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Date _____

JANUARY ROLL CALL TRAINING

Jail High-Risk Critical Task/ Use of Force

Unlike the use of force on free citizens, the use of force in jails falls under the Fourteenth and Eighth Amendments to the United States Constitution. Under this standard, a detainee would have to prove that the officer inflicted unnecessary and wanton pain and suffering and that the force was not applied in good faith in order to maintain order. There would be liability where an officer acted sadistically and maliciously with the purpose of causing harm. This standard takes into account the subjective intentions of the particular officer using the force rather than the objective standard used under the 4th Amendment. Under the standards announced by the United States Supreme Court, a sentenced prisoner would have to establish that a correctional officer breached the standard of care by applying a malicious and sadistic use of force to cause harm, unrelated to any legitimate penological purpose.

Officers working in detention facilities have come to rely on electronic control devices (ECDs) as a force option. Numerous news articles and lawsuits chronicle the issue of "secondary impact" caused by ECD deployments used in probe mode. In the probe mode, darts are fired from the ECD into the subject causing neuromuscular disruption. This disruption of the muscles generally puts the subject into an uncontrolled fall which leads to a secondary impact with the ground, floor, or some other fixed object. It is more likely that a person will suffer an injury as a result of this secondary impact than they will from the electronic impulse itself.

There are numerous cases involving subjects being on the receiving end of an ECD deployment while positioned in an elevated position.

When an ECD is used in the drive-stun mode, it causes pain but does not cause the uncontrolled fall which occurs in the probe mode. Some recent cases suggest that while the drive-stun mode is painful, it is lesser (on the hurt scale) than the probe mode, and thus may be found to be a reasonable use of force in more circumstances than the probe mode, particularly in a jail setting.

Scenario: Officers are alerted to an aggressive, disruptive inmate located on the 2nd tier of a cell block. The inmate is standing at the top of the staircase threatening the officers. After issuing verbal commands to stop and get on his knees the inmate refuses and continues the aggressive behavior toward the officers.

Question: With respect to force options, what must be taken into consideration?

Answer: Deploying an ECD against an inmate in an elevated position could cause serious injury as a result of secondary impact. In this case, the likelihood of the inmate going down the stairs in an uncontrolled fall is great. Officers should consider various tactics designed to move the inmate away from the staircase prior to deployment of the ECD.