

Appendix to:
Detecting Anomalies in Data on Government Violence

Appendices

A CDCR Data

Table A1 summarizes the data, reporting the total number of reported incidents, disaggregated by force type.¹ Importantly, however, the institutions overseen by the CDCR differ considerably in their propensity to use force against inmates, as A1 illustrates. To create Figure A1, we generate the sum of all uses of force in prison, i , in year t , and plot those values for each institution for every year between 2008 and 2017.

Table A1: Total Reported Incidents by Type

Type of Force	Total Incidents	“Zero” Incidents
Use of Oleoresin Capsicum (Pepper Spray)	43,569	120
Physical Force	24,841	339
Discharge of a 37mm and/or 40mm Launcher	11,999	1,624
Use of a Baton	6,659	1,458
Use of Chloroacetophenone (Tear Gas or Chemical Cace)	2,079	3,469
Other Force Options Not Otherwise Mentioned	665	3,766
Firing of Semi-Automatic Rifle Shots (Warning)	350	4,099
Use of High-Pressure Water Hose System	105	3,573
Use of Non-Conventional Force	76	565
Firing of Semi-Automatic Rifle Shots (Contact Intended)	71	4,229

Note: More than one type of force can be used per incident.

The 35 institutions overseen by the CDCR differ considerably in their propensity to use force against inmate. Figure A1 plots the total uses of force over time for each institution. One notices right away that the considerable variation in total across institutions. There is also considerable variation over time within institutions. Some high security prisons like the Salinas Valley State Prison (SVSP), the California State Prison in Los Angeles County (LAC), and the California State Prison in Sacramento (SAC) all average over 550 uses of force per year while Pelican Bay (PBSP)—another high security institution—averages only 200 incidents. Some general population prisons, like Avenal State Prison (ASP), average only about 100. There is also considerable variation over time within institutions. Consider, for example, the Richard J. Donovan Correctional Facility (RJD), where reported uses of force fell considerably in 2010, and California State Prison, Corcoran (COR), which has seen reports of use of force steadily increase over time.

¹Institutions are not mandated to report when force was *not* used. The choice to report zeroes, rather than to leave the category blank, may itself reflect strategic considerations.

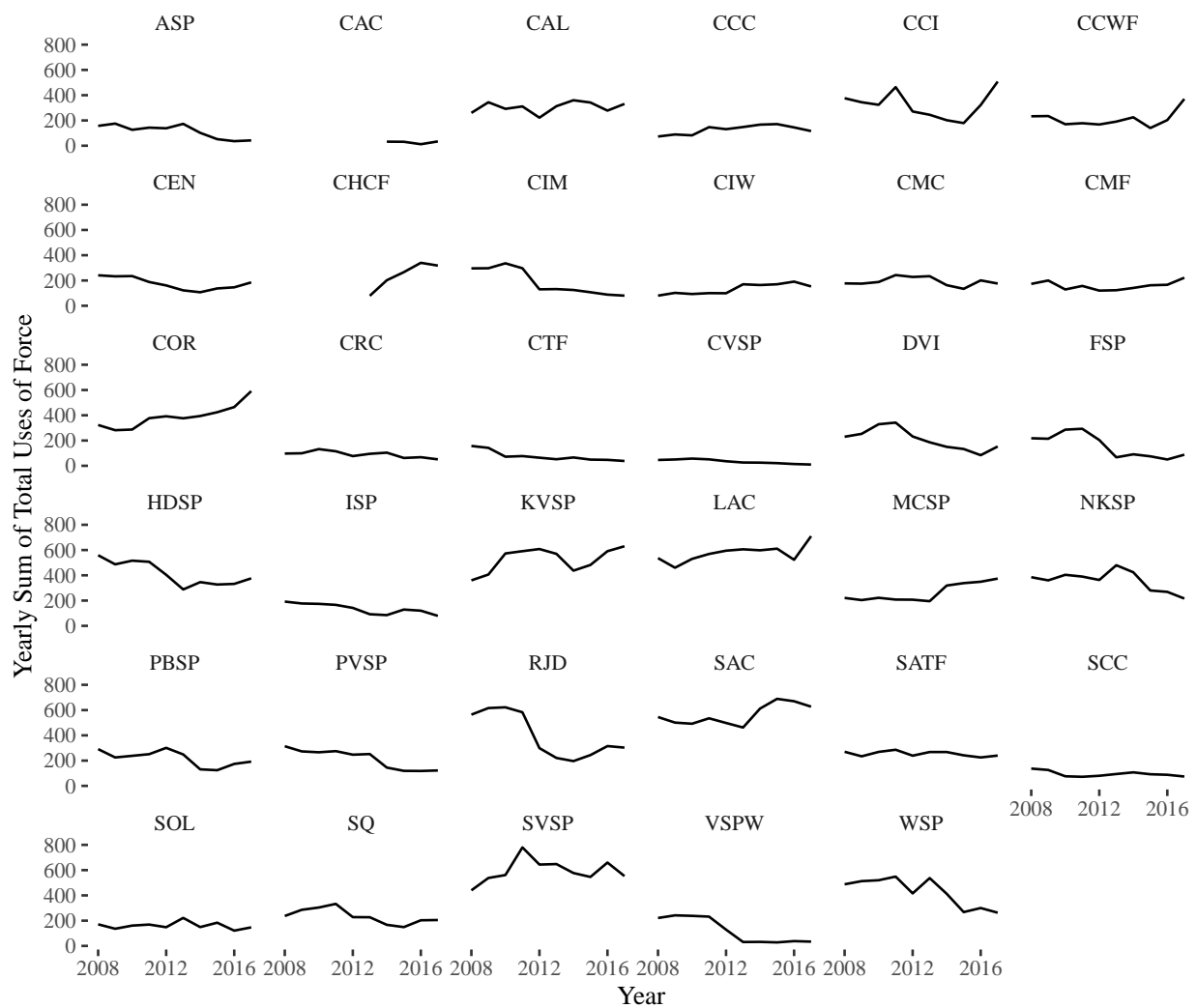


Figure A1: Total Uses of Force, by Institution (2008-2017)

Appendices

B List of Institutions by Institution Type

Table B1: List of Institutions by Institution Type

Institution Type	Institutions
Gen Pop	Avenal State Prison; Calipatria State Prison; California State Prison, Centinela; Correctional Training Facility; Chuckawalla Valley State Prison; Ironwood State Prison; Mule Creek State Prison; Pleasant Valley State Prison; California State Prison, Solano; Valley State Prison
High Sec	California City Correctional Facility; California Correctional Institution; California State Prison, Corcoran; High Desert State Prison; Kern Valley State Prison; California State Prison, Los Angeles County; Pelican Bay State Prison; California State Prison, Sacramento; California Substance Abuse Treatment Facility and State Prison, Corcoran; Salinas Valley State Prison
Reception	California Correctional Center; California Institution for Men; California Men’s Colony; California Rehabilitation Center; Deuel Vocational Institution; North Kern State Prison; Richard J. Donovan Correctional Facility; Sierra Conservation Center; San Quentin State Prison; Wasco State Prison-Reception Center
Female	Central California Women’s Facility; California Health Care Facility, Stockton; California Institution for Women; California Medical Facility; Folsom State Prison; [‡] Valley State Prison [‡]

Source: <https://www.cdcr.ca.gov/adult-operations/> (Accessed September 2019).

[†] In 2013 a women’s wing was added to the otherwise all male prison.

[‡] Valley State Prison was a female prison from 2008–2012. In 2013, it was converted to a prison for low-risk male inmates.

Appendices

C Digit Distribution By Year

Table C1: Distribution of First Digits of Total Uses of Force in California Prisons, Compared to Benford's Law

Digit	Benford	All Years	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
1	0.301	0.333	0.338	0.313	0.323	0.285	0.381	0.353	0.363	0.378	0.301	0.289
2	0.176	0.219	0.278	0.283	0.207	0.225	0.184	0.232	0.175	0.179	0.217	0.217
3	0.125	0.128	0.131	0.139	0.144	0.149	0.136	0.093	0.120	0.116	0.133	0.123
4	0.097	0.103	0.109	0.104	0.111	0.136	0.111	0.111	0.084	0.080	0.091	0.091
5	0.079	0.066	0.053	0.056	0.078	0.071	0.051	0.053	0.072	0.065	0.067	0.099
6	0.067	0.048	0.033	0.023	0.061	0.051	0.045	0.045	0.053	0.041	0.062	0.062
7	0.058	0.037	0.013	0.033	0.020	0.030	0.030	0.040	0.050	0.041	0.052	0.057
8	0.051	0.033	0.020	0.020	0.038	0.035	0.030	0.035	0.043	0.039	0.037	0.035
9	0.046	0.033	0.025	0.030	0.018	0.018	0.030	0.038	0.038	0.061	0.040	0.027

Appendices

D Robustness Checks

The results of Tables 1 and 2 of the main text show evidence that the uses-of-force data often do not conform to Benford’s Law. When discussing those results we have given particular attention to the χ^2 test statistic and its associated p-value. However, as Pericchi and Torres (2011) and Sellke, Bayarri, and Berger (2001) remind, frequentist p-values are not the same as the posterior probability that the null hypothesis is true. In studies like ours, the latter quantity is very much of interest however. To that end, Sellke, Bayarri, and Berger (2001) and Pericchi and Torres (2011) offer techniques to convert frequentist p-values to such posterior probabilities. We refer the interested reader to those articles for further discussion and mathematical derivations, but the essence of the technique is to apply a variety of Bayesian prior distributions to the problem and to then calculate the absolute minimum posterior probability that the null is true across that large class of prior distributions. That minimum probability is referred to as the Ultimate Lower Bound that $PR(H0|data)$. The conversion can be quite important—Pericchi and Torres (2011, Table 5) show that a p-value of 0.05 still has an Ultimate Lower Bound of 0.29, indicating that there is *at least* a 30% chance of the null being true given the data. We apply that technique to our χ^2 test statistics below. Another approach to the same issue is the use of Bayes Factors to produce a statistic indicating the strength of the evidence in favor of the null hypothesis compared to the alternative (Pericchi and Torres 2011; Sellke, Bayarri, and Berger 2001). We apply this technique as well.²

Another potential concern with the results in Tables 1 and 2 is that testing the data in every year and for every institution type produces a multiple comparisons problem (Benjamini and Hochberg 1995). To account for that possibility, we conduct the standard p-value adjustment to correct for the false discovery rate, as presented in Benjamini and Hochberg (1995).³

Table D1 below shows the results of these three additional tests. The first two columns are the χ^2 test statistic as presented in Tables 1 and 2 of the main text. The third column generates the frequentist p-value associated with those χ^2 test statistics. Column “ULB” is the Ultimate Lower Bound. Next, is the Bayes Factor. The last column in the p-value adjust to control the rate of false discovery. Read the table across the columns as follows: For all years combined, for example, the p-value of 0.00 obliges one to reject the null hypothesis that the data are distributed according to Benford’s Law. The Ultimate Lower Bound correction affirms that result, as it implies that the probability the null is true is *at least* 0.00. The Bayes Factor is also very small (0.00), further obliging us to conclude that data are not distributed according to Benford. This is a conclusion we can maintain even after adjusting for the rate of false discovery. Meanwhile, for the year 2016, the test statistic is small and the p-value is large, indicating, as we say in the manuscript, that we cannot reject the null hypothesis that the data are Benford. The Ultimate Lower Bound, Bayes Factor, and adjusted p-value all concur that we cannot reject the null in this case.

For the most part, none of these tests obliges us to alter our conclusions as discussed in the manuscript. In general, where the χ^2 statistic and associated p-value obliged us to reject the null,

²The Ultimate Lower Bound is calculated using the `pca1` function of the `pca1` package (Fonseca and Paulo 2020) for the R environment (R Core Team 2020). The Bayes Factor is calculated using the `bca1` function of the same package.

³To do so, we use the `p.adjust` function in R, with the `fdr` argument specified.

Table D1: Additional Tests of Conformity to Benford’s Law By Year and Institution Type

ID	χ^2	PV	ULB	Bayes Factor	FDR p
All Years	159.47	0.00	0.00	0.00	0.00
2008	61.19	0.00	0.00	0.00	0.00
2009	54.77	0.00	0.00	0.00	0.00
2010	22.96	0.00	0.05	0.05	0.00
2011	29.79	0.00	0.01	0.01	0.00
2012	27.38	0.00	0.01	0.01	0.00
2013	25.38	0.00	0.02	0.02	0.00
2014	8.97	0.34	0.50	1.00	0.37
2015	19.90	0.01	0.12	0.13	0.01
2016	7.41	0.49	0.50	1.00	0.49
2017	11.61	0.17	0.45	0.82	0.20
Female	169.47	0.00	0.00	0.00	0.00
General Population	131.44	0.00	0.00	0.00	0.00
High Security	446.36	0.00	0.00	0.00	0.00
Reception	48.24	0.00	0.00	0.00	0.00

the ULB and Bayes Factors concur, and the conclusions do not change after correcting for false discovery. The new tests do suggest some caution in interpreting the results of 2015 (in bold font in Table D1). The p-value indicates that we can reject the null at the 95% level and that it is just larger than the 99% threshold ($p = 0.011$). However, the ULB indicates that there is at least a 10% chance that the null is true. The Bayes Factor is not as small as the cases that give strong reason to reject the null, nor nearly as big as the instances where we clearly cannot reject it. And the adjusted p-value is 0.013, significant at the 95% level, and just over the 99% level. These results indicate that 2015 is best understood as a marginal case.⁴

⁴We thank an anonymous reviewer for suggesting that we perform these additional tests.

Appendix E CDCR Use of Force Descriptions and Counting Rules

Force Type	Description	Rule Details
Use of Oleoresin Capsicum (OC)	Chemical agent Oleoresin Capsicum, commonly known as pepper spray or OC gas (CDCR DAI 2019)	Total number of incidents where OC was used in the reporting period.
Physical Force	Any deliberate physical contact, using any part of the body to overcome conscious resistance (CDCR DAI 2019)	Total number of incidents where Physical Force was used during the reporting period.
Baton	Hand Held expandable baton (CDCR DAI 2019)	Total number of incidents where the Baton was used during the reporting period.
Use of Phenacyl Chloride (CN)	Chemical agent Chloroacetophenone, common ingredient in Mace or Tear Gas (CDCR DAI 2019)	Total number of incidents where the CN force options was used during the reporting period.
Launcher	Use of force involving firearms with 37mm or 40mm caliber designed to be less than lethal. A rifled bore launcher, capable of firing direct/indirect impact munition rounds and chemical agents (CDCR DAI 2019)	Total number of incidents where the 37mm or 40mm caliber force options was used during the reporting period.
Shots	Shots fired from a Ruger Mini 14 semiautomatic intermediate caliber rifle and aimed at a specific human target ('for effect'). The Mini-14 is CDCR's primary weapon, and used in gun towers, gun walks, observation posts, and other areas where deadly force may be necessary (CDCR DAI 2019).	Total number of incidents that include shots for effect during the reporting period. The result of the shot is not considered.
Warning	Shots fired from a Ruger Mini 14 semiautomatic intermediate caliber rifle not aimed at a specific human target.	Total number of incidents that include warning shots fired from a Mini 14. Exclusive per above and indicates the shot was not aimed at a specific human target.
Hydro	Use of Hydro-Force Water Restraint System (HFWRs). The HFWRs is most easily described as a high-pressure water system akin to a fire hose and spray nozzle. This system is fixed in place in recreation yards or open spaces, and can include irritants in the spray. The system is used to break up large scale disturbances quickly. (Priax Corp, 2003)	Total number incidents that include the use of HFWRs force during the reporting period. Prior to 2012, HFWRs uses were recorded in the 'Hydro' category. During January 2012-2015, HFWRs uses were recorded in the 'Other' category. During January 2015-2017, HFWRs uses are not counted.
Other	Number of incidents where a force option not specifically listed elsewhere in categories, includes use of CS, X10 barricade removal, X10 sprayer wand, shotgun, 38 caliber ammunition, 9mm ammunition, L8, etc. (CDCR DAI 2019)	Total number of incidents where the Other force option was used during the reporting period.
Non-Conventional	Force using "techniques or instruments that are not specifically authorized in policy, procedures, or training," pursuant to CDCR DOM 51020.4 (CDCR DAI 2019)	The count includes number of incidents in which non-conventional force was listed as a type of force used during the reporting period. This option became available for counting in January 2017.

The following are the counting rules dictating how the CDCR counts differing uses of force, and, where warranted, a brief description or clarification of the use of force. The counting rules are taken directly from the published CDCR Division of Adult Institutions Counting Rules 2011 & 2017. Source at bottom of section. *Clarification and comments italicized below.*

OC - Use of Oleoresin Capsicum (OC), commonly known as pepper spray or OC gas. This is the total number of OC force options used during the reporting period and broken down by the specific category. If there are multiple options used during one incident you will count each different incident of force used separately (i.e. if the baton, OC, and physical force are used you will enter 1 into each separate category. If two different people use OC during the same incident then you will enter 1 because only one force option was used, even though it was used more than once). The number of incidents and breakdown by type of force numbers will not necessarily match as more than one option can be used per incident. 837 Field Name - Type of Weapon/Shots Fired/Force: OC Source: **DIRS** CDCR Counting rules 2011

OC spray is usually carried in a spray or fogger bottle by individual guards. OC spray can be used for a short-range application and is usually aimed at the face to force compliance, but mild pain and a burning sensation are present with any contact with the skin.

Physical - Use of physical force. This is the total number of Physical Force options used during their reporting period and broken down by the specific category. If there are multiple options used during one incident you will count each different incident of force used separately (i.e. if the baton, OC, and physical force are used you will enter 1 into each separate category. If two different people use OC during the same incident then you will enter 1 because only one force option was used, even though it was used more than once). The number of incidents and breakdown by type of force numbers will not necessarily match as more than one option can be used per incident. 837 Field Name - Type of Weapon/Shots Fired/Force: Physical Force Source: **DIRS** CDCR Counting rules 2011

Physical force can be described as the use of the body to force compliance by an inmate through punches, kicks, prying, pushing, or numerous other uses of the body.

Baton - Use of an Expandable Baton. This is the total number of Baton Force options used during the reporting period and broken down by the specific category. If there are multiple options used during one incident you will count each different incident of force used separately (i.e. if the baton, OC, and physical force are used you will enter 1 into each separate category. If two different people use OC during the same incident then you will enter 1 because only one force option was used, even though it was used more than once). The number of incidents and breakdown by type of force numbers will not necessarily match as more than one option can be used per incident. 837 Field Name - Type of Weapon/Shots Fired/Force: Exp. Baton Source: **DIRS** CDCR Counting rules 2011

CN - Use of Phenacyl Chloride (CN), common ingredient in "Mace" or "Tear Gas" This is the total number of CN Force options used during the reporting period and broken down by the specific category. If there are multiple options used during one incident you will count each different incident of force used separately (i.e. if the baton, OC, and physical force are used you will enter 1 into each separate category. If two different people use OC during the same incident then you will enter 1 because only one force option was used, even though it was used more than once). The number of incidents and breakdown by type of force numbers will not necessarily

match as more than one option can be used per incident. 837 Field Name - Type of Weapon/Shots Fired/Force: CN Source: **DIRS** CDCR Counting rules 2011

CN and related chemical irritants are used to effect large areas and to force compliance of inmates by irritating the mouth, throat, lungs, eyes and nose of the effected individual. These chemical irritants are not able to be targeted to certain individuals but instead are used in an aerosol form to affect inmates indiscriminately in a given area.

Launcher - Use of force involving firearms with 37mm or 40mm caliber. This is the total number of 37mm or 40mm caliber force options used during the reporting period and broken down by the specific category. If there are multiple options used during one incident you will count each different incident of force used separately (i.e. if the baton, OC, and physical force are used you will enter 1 into each separate category. If two different people use OC during the same incident then you will enter 1 because only one force option was used, even though it was used more than once). The number of incidents and breakdown by type of force numbers will not necessarily match as more than one option can be used per incident. 837 Field Name - Type of Weapon/Shots Fired/Force: 37MM, 40MM, or 40MM Multi Source: **DIRS** CDCR Counting rules 2011

This launcher shoots a foam or rubber baton round meant to incapacitate an individual but not be fatal. Most commonly used in open areas when inmates are massed and the likelihood of hitting an inmate is higher at range. This device is most frequently used outside, in less confined areas such as recreation yards.

Shots - Shots fired from a Mini 14. This does not include Warning shots (in the below line) but rather Shots 'for effect', which means the shot was aimed at a specific human target – The result of the shot is not considered. 837 Field Name - Type of Weapon/Shots Fired/Force: Mini 14; Number of shots under '#Effect' Source: **DIRS** CDCR Counting rules 2011

A Ruger Mini 14 is a semiautomatic intermediate caliber rifle. The firearm is most employed in recreation yards.

Warning - Warning shots fired from a Mini 14. Exclusive per above and indicates the shot was not aimed at a specific human target. 837 Field Name - Type of Weapon/Shots Fired/Force: Mini 14; Number of shots under '#Warning' Source: **DIRS** CDCR Counting rules 2011

Hydro - This is the total number of Hydro-Force Water Restraint System force options used during the reporting period and broken down by the specific category. If there are multiple options used during one incident you will count each different incident of force used separately (i.e. if the baton, OC, and physical force are used you will enter 1 into each separate category. If two different people use OC during the same incident then you will enter 1 because only one force option was used, even though it was used more than once). The number of incidents and breakdown by type of force numbers will not necessarily match as more than one option can be used per incident. 837 Field Name - Type of Weapon/Shots Fired/Force: HFWRS Source: **DIRS** CDCR Counting rules 2011

The HFWRS is most easily described as a high-pressure water system akin to a fire hose and spray nozzle. This system is fixed in place in recreation yards or open spaces in the correctional institution and more modern version can include irritants included in the spray making it even more effective. The system is used to break up large scale disturbances such as a riot quickly and with minimal risk to guards. Counting rules were changed for this force option in 2012 and it

became incorporated into the “Other” category, meaning uses of the Hydro System following January 2012 were counted in the “Other” category. Prior to 2012 counts of the HFWRS were counted in the Hydro category. After 2015 the counting rules no longer contain the Hydro category at all.

Other - Use of force options not broken out above. This is the total number of 'Other' force options used during the reporting period. This line may include force options utilized by a staff member where Department issued options either failed or were unavailable. If there are multiple options used during one incident you will count each different incident of force used separately (i.e. if the baton, OC, and physical force are used you will enter 1 into each separate category. If two different people use OC during the same incident then you will enter 1 because only one force option was used, even though it was used more than once). The number of incidents and breakdown by type of force numbers will not necessarily match as more than one option can be used per incident. 837 Field Name - Type of Weapon/Shots Fired/Force: Any selection other than 'N/A', and Type of Weapon not listed in the above categories. Source: **DIRS** CDCR Counting rules 2011

Other uses of force are authorized types of force that are not included in the other categories of force.

NonCon - Number of incidents where non-conventional force pursuant to DOM 51020.4 was used against an inmate or group of inmates that occurred during the reporting period. Totals are taken on the last day of the reporting period. Count includes number of incidents in which non-conventional force was listed as the type of force used. Count excludes the number of peace officers or non-prisoners that used nonconventional force. If there are multiple types of force used during one incident, each type of force will only be counted once. For example, if the baton, OC, and physical force options are used in the same incident, then each type will be counted once. The number of incidents and breakdown by type of force numbers will not necessarily match as more than one type of force can be used per incident. See Glossary for definition of non-conventional force. Source: **DIRS** CDCR Counting rules 2017 **Metric activated, effective 1/1/2017**

Nonconventional force is described as “force that utilizes techniques or instruments that are not specifically authorized in policy, procedures, or training” (CDCR DOM 2019). The above category did not come into effect until January of 2017, meaning there are no prior counts available.

Source:

<https://www.cdcr.ca.gov/compstat/>

Appendix F

California Department of Corrections and Rehabilitation (CDCR) Reporting Procedure for Use of Force

Each observer of use of force is required to fill out and submit CDCR Form 837-C (Rev. 10/15), Crime/Incident Report Part C-Staff Report (See Appendix C for legal requirement in CCR 15, Appendix D for actual form). This form is filled out longhand and is then submitted to a supervisor. The supervisor then reviews the form for completeness to review all uses of force for policy compliance. The data from the form are then inputted to a digital tracking system by the Use of force Coordinator at the institution level (see Appendix E). The Coordinator tracks use of force trends at the institution level and is responsible for reviews of use of force through the Daily Information Reporting System (DIRS) which tracks a variety of metrics including use of force by guards, controlled substance seizures, violence by inmates, and riots. The use of force coordinator also is tasked with coordination of reviews of excessive force and deadly force requiring administrator review. Once the data is uploaded by the Coordinator it is accessible by the CDCR Office of Research. The CDCR Office of Research then aggregates these counts as reported in form 837-C, and inputted by the institution Coordinator, and publishes a system wide report that includes a breakdown of uses of force at the institution-month level. This report is mandated by the legislature through in the California Penal Code Section 5055.5.

Title 15 of the California Code and Regulations, section § 3268.1 entitled “Reporting and Investigating the Use of Force for Institution/Facility Staff.” Includes the following:

Use of Force-Reporting Requirements. Every staff use of force is an incident that shall be reported.

Any employee who uses force or observes a staff use of force shall report it to a supervisor as soon as practical and submit the appropriate documentation, prior to being relieved from duty. In an institution/facility setting the documentation shall be on a CDCR Form 837-A (Rev. 10/15), Crime/Incident Report Part A-Cover Sheet, CDCR Form 837-A1 (Rev. 10/15), Crime/Incident Report Part A1-Supplement, CDCR Form 837-B1 (Rev. 10/15), Crime/Incident Report Part B1-Inmate, CDCR Form 837-B2 (Rev. 10/15), Crime/Incident Report Part B2-Staff, CDCR Form 837-B3 (Rev. 10/15), Crime/Incident Report Part B3-Visitor, Other, CDCR Form 837-C (Rev. 10/15), Crime/Incident Report Part C-Staff Report, CDCR Form 837-C1 (Rev. 10/15), Crime/Incident Report Part C1-Supplement, or a CDCR Form 837-C2 (Rev. 10/15), Crime/Incident Report Part C2-Review Notice, which are hereby incorporated by reference.

The supervisor shall document his or her review on a CDCR Form 3010 (Rev. 10/15), Incident Commander's Review/Critique Use of Force Incidents, which is hereby incorporated by reference, and forward it with the employee's document through the designated chain of command, to the institution head for approval or follow-up action.

Additional Reporting Requirements for Use of Deadly Force.

An employee who intentionally or accidentally uses deadly force, whether on or off duty, shall ensure that a supervisory employee is notified of the incident without delay. This reporting is not required for the lawful discharge of a firearm during weapons qualifications, firearms training, or other legal recreational use of a firearm.

The response supervisor shall ensure that the chain of command is notified and all necessary health and safety, medical and security measures are initiated.

If the incident is in an institution/facility, the response supervisor shall obtain a public safety statement(s) (oral statement) from the staff employing deadly force and shall document the

essence of the oral statement in writing and submit it to the incident commander. Providing a public safety statement does not relieve the staff of the responsibility to submit a written report in accordance with 3268.1(a), or within 24 hours after the incident.

For incidents occurring in a community setting, the on-duty supervisor shall ensure local law enforcement is contacted.

The incident commander shall notify the Office of Internal Affairs (OIA) and the Bureau of Independent Review (BIR) as soon as possible, but no later than one hour from the time the incident is discovered, of any use of deadly force and every death or GBI that could have been caused by a staff use of force. Any employee who observes a use of force that is unnecessary or excessive shall attempt to stop the violation. Any employee who becomes aware of an allegation of unnecessary or excessive use of force, whether it occurs during a reportable incident or not, shall verbally report the allegation to a custody supervisor as soon as possible, followed by the submission of the appropriate documentation.

Video Recording Requirements.

A video recording is required for all Controlled Uses of Force occurrences. A video recording of the inmate is also required following a use of force occurrence resulting in SBI or GBI to the inmate and shall be documented on a CDCR Form 3013-1 (10/15), Inmate Interview for GBI and SBI Worksheet and a CDCR Form 3014 (Rev. 10/15), Report of Findings - Inmate Interview, which are hereby incorporated by reference.

A video recording of the inmate shall be made when the inmate has made an allegation of an unnecessary or excessive use of force and shall be documented on a CDCR Form 3013-2 (Rev. 10/15), Inmate Interview for Allegation Worksheet and a CDCR Form 3014 (Rev. 10/15), Report of Findings - Inmate Interview, which are hereby incorporated by reference.

Reviewing Use of Force Requirements.

For reported incidents, a good faith effort must be made at all levels of review in order to reach a judgment whether the staff's actions prior to, during, and subsequent to the force used was in compliance with regulations, procedure and applicable law and determine if follow-up action is necessary.

Use of Force levels of review include the following:

Incident Commander Review, CDCR Form 3010 (Rev. 10/15), Incident Commander's Review/Critique Use of Force Incidents.

First Level Manager Review, CDCR Form 3011 (Rev. 10/15), Manager's Review - First Level Use of Force Incidents, which is hereby incorporated by reference.

Second Level Manager Review, CDCR Form 3012 (Rev. 10/15), Manager's Review - Second Level Use of Force Incidents, which is hereby incorporated by reference.

Use of Force Coordinator Review. The Use of Force Coordinator shall normally schedule all logged use of force cases for review within 30 days of their logged occurrence. The Use of Force Coordinator shall document their review on a CDCR Form 3034 (Rev. 10/15), IERC Allegation Review, and a CDCR Form 3036 (Rev. 10/15), IERC Critique and Qualitative Evaluation, which are hereby incorporated by reference.

Institutional Executive Review Committee (IERC). Normally, the IERC is comprised of the following staff:

Institution Head or Chief Deputy Warden, as chairperson and final decision maker.

At least one other manager assigned on a rotational basis.

In-Service Training Manager.

One health care practitioner or clinician.

A Use of Force Coordinator.

Other designated supervisors and rank and file staff may also attend, as determined by the Institution Head. A representative of the BIR may also attend and monitor IERC meetings. The IERC shall meet to review its cases on at least a monthly basis, or on a schedule to ensure all cases are reviewed within 30 days. The IERC shall document their review on a CDCR Form 3035 (Rev. 10/15), IERC Use of Force Review & Further Action Recommendation, which is hereby incorporated by reference.

Department Executive Review Committee (DERC).

Investigating Deadly Force and Any Use of Force that could have caused Death or Great Bodily Injury.

Every use of deadly force (except those meeting the criteria set forth in 3268(a)(20)) and every death or great bodily injury that could have been caused by a staff use of force will be investigated by the Deadly Force Investigation Team (DFIT) and reviewed by the Deadly Force Review Board (DFRB).

DFIT shall conduct criminal and administrative investigations of every death or great bodily injury that could have been caused by a staff use of force and every use of deadly force, except those meeting the criteria set forth in 3268(a)(20), the lawful discharge of a firearm during weapons qualifications or firearms training, or other legal recreational uses of a firearm.

DFRB shall conduct a full and complete review of all incidents involving a use of deadly force (except those meeting the criteria set forth in 3268(a)(20)) and every death or great bodily injury that could have been caused by a staff use of force, regardless of whether the incident occurs in an institutional or community setting.

Use of Force Joint Use Committee (JUC). The Use of Force JUC shall review and evaluate recommended revisions to the CDCR's Use of Force Regulations and Procedures. The JUC shall be comprised of the following field staff:

At least one Institution Head, as chairperson,

At least one staff member from each DAI mission based region, at the level of Lieutenant or Captain,

At least one Use of Force Coordinator,

At least three representatives from the California Correctional Peace Officer Association (CCPOA), as designated by the CCPOA,

The Chief of BIR, or designee, and

Others as needed and assigned by the Deputy Director, DAI.

The JUC shall meet quarterly as necessary, but not less than annually, to review recommended revisions.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 196, 835a, 2651, 2652 and 5054, Penal Code; Section 50, Civil Code; and *Madrid v. Cate* (U.S.D.C. N.D. Cal. C90-3094 TEH)

Source:

California Codes of Regulations, Title 15, § 3268.1. (1999)

<https://govt.westlaw.com/calregs/Document/IC98750D4509A4142B143BD24C6DF7994?originContext=document&transitionType=StatuteNavigator&needToInjectTerms=False&viewType=FullText&contextData=%28sc.Default%29>

Appendix G

California Department of Corrections and Rehabilitation Department Operations Manual
Chapter 5 (2019)

51020.19.4 Use of Force Coordinator Responsibility

The Use of Force Coordinator shall log and track all use of force incidents and all allegations of excessive or unnecessary force (including those originating from inmate appeals) to ensure thorough and timely review by the IERC. The log should be capable of producing statistical reports to monitor trends and patterns of force used, whether the report is received in the form of an incident report, a verbal allegation of excessive or unnecessary force, or an allegation contained in an inmate appeal. At a minimum, the log should address the following categories:

- Incident Log Number
- Incident Date
- Specific Area of Institution
- Specific Crime
- Controlled or Immediate Use of Force
- Allegations of Unnecessary or Excessive Use of Force
- Significant Injury (SBI, GBI, or Death)
- Injuries caused by Use of Force
- Staff Involved
- Inmate(s) Involved
- Mental Health Status
- Type of Force Option(s) Utilized
- Ethnicity,
- Security Threat Group Status.

The Use of Force Coordinator shall schedule use of force incident packages for presentation to the IERC within 30 days from the date of incident. If an investigation or request for direct action has been initiated for a use of force incident, the Use of Force Coordinator will track and maintain the completed incident package until the Hiring Authority has determined a finding upon conclusion of the investigation or request for direct action.

Upon determination of finding for the matter referred for investigation or direct action, the Hiring Authority shall apprise the Use of Force Coordinator of the allegation(s) findings.

The Use of Force Coordinator shall conduct an in-depth analysis of the documentation from each use of force incident, including the conclusions of the Supervisor and Managers. The Use of Force Coordinator shall request any clarification or additional information necessary to complete his/her analysis.

The Use of Force Coordinator shall complete the IERC Use of Force Review & Further Action Recommendation (CDCR 3035), and Institutional Executive Review Committee (IERC) Critique and Qualitative Evaluation (CDCR 3036), documenting his/her findings regarding whether the force used was in compliance with policy, procedure, and training; as well as identifying any recommended revision to policy, procedure, or training.

If a completed incident package has not been received by the Use of Force Coordinator in time to allow for IERC review within 30 days of the incident, the Use of Force Coordinator shall present the initial incident package to the IERC for an initial review. The initial review of the initial incident package is intended to give the IERC an opportunity to conduct a preliminary review and document obvious procedural concerns. During the initial review, the CDCR 3035 or CDCR

3036 do not need to be completed. Once the completed incident package is received, the CDCR 3035 and CDCR 3036 shall be completed by the Use of Force Coordinator for presentation to the IERC.

In cases involving allegations of excessive or unnecessary force, whether or not the allegation was part of a reported use of force, the Use of Force Coordinator shall prepare an Institutional Executive Review Committee Allegation Review (CDCR 3034), for review by the IERC. The Use of Force Coordinator shall prepare complete copies of the incident packages to be reviewed by the IERC during the scheduled meeting. The OIG shall be provided reasonable notice and copies of the packages to be reviewed in advance of the meetings.

If the IERC determines additional information or clarification is required, the Use of Force Coordinator will forward a request for this information to the responsible Manager and track the assignment.

The Use of Force Coordinator will maintain a copy of the completed incident package until the information or clarification is received. The Use of Force Coordinator will then complete the analysis and resubmit the case to the IERC.

The Use of Force Coordinator will ensure the IERC findings are documented on the CDCR 3035 and CDCR 3036 following final IERC review of the completed incident package. After final review by the IERC, any copies of staff disciplinary documents will be removed from the incident package and routed to the appropriate Manager for placement into the appropriate file.

The IERC Chairperson and the Use of Force Coordinator shall review the status of all pending use of force cases following each IERC meeting to evaluate the readiness for final review of the cases.

By the fifth day of each month, the Use of Force Coordinator shall forward a memorandum to the respective Associate Director listing the date of IERC meetings, incident package log numbers, specific crime, and disposition of all incident packages reviewed during the previous month.

Source:

<https://www.cdcr.ca.gov/regulations/adult-operations/dom-toc/>

Appendix H

CALIFORNIA PENAL CODE

PART 3. OF IMPRISONMENT AND THE DEATH PENALTY [2000 - 10007]

(Part 3 repealed and added by Stats. 1941, Ch. 106.)

TITLE 7. ADMINISTRATION OF THE STATE CORRECTIONAL SYSTEM [5000 - 7445]

(Title 7 added by Stats. 1944, 3rd Ex. Sess., Ch. 2.)

CHAPTER 2. The Secretary of the Department of Corrections and Rehabilitation [5050 - 5072]

(Heading of Chapter 2 amended by Stats. 2005, Ch. 10, Sec. 35.)

Section 5055.5 (a) The Secretary of the Department of Corrections and Rehabilitation shall develop a Data Dashboard as described in subdivisions (b) and (c) for each institution on a quarterly basis and post those reports on the department's Internet Web site. The department shall post both current fiscal-year reports and reports for the immediately preceding three fiscal years for each institution. The department shall also post corrections made to inaccurate or incomplete data to current or previous reports.

Each report shall include a brief biography of the warden, including whether he or she is an acting or permanent warden, and a brief description of the prison, including the total number and level of inmates.

Each report shall be created using the following information already collected using the COMPSTAT (computer assisted statistics) reports for each prison and shall include, but not be limited to, all of the following indicators:

Staff vacancies, overtime, sick leave, and number of authorized staff positions.

Rehabilitation programs, including enrollment capacity, actual enrollment, and diploma and GED completion rate.

Number of deaths, specifying homicides, suicides, unexpected deaths, and expected deaths.

Number of use of force incidents.

Number of inmate appeals, including the number being processed, overdue, dismissed, and upheld.

Number of inmates in administrative segregation.

Total contraband seized, specifying the number of cellular telephones and drugs.

Each report shall also include the following information, which is not currently collected or displayed by COMPSTAT:

Total budget, including actual expenditures.

Number of days in lockdown.

(Added by Stats. 2015, Ch. 162, Sec. 2. (SB 601) Effective January 1, 2016.)

California Penal Code, Part 3, Title 7, Chapter 2, Section 5055.5. (2016)

https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=PEN&division=&title=7.&part=3.&chapter=2.&article=

References

California Department of Corrections and Rehabilitation Division of Adult Institutions. 2019. *Counting Rules for Governance Period January-June 2019 Glossary*.

<https://www.cdcr.ca.gov/wp-content/uploads/2019/07/DAI-Counting-Rules-2019A-May-June.pdf> (Accessed September 2019).

Priax Corporation. 2003. "YardGuard Hydro-Force Water Restraint System." *YardGuard Technical Sheet*: 1–2. http://www.priax.com/YardGuard_Catalog_Sheet.pdf (Accessed September 2019).