

**FISH AND WILDLIFE SERVICE
LAW ENFORCEMENT**

Law Enforcement

Part 442 Firearms and Use of Force

Chapter 2 Use of Force

442 FW 2

2.1 What is the purpose of this chapter? This chapter:

- A.** Establishes policy for the use of force by Service law enforcement officers when performing official law enforcement duties,
- B.** Describes the force options available and what level of force is permissible in given situations, and
- C.** Establishes procedures for reporting a use of force incident.

2.2 What is the scope of this chapter?

- A.** This chapter applies to Service law enforcement officers who work for the Office of Law Enforcement and the National Wildlife Refuge System.
- B.** This chapter does not apply to Service law enforcement officers when they use force (including discharging a firearm) in the following circumstances:
 - (1)** For training and qualification exercises,
 - (2)** During approved covert hunting operations, and
 - (3)** For humane reasons (e.g., killing an animal suffering from a fatal injury) or for approved wildlife management purposes.

2.3 Who is responsible for the use of force policy?

A. The Chief – Office of Law Enforcement (OLE):

- (1)** Ensures that all Special Agents within the OLE comply with this policy, and
- (2)** Coordinates with the Assistant Director – National Wildlife Refuge System (NWRS) to develop and revise our use of force policy and procedures.

B. The Assistant Director – NWRS:

- (1)** Works with the Regional Directors (RD) to ensure that all Refuge Law Enforcement Officers comply with this policy, and
- (2)** Coordinates with the RDs and the Chief/OLE to develop and revise our use of force policy and procedures.

C. Service law enforcement officers must:

- (1)** Have a thorough understanding of the force options available to them and when force is reasonably necessary and legally permissible to maintain control of a person or protect themselves or others from harm;
- (2)** Complete any required training or pass qualification before carrying firearms, impact weapons, chemical spray or electronic control devices (see 442 FW 1 for more on firearms qualifications); and
- (3)** Report use of force incidents as required by this policy (see section 2.12).

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D. Supervisors of Service law enforcement officers must:

- (1) Provide authorized defensive equipment to officers who have satisfied the training requirements,
- (2) Report use of force incidents as required by this policy (see section 2.12), and
- (3) Ensure compliance with this policy at the local level.

2.4 What terms do you need to know to understand this chapter?

A. Force. Force is any intervention intended to stop an unlawful action or to induce control or compliance. Force may include, but is not limited to:

- (1) Physical touching of another,
- (2) Striking,
- (3) Kicking,
- (4) Using chemical agents and other intermediate force weapons,
- (5) Using restraints, or
- (6) Using firearms.

B. Level of Force. Level of force refers to the degree of force deemed objectively reasonable, in light of the facts and circumstances confronting the officer, and necessary for the officer to control an individual or situation, or otherwise accomplish a law enforcement purpose.

C. Deadly Force. Deadly force is any force, such as using a firearm, which is likely to cause death or serious injury. This does not include the use of less lethal force that unexpectedly results in death or serious injury.

D. Less Lethal Force. Less lethal force is the level or degree of force that is less likely or not intended to cause death or serious injury.

E. Serious Injury. Serious injury means injury to a person that involves:

- (1) A substantial risk of death,
- (2) Extreme physical pain,
- (3) Obvious disfigurement, or
- (4) Loss or impairment of function of a bodily member, organ, or mental faculty.

F. Reportable Incidents are any use of force or firearms discharge incidents identified below:

- (1) When the use of force by a Service law enforcement officer results in death or serious injury of another individual.

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- (2) When an incident results in death or serious injury to a Service law enforcement officer while performing official duties.
- (3) When an incident involves death or serious injury to anyone in the custody or detention of a Service law enforcement officer.
- (4) When a vehicle pursuit involving a Service law enforcement officer results in death or a serious injury to an individual.
- (5) After a firearms discharge by a Service law enforcement officer, on or off duty except:
- (a) Training and firearms qualifications where no serious injury occurs when a review of the incident has been conducted by the training staff;
 - (b) Authorized destruction of animals or other resource management activities where no serious injury occurs;
 - (c) Recreational activities, such as hunting or sport shooting, where no serious injury occurs; and
 - (d) Approved covert hunting operations.
- (6) Any use of force during a Service-led task force which results in injury or death.
- (7) When a Service law enforcement officer uses unreasonable force or fails to intervene if another officer is using unreasonable force.

2.5 What is the Service policy on use of force?

A. Use of Deadly Force. A Service law enforcement officer may use deadly force:

- (1) When faced with the imminent threat of death or serious injury to the officer or another person and the use of deadly force is objectively reasonable in light of the facts and circumstances confronting the officer.
- (2) To prevent the escape of a fleeing suspect when the officer has probable cause to believe that the suspect poses an immediate threat of death or serious injury to the officer or another person.

B. Use of Less Lethal Force. Service law enforcement officers:

- (1) May use less lethal, defensive, and control tactics and equipment to protect themselves or others from physical harm or to bring a non-compliant subject safely and effectively under control.
- (2) Must not use more force than is objectively reasonable to defend themselves or others or to bring a person under control.

C. Unreasonable Force. Service law enforcement officers must intervene, if a reasonable opportunity exists, when they know or should know that another officer is using unreasonable force.

D. Medical Treatment. Service law enforcement officers must make reasonable efforts to provide medical treatment to individuals suffering from injuries sustained as a result of an officer's use of force. Nothing in the policy requires the officer to provide treatment until the officer believes it is safe to do so.

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2.6 What are the requirements for use of restraints?

A. To justifiably control, restrain, or transport people, Service law enforcement officers may use:

- (1) Handcuffs,
- (2) Flexible cuffs,
- (3) Legcuffs, and
- (4) Body chains/belts.

B. Officers must ensure all arrestees are handcuffed with their hands behind their back when taken into custody and transported in Service vehicles.

C. Officers may handcuff arrestees in the front:

- (1) If extended travel is required,
- (2) For travel on an aircraft, or
- (3) When the physical condition of the arrestee or the mode of transportation or other circumstance makes it unreasonable to handcuff the arrestee behind the back.

D. If possible, officers should use body chains/belts when handcuffing arrestees in the front.

E. Officers must ensure arrestees being transported in vessels are wearing an appropriate personal flotation device.

2.7 What chemical agent may a Service law enforcement officer use and what are the requirements for using it?

A. Oleoresin Capsicum. Non-flammable Oleoresin Capsicum (OC) is the only approved chemical agent that Service law enforcement officers may carry and use.

B. Conditions of Use.

(1) Only Service law enforcement officers who have successfully completed Service-approved training for using OC may use the agent.

(2) Officers may only use Service-owned and issued OC. Officers must not buy or use alcohol-based or flammable OC.

C. Use. OC is a less than lethal force alternative that officers may use to defend against or control actively resistant or violent people. A Service law enforcement officer may use OC to gain control of an individual if he/she reasonably believes that OC is necessary to avoid or end a physical confrontation.

2.8 What are the requirements for using impact weapons?

A. Authorization. Only Service law enforcement officers who have successfully completed a Service-approved training may carry impact weapons. Officers may only carry the same type of impact weapon they used in training.

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B. Use. A Service law enforcement officer may use impact weapons, including but not limited to straight or collapsible batons, to protect themselves or others from physical harm or to bring a non-compliant subject safely and effectively under control

2.9 What are the requirements for using Electronic Control Devices?

A. Authorization. Only Service law enforcement officers who have successfully completed a Service-approved training program in the use of Electronic Control Devices (ECD) may carry them.

B. Use. A Service law enforcement officer may use an ECD to protect themselves or others from physical harm or to bring a non-compliant subject safely and effectively under control.

2.10 What are the requirements for using deadly force?

A. Discharging a firearm towards a person is deadly force (see 442 FW 1 for more information on firearms).

B. A Service law enforcement officer may only discharge a firearm or use deadly force toward another person with the intent of making that person incapable of continuing the action that initially prompted the use of deadly force.

C. If possible, prior to discharging the firearm or using deadly force, the Service law enforcement officer should give a verbal warning to submit to the authority of the officer. The verbal warning is required only if feasible and if doing so would not endanger the officer or another person.

D. A Service law enforcement officer may only fire on a moving vehicle, its operator, or other occupant(s) under the following conditions:

(1) When the vehicle is being used as a weapon and poses an imminent threat of death or serious injury to the officer or to another person, or

(2) When the operator or other occupant in control of the vehicle poses an imminent threat of death or serious injury to the officer or another person.

2.11 May Service law enforcement officers use force against animals? Service law enforcement officers may use deadly force or any reasonable level of force against an animal that poses an imminent danger to the officers or to other people. Officers may use defensive equipment for this purpose.

2.12 What are the Service requirements for reportable incidents?

A. Notifications. Service law enforcement officers, managers, and supervisors must report all reportable incidents (see section 2.4F) in accordance with Service and Department requirements (also see 054 FW 1, Serious Incident Reporting).

B. Discharge of Firearms/Use of Force form. In addition to normal reporting requirements, the Service requires the supervisors of officers involved in reportable incidents to complete a Discharge of Firearm/Use of Force form (FWS Form 3-2401). National Wildlife Refuge System supervisors may delegate this task to the appropriate Zone Officer.

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(1) Purpose. The purpose of the form is to consolidate specific details necessary for the Service to complete a comprehensive investigation and review of the incident. (See 442 FW 3 for more information on Boards of Review.)

(2) Submission. Supervisors of officers involved in a reportable incident must submit FWS Form 3-2401 to the Special Agent in Charge (SAC) of the Professional Responsibility Unit through the appropriate chain of command within 5 working days from the date of the incident.

C. Critical Incident. Service officers, managers, and supervisors must comply with 442 FW 6, Critical Incident Management for any incident involving a Service officer performing official duties or because of official duties that results or may result in serious injury or death (i.e., officer-involved shootings, serious use of force incidents, suicides).

2.13 What is the basis for this use of force policy? This policy is based on the fourth amendment standard of "objective reasonableness" for use of force applications and the U.S. Supreme Court ruling in *Graham v. Connor*, 490 U.S. 386 (1989).

/sgd/ Daniel M. Ashe
DEPUTY DIRECTOR

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