make the reports required by this regulation.

332.01 REPORTING RESPONSIBILITIES

1. Employees will make timely notifications to their supervisors, using the appropriate chain of command, concerning incidents, activities or events of immediate interest or concern within the jurisdiction of, or which impacts the Department and for which the employee has knowledge. Such incidents, activities or events include but are not limited to:

A. Security breaches;

B. Unusual incidents;

C. criminal activity or acts of violence;

D. Escapes or attempts to escape;

E. Use of force;

F. On duty accidents, injuries and/or illnesses;

G. Deaths;

H. Health, safety or risk management issues or significant property damage;

ATTACHMENT 1

I. Off Duty Law Enforcement contacts;

J. Driver's license or other professional licensure or certification suspension or revocation;

K. Outside Agency assist;

L. Employee misconduct;

M. Judicial or Legislative contacts;

N. PREA related occurrences or allegations of such;

O. Any other information relevant to Department operations and security.

2. On duty employees should make notifications through their chain of command or to the Office of the Inspector General, as soon as is safely practicable following the occurrence, and in all instances before the end of their shift.

3. Off duty employees should make notifications as soon as possible and not longer than 24 hours following the occurrence or beginning of next regular shift.

4. On duty shift supervisors will ensure that appropriate notifications are made to the involved Institution/Facility administrator, who in turn will ensure that all other appropriate notifications are made.

A. In the event of an unusual occurrence or emergency situation, notification procedures outlined in the Emergency Response Manual concerning the specific situation should be followed.

B. Notifications should be made considering individuals "need to know" and "right to know" requirements based upon the specific incident, activity or event.

5. Failure to report or late reporting of incidents, activities, or events of immediate interest or concern within the jurisdiction of, or which impact the Department may result in disciplinary action.

332.02 REPORT PREPARATION

1. Employees will formally document in written form using approved formats, incidents, activities, or events which take place within the jurisdiction of, or which impact the Department using the NOTIS Incidents and Offenses in Custody, Incident Detail data entry function.

A. Such incidents, activities or events include but are not limited to those outlined under AR 332.01(1).

2. Creation of the Preliminary Incident Detail Report in NOTIS will cause the Incident Detail Report (IR) number to be generated.

A. Institution/Facility administrators will designate staff members who are authorized to initiate the Preliminary Incident Detail Report and generate an IR number.

B. Only one IR number should be generated per incident, activity or event.

C. All involved staff members, inmates, and other person information should be included in the appropriate sections of the Incident Detail report.

D. All sections of the Incident Detail Report screen should be completed, including all Incident Questions, and when relevant, all Use of Force questions, Staff and Offender Incident Detail questions.

E. The Incident Detail narrative should consist of a brief summary of the incident, activity or event.

3. Each involved staff member should complete a Staff Report (DOC 028) using the NOTIS Staff Reports function for each incident, activity or event involving them, or for which they have relevant information.

A. The DOC Form 028 should be associated with the related Incident Detail Report IR number.

B. Individual DOC Forms 028 should articulate in detail, information known to the employee concerning the relevant incident.

C. If the NOTIS system is unavailable, employees should notify their supervisor and complete a hand written report, using the appropriate report format, and submit that to a supervisor for later input into NOTIS.

D. Hand written reports should be used infrequently and only in unusual circumstances and must be entered into NOTIS as soon as NOTIS becomes available.

4. Institution/Facility administrators should ensure that an Incident Report (DOC 019) is completed, using the NOTIS Staff Reports function, for any unusual or serious incident, activity or event, which include but are not limited to those outlined and referenced under AR 332.01.

A. The DOC Form 019 should be associated with the related Incident Detail Report IR number.

B. The DOC Form 019 should contain a detailed description of the entire incident including the date, time, and location of the incident; the nature of the incident; criminal acts committed and by whom; all injuries; property damage; weapon information; specific description of recovered evidence; specific description of any use of force and by whom; medical treatment information;

notification information.

C. If known and when relevant, the DOC Form 019 should contain any actions taken as part of the disciplinary or classification process related to the incident, including criminal prosecution referrals, family notifications, and preventative measures.

5. A Use of Force Report (DOC Form 1664) should be completed whenever a Department employee utilizes force in the performance of official duties.

A. Each employee who employs force in a specific incident should complete a Use of Force Report.

B. The Use of Force Report should be associated with the related Incident Detail Report IR number.

C. The type of force used should be explained with specific details.

6. On duty employees should complete reports as soon as is safely practicable following an occurrence, and in all instances before the end of their shift.

7. Off duty employees should complete reports as soon as possible and not later than the end of their next scheduled shift.

332.03 REPORT REVIEW

1. Supervisors should review reports submitted by subordinates daily prior to the end of their shift.

2. Institution/Facility administrators should routinely review reports generated by employees at their institution/facility.

3. Security concerns may in rare circumstances cause exceptions to the report review process.

332.04 REPORT SECURITY

1. Reports generated by Department employees are official Department documents.

A. Such reports are the property of the Department.

B. Reports shall not be routinely copied.

C. Reports shall not be removed, concealed, altered, falsified, destroyed, stolen or otherwise tampered with.

D. Reports shall only be copied pursuant to Department business.

E. Written or electronic reports or copies of reports shall not be removed or disseminated without authorization from the Appointing Authority.

2. Failure to comply with report security will result in disciplinary action.

APPLICABILITY

1. This AR applies to all Department employees.

2. This AR does not require an Operational Procedure.

3. This regulation does not require an audit.

Director

9/17/14
Date

Incident Details

Incident Types

Offender Involvement | Staff Involvement | Civilians Involved

My Offenders | My Work | My Calendar | Offender Updates | Offender Detail

ATTACHMENT 2

Incident Details

Re	Occurence Date*	Time*
[illegible]	09/22/2015	07:00

Institution*	Area	Location
LCC	Medical	Clinic Officers Staff

Incident Level*	Reported By*	Created By	Reported Date*
Staff-All Users	HEGGE,KATHE	DCARPENTEI	09/22/2015

Description*

DRILL****TRAINING*****DRILL*****TRAINING*********DRILL

At 7:00 am two inmates got into a verbal argument that escalated to a physical altercation

Lock?

Append | Refer To IG | Evidence | Assoc. To STG | Repair Details | Investigations

Incident Types

Incident Type*	Sub Type*	Primary
ACA Review completed	Incident is not an ACA	
Miscellaneous	Drill	✓

[illegible] | Offender Involvement | Staff Involvement | Civilians Involved

Question	Type
Was Incident Video Taped?	No
Was force used?	No
Was use of force planned?	No
Was Fire Marshall Report Submitted?	No

My Offenders | My Work | My Calendar | Offender Updates | Offender Detail

Attachment 3

Incident Details

RI	Occurrence Date*	Time*
IR-2015-LCC-001050	09/22/2015	07:00

Institution*	Area	Location
LCC	Medical	Clinic Officers Staff

Incident Level*	Reported By*	Created By	Reported Date*
Staff-All Users	HEGGE,KATHE	DCARPENTE	09/22/2015

Description*

DRILL****TRAINING****DRILL******TRAINING********DRILL

At 7:00 am two inmates got into a verbal argument that escalated to a physical altercation.

Lock?

Append | Refer To IG | Evidence | Assoc. To STG | Repair Details | Investigations

Incident Questions | [illegible] | Staff Involvement | Civilians Involved

ID*	Last Name	First Name	Participation*	Disposition	Date*	DC#	Comment
0000033048	BELLERS	RONALD	Suspect		09/22/2015		
0000077917	WILLIAMS	LAMONIT	Victim		09/22/2015		

Offender Incident Details

Incident Types

Incident Type*	Sub Type*	Primary
ACA Review completed	Incident is not an ACA	
Miscellaneous	Drill	✓

My Offenders | My Work | My Calendar | Offender Updates | Offender Detail

Attachment 4

Offender Incident Details

Question	Response
Cause of Death?	Not Applicable
Exposed to Hazardous Materials?	Yes
Level of Injury?	Complaints of Pain
Medical Treatment Required?	Medical Treatment Recieved
Were restraints used?	Yes
Tattoo protocol initiated?	No

Save Exit

Attachment 5

Offender Incident Details

Question	Response
Cause of Death?	Not Applicable
Exposed to Hazardous Materials?	No
Level of Injury?	Minor Cuts and Scratches
Medical Treatment Required?	Medical Treatment Recieved
Were restraints used?	Yes
Tattoo protocol initiated?	No

Save Exit

Attachment 6

Incident Details

IR#	Occurrence Date*	Time*
IR-2015-LCC-081059	09/22/2015	07:00

Institution*	Area	Location
LCC	Medical	Clinic Officers Stati

Incident Level*	Reported By*	Created By	Reported Date*
Staff-All Users	HEGGENATHE	DCARPENTEI	09/22/2015

Incident Types

Incident Type*	Sub Type*	Primary
ACA Review completed	Incident is not an ACA	
Miscellaneous	Drill	✔

Description*

DRILL*****TRAINING*****DRILL*****TRAINING*********DRILL

At 7:00 am two inmates got into a verbal argument that escalated to a physical altercation.

Lock? ✔

Append | Refer To IG | Evidence | Assoc. To STG | Recalc Details | Investigations

Incident Questions | Offender Involvement | [illegible] | Civilians Involved

Last Name*	First Name	Participation*	Comment
[illegible]	BRIAN	Witness	
[illegible]	DESIREE	Witness	
[illegible]	DAVID	Reporting	
[illegible]	KELLY	Witness	
[illegible]	KATHERINE	Witness	
[illegible]	NANCY	Witness	

Staff Member Report

My Offenders | My Work | My Calendar | Offender Updates | Offender Detail

Attachment 7

Staff Member Report

Incident Report

IR# IR-2015-LCC-001050

Retrieve

Staff Report

Report Type* Incident 028

Security Level* Institution Investigators

Append

Report Details

Drill conducted

Staff Incident Details

Question	Response
Number of .223 Fired	
Number of .38 Fired	
Number of .40 Shots Fired	
Number of 9mm Shots Fired	

Save Exit

My Offenders | My Work | My Calendar | Offender Updates | Offender Detail

Attachment 8

Staff Member Report

Incident Report

IR-2013-LCC-001020 Retrieve

Staff Report

Report Type* Incident 028

Security Level* Institution Investigators

Append

Report Details

Drill conducted

Staff Incident Details

Question	Response
Number of Blank Shots Fired	
Number of Buck Shots Fired	
Number of Blank Shots Fired	
Number of Bird Shots Fired	

Save Exit

My Offenders | My Work | My Calendar | Offender Updates | Offender Detail

Attachment 9

Staff Member Report

Incident Report

IR-2015-LCC-001050

Retrieve

Staff Report

Report Type*: Incident 026

Security Level: Institution Investigators

Append

Report Details

Drill conducted

Staff Incident Details

Question	Response
[redacted]	
* Did Staff Sign Post Orders?	
Number of Pepper Spray Fired	
* Was Staff Medical Qualified?	

Save

Exit

My Offenders | My Work | My Calendar | Offender Updates | Offender Detail

Attachment 10

Staff Member Report

Incident Report

IR# IR-2015-LCC-001020

Retrieve

Staff Report

Report Type* Incident 028

Security Level* Institution Investigators

Append

Report Details

Drill conducted

Staff Incident Details

Question	Response
[redacted]	
Bloodborne Pathogen Exposure?	
Hazardous Materials Exposure?	
Injury Level?	

Save Exit

My Offenders | My Work | My Calendar | Offender Updates | Offender Detail

Attachment 11

Staff Member Report

Incident Report

IR-2013-LCC-001050

Refiers

Staff Report

Report Type*: Incident 023

Security Level: Institution Investigators

Append

Report Details

Drill conducted

Staff Incident Details

Question	Response
Number of Taser Shots Fired	
* Was the Use of Force In Policy?	
* Was Use of Force Tactic In Policy?	

Save

Exit

My Offenders | My Work | My Calendar | Offender Updates | Offender Detail

Attachment 12

Staff Member Report

Incident Report

ID* IR-2015-LCC-001050

Retrieve

Staff Report

Report Type* Incident 028

Security Level* Institution Investigators

Append

Report Details

Drill conducted

Staff Incident Details

Question	Response
* Was the Use of Force Policy?	
* Was Use of Force Tactic in Policy?	
* Did the Weapon Function Properly?	
* Was Weapon Removed After Incident?	

Save Exit

My Offenders | My Work | My Calendar | Offender Updates | Offender Detail

Attachment 13

Incident Details

IR	Occurrence Date*	Time*
IR-2015-LCC-001050	09/22/2015	07 00

Institution*	Area	Location
LCC	Medical	Clinic Officers Stati

Incident Level*	Reported By*	Created By	Reported Date*
Staff-All Users	HEGGEJKATHE	DCARPENTEI	09/22/2015

Description*

DRILL****TRAINING*****DRILL******TRAINING*********DRILL

At 7:00 am two inmates got into a verbal argument that escalated to a physical altercation.

Lock?

Append | Refer To IG | Evidence | Assoc To STG | Repair Details | Investigations

Incident Questions | Offender Involvement | Staff Involvement | [illegible]

Last Name*	First Name*	Participation*	Comment

My Offenders | My Work | My Calendar | Offender Updates | Offender Detail

Incident Types

Incident Type*	Sub Type*	Primary
ACA Review completed	Incident is not an ACA	
Miscellaneous	Drill	✓

Attachment 14

IG Referral

	Referred By	Date Referred
Refer To IG ☑	DEL PORTO, PAM	09/22/2015 14:53

Referral Detail

[illegible] and process as not accepted.

Append | Save | Exit

Attachment 15

Staff Member Report

Incident Report

IR# IR-2015-LCC-001050 Retrieve

Staff Report

Report Type*	Security Level*
Incident 026	Institution Investigators
Use of Force	Institution Investigators

Append

Report Details

Staff Incident Details

Question	Response
Number of .223 Fired	
Number of .38 Fired	
Number of .40 Shots Fired	
Number of 9mm Shots Fired	

Save Exit

My Offenders | My Work | My Calendar | Offender Updates | Offender Detail

Attachment 16

Attachment #4

Nevada Department of Corrections

Costs Associated with ASCA Staffing Study Implementation

B/A	Institution	2-Year SRF Chg Implementation: Annual Costs of SRF Increases FY 2016	FTE Chg	FY 2017	FTE Chg	Post Change Recommendations by NDOC Priority: Cost of ASCA Post Change Recommendations Priority 1	FTE Chg	Priority 2	FTE Chg	Priority 3	FTE Chg
3751	Ely State Prison	260,173	7	810,634	8	(275,331.00)	(4.00)	64,056.00	1.00	555,707.00	8.00
3762	High Desert State Prison	520,939	13	1,582,961	14	921,942.00	18.00	4,042,557.00	63.00	668,780.00	10.00
3758	Lovelock Correctional Center	239,893	6	733,487	7	1,707,402.00	27.00	0.00	0.00	2,676,584.00	41.00
3761	Florence McClure Women's Correctional Center	114,864	3	341,870	3	1,371,228.00	21.00	320,280.00	5.00	2,266,154.00	35.00
3717	Northern NV Correctional Center	244,005	6	748,465	7	0.00	0.00	0.00	0.00	1,423,352.00	22.00
3738	Southern Desert Correctional Center	242,147	6	690,332	6	1,601,400.00	25.00	1,309,008.00	21.00	2,497,679.00	37.00
3716	Warm Springs Correctional Center	82,343	2	282,243	3	110,028.00	2.00	(128,112.00)	(2.00)	171,371.00	2.00
3752	Carlin Conservation Camp	0	0	63,571	1	0.00	0.00	71,085.00	1.00	128,112.00	2.00
3723	Pioche Conservation Camp	0	0	63,571	1	0.00	0.00	71,085.00	1.00	64,056.00	1.00
3754	Tonopah Conservation Camp	0	0	63,571	1	0.00	0.00	0.00	0.00	199,197.00	3.00
3760	Casa Grande Transitional Housing Center	48,864	1	62,049	0	0.00	0.00	0.00	0.00	1,160,037.00	18.00
3747	Ely Conservation Camp	0	0	63,571	1	0.00	0.00	0.00	0.00	199,197.00	3.00
3741	Humboldt Conservation Camp	0	0	63,571	1	0.00	0.00	0.00	0.00	199,197.00	3.00
3748	Jean Conservation Camp	0	0	0	0	142,170.00	2.00	0.00	0.00	0.00	0.00
3724	Northern NV Restitution Center	0	0	0	0	0.00	0.00	0.00	0.00	327,309.00	5.00
3722	Stewart Conservation Camp	0	0	0	0	0.00	0.00	142,170.00	2.00	45,972.00	1.00
3725	Three Lakes Valley Conservation Camp Three Lakes Valley Boot Camp (Inc in TLV CC)	48,864	1	125,466	1	0.00	0.00	0.00	0.00	1,045,983.00	16.00
3739	Wells Conservation Camp	0	0	63,571	1	0.00	0.00	0.00	0.00	199,197.00	3.00
3710	Transportation (*)	0	0	0	0	0.00	0.00	0.00	0.00	366,252.00	6.00
	Total:	1,802,892	45	5,758,933	55	5,578,839	91	5,892,129	92	14,194,136	216
	Shift Relief Factor Changes										399
	CAT 01 % Increase Per Year:	1.22%		3.91%	100						
	CAT 01 % Increase Per Year of Biennium:			2.57%							
	CAT 01 % Increase If All Changes Made in One Biennium:										

Note: Costs above for additional post change recommendations are for estimates only and do not reflect current position costs, or phased in hiring!