

**POLICY STATEMENT  
USE OF DEADLY FORCE**

I. Permissible Uses. Law enforcement officers and correctional officers of the Department of Justice may use deadly force only when necessary, that is, when the officer has a reasonable belief that the subject of such force poses an imminent danger of death or serious physical injury to the officer or to another person.

A. Fleeing felons. Deadly force may be used to prevent the escape of a fleeing subject if there is probable cause to believe: (1) the subject has committed a felony involving the infliction or threatened infliction of serious physical injury or death, and (2) the escape of the subject would pose an imminent danger of death or serious physical injury to the officer or to another person.

B. Escaping prisoners.

1. Unless force other than deadly force appears to be sufficient, deadly force may be used to prevent the escape of a prisoner committed to the custody of the Attorney General or the Bureau of Prisons

a. if the prisoner is escaping from a secure institution or is escaping while in transit to or from a secure institution; or

b. if the prisoner is otherwise effecting his or her escape in a manner that poses an imminent danger to the safety of other prisoners, staff, or the public (such as by attempting to ignite explosives).

2. The use of deadly force is not permitted if the subject is in a non-secure facility or a facility under the control of the Immigration and Naturalization Service, and (a) has not used or threatened the use of force likely to cause serious physical injury in his or her escape attempt, and (b) has not otherwise manifested an imminent threat of death or serious physical injury to the officer or community.

3. The use of deadly force is not permitted if the subject is in transit to or from a non-secure facility and is not accompanied by persons who are in transit to or from a secure facility and the subject (a) has not used or threatened the use of force likely to cause serious physical injury in his or her escape attempt, and (b) has not otherwise manifested an imminent threat of death or serious physical injury to the officer or community.

4. After an escape from the facility or vehicle and its immediate environs has been effected, officers attempting to apprehend the escaped prisoner may not use deadly force unless such force would otherwise be authorized in accordance with this policy.

C. Prison Unrest. Deadly force may be used to maintain or restore control of a prison or correctional institution when the officer reasonably believes that the intended subject of the deadly force is participating in a disturbance in a manner that threatens the safety of other

inmates, prison staff, or other persons. The use of deadly force would be unreasonable and thus not permitted to quell a disturbance when force other than deadly force reasonably appears sufficient.

II. Non-Deadly Force. If other force than deadly force reasonably appears to be sufficient to accomplish an arrest or otherwise accomplish the law enforcement purpose, deadly force is not necessary.

III. Verbal Warning. If feasible and if to do so would not increase the danger to the officer or others, a verbal warning to submit to the authority of the officer shall be given prior to the use of deadly force.

IV. Warning Shots. Warning shots are not permitted outside of the prison context. In the prison context, warning shots may be fired within or in the immediate environs of a secure facility if there is no apparent danger to innocent persons: (A) if reasonably necessary to deter or prevent the subject from escaping from a secure facility; or (B) if reasonably necessary to deter or prevent the subject's use of deadly force or force likely to cause grievous bodily harm.

V. Vehicles.

A. Weapons may not be fired solely to disable moving vehicles

B. Weapons may be fired at the driver or other occupant of a moving motor vehicle only when:

1. The officer has a reasonable belief that the subject poses an imminent danger of death or serious physical injury to the officer or another; and
2. The public safety benefits of using such force outweigh the risks to the safety of the officer or other persons.

VI. Vicious Animals. Deadly force may be directed against dogs or other vicious animals when necessary in self-defense or defense of others.

VII. Rights of Third Parties. Nothing in this policy and the attached commentary is intended to create or does create an enforceable legal right or private right of action.

Resolution 14

Attachment B: (Commentary on the Use of Deadly Force in Non-Custodial Situations); (Commentary on the Use of Deadly Force in Custodial Situations)

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DEPARTMENT OF JUSTICE (DOJ) DEADLY FORCE POLICY

2.4 CHAPTER II SUMMARY

- CSOs are contract employees and not employees of the U.S. Government. However, in order to fully provide security services required by the contract, it is deemed essential that all CSOs have the power to enforce Federal law while on a Federal work site during duty hours and while performing contract duties.
- In this regard, all CSOs receive special, limited deputation through the U.S. Marshal. This deputation is limited to the extent that it will only apply while the CSO is on duty at the Federal worksite and in the performance of duties.
- The Firearms Policy states:

A federal law enforcement officer may use deadly force only when necessary, that is, when the officer has a reasonable belief that the subject of such force poses an imminent danger of death or serious physical injury to the officer or to another person.
- The key elements of the Firearms Policy are:
  - Necessary
  - Reasonable Belief
  - Imminent Danger
  - Death or Serious Physical Injury

Firearms Qualification

- The course of fire is designed to simulate real situations and no deviation of ammunition, clothing, stance, or scoring is permitted. This qualification course of fire will be conducted with the following criteria:
  - A. Weapon
  - B. Ammunition
  - C. Firing Distance
  - D. Target
  - E. Clothing
  - F. Scoring
  - G. Qualification
  - H. Safety

## 2.2 FIREARMS POLICY/DEADLY FORCE

The Firearms Policy states:

A federal law enforcement officer may use deadly force only when necessary, that is, when the officer has a reasonable belief that the subject of such force poses an imminent danger of death or serious physical injury to the officer or to another person.

Key elements of the firearms policy are:

- Necessary
- Reasonable Belief
- Imminent Danger
- Death or Serious Physical Injury

### Deadly force

Any force that is likely to cause death or serious physical injury.

### Permissible Uses

The need to use deadly force arises when all other available means of preventing imminent and grave danger to officers or other persons have failed or would be likely to fail. Thus, employing deadly force is permissible when there is no safe alternative to using such force, and without it the officer or others would face imminent and grave danger. An officer is not required to place him or herself, another officer, a suspect, or the public in unreasonable danger of death or serious physical injury before using deadly force.

Determining whether deadly force is necessary may involve instantaneous decisions that encompass many factors, such as the likelihood that the subject will use deadly force on the officer or others if such force is not used by the officer; the officer's knowledge that the subject will likely acquiesce in arrest or recapture if the officer uses lesser force or no force at all; the capabilities of the subject; the subject's access to cover and weapons; the presence of other persons who may be at risk if force is not used; and the nature and the severity of the subject's criminal conduct or the danger posed.

Deadly force should never be used upon mere suspicion that a crime, no matter how serious, was committed, or simply upon the officer's determination that probable cause would support the arrest of the person being pursued or arrested for the commission of a crime. Deadly force may be used to prevent the escape of fleeing subject if there is probable cause to believe:

1) the subject has committed a felony involving the infliction or threatened infliction of serious physical injury or death, and  
2) the escape of the subject would pose an imminent danger of death or serious physical injury to the officer or to another person. As used in this policy, "imminent" has a broader meaning than "immediate" or "instantaneous."

The concept of "imminent" should be understood to be elastic, that is, involving a period of time dependent on the circumstances, rather than the fixed point of time implicit in the concept of "immediate" or "instantaneous." Thus, a subject may pose an imminent danger even if he or she is not at that very moment pointing a weapon at the officer if, for example, he or she has a weapon within reach or is running for cover, carrying a weapon, or running to a place where the officer has reason to believe a weapon is available.

#### **Reasonable Belief**

For purposes of this policy, "probable cause", "reason to believe" and "reasonable belief" mean, that facts and circumstances, including the reasonable inferences drawn therefrom, known to the officer at the time of the use of deadly force would cause a reasonable officer to conclude that the point at issue is probably true. The reasonableness of a belief or decision must be viewed from the perspective of the officer on the scene, who may often be forced to make split-second decisions in circumstances that are tense, unpredictable, and rapidly evolving. Reasonableness is not to be viewed from the calm vantage point of hindsight.

#### **Intermediate Force**

If force other than deadly force could reasonably be expected to accomplish the same end, such as the arrest of a dangerous fleeing subject, without unreasonably increasing the danger to the officer or to others, then it must be used.

#### **Verbal Warning**

If possible and if to do so would not increase the danger to the officer or others, a verbal warning to submit to the authority of the officer shall be given prior to the use of deadly force.

#### **Warning Shots and Shooting to Disable**

Warning shots are not authorized. Discharge of a firearm is usually considered to be permissible only under the same circumstances when deadly force may be used, that is, only when necessary to prevent loss of life or serious physical injury. Warning shots themselves may pose dangers to the officer or others.