

For discussion  
on 4 January 2013

## **Legislative Council Panel on Security**

### **Guidelines on Application of Necessary Force on Inmates by Correctional Services Staff**

#### **Purpose**

This paper briefs Members on the guidelines by Correctional Services Department (CSD) on application of necessary force on inmates and the provision of related training for frontline officers.

#### **Background**

2. On 16 August 2009, a Taiwanese male, CHEN Chu-nan, who had been remanded in Lai Chi Kok Reception Centre since 14 August 2009 on the charge of obtaining property by deception, was found unconscious in his cell. He was then admitted to the Princess Margaret Hospital but was certified dead afterwards. Subsequently, three CSD officers who supervised Mr CHEN were charged with wounding or inflicting grievous bodily harm. They were convicted on 31 August 2012, and each of them was sentenced to 16 months' imprisonment. They are now on bail pending appeal. The appeal hearing will be held in May 2013. The Coroner's Court conducted an inquest into Mr CHEN's case in October and November 2012, and concluded on 20 November that Mr CHEN died of an unknown cause (i.e. the injury or disease causing the death is not known).

#### **Legal Basis for Application of Necessary Force on Inmates**

3. CSD is committed to providing a secure, safe, humane, decent and healthy environment for persons in custody, as well as offering appropriate rehabilitation services to facilitate their re-integration into society upon release.

4. To ensure the safe and secure custody of inmates and to lay foundation for the effective implementation of rehabilitation programmes, CSD officers have to maintain order and discipline within penal institutions. In the execution of their duties, CSD staff will have needs to apply appropriate force on inmates who exhibit behaviour which is harmful to their own and others' safety

or threatens the order and discipline within the institutions. Rule 237 of the Prison Rules (Cap. 234A, Laws of Hong Kong) clearly stipulated that “No officer of the Correctional Services Department in dealing with prisoners shall use force unnecessarily and, when the application of force to a prisoner is necessary, no more force than is necessary shall be used.” In addition, under section 101A of the Criminal Procedure Ordinance (Cap. 221), CSD staff may use such force as is reasonable in the circumstances in the prevention of crime or in effecting or assisting in the lawful arrest of offenders or suspected offenders or of persons unlawfully at large.

### **Guidelines on Application of Necessary Force on Inmates**

5. To make sure frontline officers clearly understand the circumstances under which appropriate force may be or shall be used, the types of force to be applied, and the follow-up actions to be carried out after application of such force, CSD has set out relevant guidelines in its Standing Orders and Standing Procedures as well as in other relevant orders and training materials<sup>1</sup> for staff compliance. CSD has also clearly instructed its frontline officers that force shall be used as exceptional measures and as the last resort of disciplined services officers. The purpose of applying necessary force is to disempower the inmates concerned such that they cannot hurt themselves or others, instead of inflicting harm on their bodies.

#### *Circumstances in which appropriate force may be used and types of force*

6. It is clearly stipulated in the CSD’s operational guidelines that the purpose of application of force on inmates is to prevent CSD officers themselves, inmates or other persons from being harmed, or to deal with individual or group violent actions disrupting the order or discipline. As such, CSD frontline officers are required to exercise a high degree of self-discipline and restraint when dealing with inmates. Without imminent and genuine necessity, they must not use force in dealing with inmates. In addition, the departmental guidelines require that frontline officers, unless in extreme emergency situations, shall give warning to inmates, express their intention to use force, state the nature and degree of force to be used, and give inmates enough opportunity to obey their instructions, prior to the use of force.

7. Based on the above objective and principles, the appropriate force to be used by CSD officers against inmates should be non-lethal, defensive and

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<sup>1</sup> The Standing Orders, Standing Procedures and other special guidelines in any form are practical guidance and orders formulated by CSD in accordance with the powers conferred by Rules 77(2) and 77(4) of the Prison Rules for the observance of CSD officers.

minimal. CSD classifies resistance behaviour of inmates into different levels. The maximum force to be used against inmates at each level is clearly specified. With regard to verbal disobedience, CSD officers will handle it by the way of verbal advice and counselling. In the event that resistance is encountered by CSD officers, they will subdue the inmates concerned with empty hands or oleoresin capsicum foam whenever circumstances warrant. When an inmate launches a violent attack (e.g. the inmate is armed or displays aggressive behaviour), CSD officers may consider using oleoresin capsicum foam or truncheon, etc. Frontline officers may decide on respective control measures corresponding to the levels of resistance of the inmates. Nevertheless, CSD officers handle resistance of inmates by verbal advice and counselling in the vast majority of cases in carrying out their day-to-day duties.

8. The general principle of applying force on inmates is to use minimum force necessary to disempower the inmates temporarily. When the inmate concerned is put under control and can no longer inflict harm on himself/herself, CSD officers and other inmates, or when the order of the institution is resumed, CSD officers must stop using force immediately.

#### *Follow-up actions after the use of force*

9. All incidents relating to the use of force on inmates are regarded as unusual or serious cases. Hence, for any incident where appropriate force has been used, the CSD officers concerned must immediately file a report to the Head of Institution. The institution management shall then report such an incident to the section heads of CSD Headquarters.

10. In addition, each time when force is used on an inmate, the inmate concerned will be sent to the hospital of the penal institution for examination and treatment by on-call medical officers and nursing staff. Details of his/her injury will be recorded and photographs will be taken accordingly. Where necessary, the management of the penal institution will refer the inmate concerned to a clinical psychologist for counselling services or assessments of his/her mental conditions. When non-compliance or illegal behaviour of the inmate is found, the management of the penal institution will institute disciplinary proceedings against the inmate concerned or report the case to the Police, taking into account the nature and seriousness of the incident.

#### *Provision of training*

11. Newly recruited CSD officers receive over 80 hours of comprehensive tactical training in the induction training programme, including the resistance control guidelines and techniques, use of equipment and scenario training, etc. Besides, on-the-job training are provided for frontline officers and

exercises and drills are also organised from time to time by the Department to ensure that the officers are familiar with the requirements and procedures for the use of necessary force.

### **Statistics on the Use of Necessary Force by CSD officers**

12. Over the past five years, the number of cases in which CSD officers used necessary force on inmates and the reasons for the use of force are as follows:

<b>Year</b>	<b>Type of Necessary Force Used</b>			
	<b>Empty-hand control</b>	<b>Use of oleoresin capsicum foam</b>	<b>Empty-hand control and use of oleoresin capsicum foam</b>	<b>Total</b>
<b>2008</b>	23	10	48	81
<b>2009</b>	16	13	58	87
<b>2010</b>	17	0	72*	89
<b>2011</b>	11	4	110*	125
<b>2012 (as at 30 Nov)</b>	9*	6	70	85

\* Each of these figures includes a case involving an officer drawing his extendable truncheon as a precaution when subduing the inmates.

<b>Year</b>	<b>Reason for Use of Necessary Force</b>					
	<b>Staff members and/or other persons being attacked</b>	<b>To stop self-infliction of harm or abnormal behaviour</b>	<b>Fight among inmates</b>	<b>Other act of violence</b>	<b>Others*</b>	<b>Total</b>
<b>2008</b>	22	16	5	37	1	81
<b>2009</b>	22	10	8	46	1	87
<b>2010</b>	20	15	0	48	6	89
<b>2011</b>	20	13	4	86	2	125
<b>2012 (as at 30 Nov)</b>	6	17	5	55	2	85

\* For example, attempting to obstruct staff members in the course of their actions.

## **Conclusion**

13. CSD attaches great importance to staff integrity and adopts a zero tolerance approach towards any officers in breach of legislation. Those who were found to be using inappropriate force on inmates would be strictly handled in accordance with the law.

**Security Bureau  
Correctional Services Department  
December 2012**