

PS 5558.14 FIREARMS AND BADGES



Program Statement

OPI: CPD
NUMBER: 5558.14
DATE: 8/24/2000
SUBJECT: Firearms and Badges

1. **PURPOSE AND SCOPE.** To establish policy and procedures on the carrying and use of firearms by staff.

Title 18 U.S.C. § 3050, authorizes the Attorney General to prescribe rules and regulations relating to the carrying of firearms by Bureau officers and employees. This authority is delegated to the Director in Title 28, CFR Section 0.96(o).

The Bureau maintains authorized firearms for issue to staff during the performance of their duties. Carrying or use of personal or privately owned firearms while on duty is prohibited.

2. **SUMMARY OF CHANGES.** Section 12 of this Program Statement was revised to reference the Program Statement on News Media Contacts as the source of policy regarding public disclosure of any employee names involved in any incident involving the use or discharge of firearms under this Program Statement.

Directives Referenced and Standards Referenced were also revised.

3. **PROGRAM OBJECTIVES.** The expected results of this program are:

a. Staff will be assigned to posts or duties requiring the use of firearms only after receiving training and qualification with the issued weapon.

b. Firearms will be used when necessary to prevent escapes, prevent the loss of life or serious physical injury, protect government property, or maintain or restore control of a correctional institution.

c. Every incident involving the discharge of a firearm except

Standards for the Administration of Correctional Agencies:
2-CO-3A-01

6. **DEFINITIONS. Probable cause, reasonable determination, or reasonable belief** means facts and circumstances known to the employee at the time of the use of firearms that would cause a reasonable employee to conclude that the action is appropriate.

7. **CARRYING OF FIREARMS.** When approved by the Warden, institution staff are permitted to carry firearms when transporting inmates or participating in escape hunts and when assigned to security posts requiring firearms as standard equipment. Post orders, riot plans, and escape plans must include instructions for the carrying of firearms.

a. **Duty Assignment.** New staff will not be assigned to posts requiring the use of firearms before completing the Introduction to Correctional Techniques program at the Federal Law Enforcement Training Center. In extraordinary circumstances, an exception may be made for an employee who has completed the local firearms familiarization training, with written approval of the Warden and Regional Director.

b. **Staff Qualification.** Ordinarily, new staff may not be assigned to posts requiring the use of firearms before completing the Introduction to Correctional Techniques program at the Federal Law Enforcement Training Center. An exception may be made for an employee who has completed the local firearms familiarization training, with written approval of the Warden and the Regional Director.

È Chaplains, dentists, physicians, and other positions which the Director specifically exempts from carrying firearms are not required to complete the firearms familiarization training conducted at the Federal Law Enforcement Training Center or during institution annual firearms training.

c. **Re-qualification.** Staff must satisfactorily complete an approved firearms training course each year.

d. **Other Use of Firearms.** Only the Director or the Director's designee may authorize, in writing, Bureau staff to carry Government-issued firearms for purposes not expressed in this Program Statement.

8. **USE OF FIREARMS.** Firearms are to be used **only when necessary** for the following Law Enforcement purposes:

- prevent escapes,
- prevent loss of life or serious physical injury,
- protect government property, upon determining that the damage or loss of property would contribute directly to an escape, loss of life, or serious physical injury, or
- maintain or restore control of a correctional institution.

Use of firearms **is not permitted** if force other than firearms reasonably appears to be sufficient to accomplish the law enforcement purpose, including but not limited to:

- stopping an escape,
- preventing serious physical injury, or
- restoring control of a correctional institution.

The necessity to use firearms arises when all other available means of achieving the law enforcement purpose have failed or would be likely to fail.

- An employee is not required unreasonably to place his or her life, or that of others, in danger of death or serious injury before using firearms.

If use of firearms is deemed necessary, staff are to shoot the subject's "**center mass**" with the intent of stopping the person.

- Staff **will not** attempt to shoot a limb, since that creates a lesser chance of stopping the subject and may pose a danger to staff, inmates, or persons in the community.

Firearms may not be used solely to disable moving vehicles/ aircraft. Firearms may be used against the driver or other occupant of a moving vehicle only when:

- The employee has a reasonable belief that the subject poses an imminent danger of death or serious physical injury to the employee or others; and
- The public safety benefits of using such force outweigh the risks to the safety of the employee or others.

As soon as practicable medical attention must be provided to any person injured during an incident involving use of firearms.

Firearms may not be used if the employee recognizes a potential escapee as an inmate sentenced under the Juvenile Justice and Delinquency Prevention Act.

a. **Escape Prevention.** Firearms may be used when necessary to prevent an escape in the following situations.

- È Verbal warning and warning shots are not required when the employee reasonably believes there is imminent danger of death or serious physical injury to self or others.
- È When authorized, throughout this policy, warning shots should be used only if there is no apparent danger to other staff, other inmates, or the community.

(1) **Perimeter Walls.** At institutions secured with perimeter walls, prior to using firearms, staff must reasonably believe that an inmate has the capability to escape. For example, the inmate may be carrying items that could be used to escape, such as, but not limited to, a ladder, grappling hook, or rope, suggesting an intent to escape.

An employee who determines an escape is in progress must issue a verbal warning, then fire a **warning shot** prior to shooting the subject.

(2) **Multiple Perimeter Fences.** At institutions secured with multiple perimeter fences, prior to using firearms, staff must reasonably believe that an inmate has the capability to escape. For example, the inmate may be carrying items that could be used to escape, such as, but not limited to, a ladder, blankets, grappling hook, rope, broom handles, or sticks, suggesting an intent to escape.

An employee who determines an escape is in progress must issue a verbal warning, then fire a **warning shot** prior to shooting the subject.

- The inmate does not have to be on the first perimeter fence before the employee issues the warning.

When the inmate actually contacts the first perimeter fence and jumps to climb, or otherwise demonstrates an attempt to get on or over the first perimeter fence, and the employee has reasonably determined an escape is being attempted, the employee may shoot the subject.

- The employee should not wait until the inmate is between the perimeter fences.

(3) **Metropolitan Correctional Centers (MCCs) and Metropolitan Detention Centers (MDCs).** When an employee reasonably determines that an escape is being attempted from an MCC or MDC the employee should give a **verbal warning**. If the inmate continues, the employee may shoot the subject.

- Warning shots are prohibited, due to the possibility of injury to innocent bystanders.

(4) **Minimum Security Institutions.** Ordinarily, firearms are not to be used to prevent escapes from minimum security level institutions; however, they may be used when the escaping inmate has used, or threatened to use, force likely to cause serious physical injury, or has manifested an imminent threat of death or serious physical injury to the employee, other staff, other inmates, or the community.

- Verbal warnings and warning shots should be used when feasible.

(5) **Escapes with Outside Assistance.** Firearms may be used against persons who are not inmates if they are facilitating an escape and have used, or threatened to use, force likely to cause death or serious physical injury against the employee, other staff, other inmates, or the community.

- Verbal warnings and warning shots should be used when feasible.

(6) **Escape from Escorted Trip or Prisoner Transport.** When an employee reasonably determines that an escape is being attempted from an escorted trip or prisoner transport, the employee must issue a **verbal warning**. If the inmate continues, and the escape is occurring within the immediate environs of a correctional institution, the employee is to fire a warning shot, if feasible, prior to shooting the subject.

Outside the immediate environs of a correctional institution, the employee may **not** use warning shots prior to shooting the subject due to the possibility of injury to innocent bystanders.

Absent the use, or threatened use of force likely to cause serious physical injury, or a manifested imminent threat of death or serious physical injury to the employee, other staff, other inmates, or the community, it is not permissible to use firearms to prevent escapes of persons in transit to or from a minimum security level institution unless accompanied by persons in transit to or from a non-minimum security level institution.

(7) **Once An Escape Has Been Effectuated.** After an escape from a transport vehicle or an institution and its immediate environs has been effectuated, employees attempting to apprehend the escaped prisoner may **not** use firearms unless there is probable cause to believe:

(a) the subject has committed a felony involving the infliction or threatened infliction of serious physical injury or death, and

(b) the escape of the subject would pose an imminent danger of death or serious physical injury to the employee or others.

The phrase "**after an escape from a transport vehicle or an institution and its immediate environs has been effectuated**" should be interpreted in the following manner:

- As long as a staff member is pursuing an escaping inmate continuously, whether the escape takes place from an institution, transport vehicle, or outside facility (such as a hospital), the escape has not yet been effectuated and use of firearms is permissible under the escaping inmate standard.
- Immediate environs of an institution is defined as the property lines of the correctional facility. This boundary may be expanded by the Warden with the Regional Director's concurrence and should be defined as explicitly as possible.

A verbal warning should be given if it would not pose a risk of death or serious bodily injury to the officer or others.

- Warning shots are prohibited, due to the possibility of injury to innocent bystanders.

b. **Prevent the Loss of Life or Serious Physical Injury.** Staff may use firearms when they reasonably believe that the subject poses a threat of death or serious physical injury to staff, inmates, or others.

Firearms are to be used in the same manner as for escapes; verbal warnings and warning shots should be given, when feasible, prior to shooting the subject.

When authorized, warning shots should be used only if there is no apparent danger to other staff, other inmates, or the community.

Verbal warnings and warning shots are not required when the employee reasonably believes there is imminent danger of death or serious physical injury to self or others.

In a hostage situation, once it has been contained and attempts to negotiate have begun, only the Warden may order the use of firearms to resolve the hostage situation. Warning shots may not be fired as an attempt to resolve a hostage situation, nor may firearms be used to create a diversion. For further information on hostage situations, see the Correctional Services Manual.

c. Protect Government Property, Upon Determining that the Damage or Loss of Property Would Facilitate Escape, Loss of Life, or Serious Physical Injury. Firearms may be used to prevent damage to or destruction of Government property when the loss of that property could contribute directly to an escape or attempted escape, serious physical injury, or loss of life.

Examples when firearms may be necessary include situations when persons are attempting to damage or disable a fire truck during a fire within the institution or are attempting to break into a building where weapons, gas, or other security risk items are stored.

Firearms are to be used in the same manner as for escapes; verbal warnings and warning shots should be given, when feasible, prior to shooting the subject. When authorized, warning shots should be used only if there is no apparent danger to other staff, other inmates, or the community.

Verbal warnings and warning shots are not required when the employee reasonably believes there is imminent danger of death or serious physical injury to self or others.

d. Maintain or Restore Control of a Correctional Institution. Firearms may be used to maintain or restore control of a correctional institution when the employee reasonably believes that the intended subject of the use of firearms is participating in a disturbance in a manner that threatens the safety of other inmates, other staff, or other persons.

Firearms are to be used in the same manner as for escapes; verbal warnings and warning shots should be given, when feasible, prior to shooting the subject. When authorized, warning shots should be used only if there is no apparent danger to other staff, other inmates, or the community.

Verbal warnings and warning shots are not required when the employee reasonably believes there is imminent danger of death or serious physical injury to self or others.

9. **ARMED ESCORT BY COMMERCIAL AVIATION.** The Warden may authorize staff to carry firearms when transporting an inmate by commercial air carrier.

Title 14 CFR Part 108.11, Carriage Of Weapons, and Part 108.21, Carriage of Passengers Under the Control of Armed Law Enforcement Escorts (1995), allows law enforcement officials, in the performance of their duties, to travel while armed.

- Staff must contact the air carrier and complete any required forms and provide required information prior to departing the institution and follow the procedures detailed in the above referenced regulations.

When not transporting inmates, Bureau staff carrying firearms aboard commercial aircraft must declare this to the carrier and have the weapon placed in checked baggage. The above referenced regulations should be referred to for additional requirements concerning the placement of firearms in checked baggage.

10. **REPORTING REQUIREMENTS.** A written report must be submitted to the Warden upon the discharge of any firearm -- privately owned, issued by the Bureau, or otherwise -- either on or off duty, except for training or recreational purposes.

- For an incident while **on duty**, the report must be submitted prior to the end of the employee's duty shift.
- For an incident while **off duty**, the report must be submitted prior to the end of the employee's next duty shift.

Reporting is required for the discharge of **any** firearm -- privately owned, issued by the Bureau, or otherwise -- either on or off duty, except for training or recreational purposes. The following incidents are to be reported:

- The intentional or unintentional discharge of a firearm by an employee either on or off duty, under circumstances which warrant official notice or review.
- The discharge of a firearm:
 - (1) By anyone during the course of official business.
 - (2) In defense against vicious animals.
 - (3) Resulting in self-inflicted injuries or injuries to another person.
 - (4) By a Bureau employee resulting in an investigation by any law enforcement agency.

The discharge of any firearm, once reported, must be investigated and reviewed in accordance with the Program Statement on After Action Reporting and Review.

11. **IDENTIFICATION BADGES.** Upon request, the Correctional Services Administrator, Central Office, is to issue Bureau identification badges in leather carrying cases to each institution.

The Captain must maintain strict accountability for the badges, and any lost or stolen badges must be reported immediately in writing to the Correctional Services Branch, Central Office. Except for tower and perimeter patrols, staff assigned to duties requiring the carrying of firearms are to be issued an identification badge.

- The badge must be displayed when it is necessary to establish the staff member's authorization to carry a firearm.
- Badges **may not be used** as routine identification.

Employee procurement, or possession of unauthorized badges, either official or duplicated, is prohibited (see the Program Statement on Standards of Employee Conduct and Responsibility).

12. **DISCLOSURE OF BUREAU STAFF NAMES IN SHOOTING INCIDENTS.** Disclosure of employee names following shooting incidents is to be as prescribed in the Program Statement on News Media Contacts.

13. **ACTION.** Each Warden must ensure that:
- a. Each employee receives a copy of this Program Statement.
 - b. The Employee Development Manager provides a current listing of staff qualified to use firearms to the Captain. This list is to be maintained in the Captain's office and Armory and must be available at all times to any authorized individual issuing weapons.
 - c. Procedures contained in this Program Statement are incorporated in Post Orders (General Section) and Emergency Contingency Plans.

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