

## **USE OF FORCE – INSTALLATION SECURITY OFFICERS<sup>1</sup>**

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### **1.0 References:**

- 1.1 Arizona Revised Statutes (ARS – June 13, 2013) Title 13, Chapter 4 – Justification
- 1.2 Arizona Revised Statutes (ARS – June 13, 2013) Title 13, Chapter 38, Article 7 – Arrest
- 1.3 AR 190-14 – Carrying of Firearms and Use of Force for Law Enforcement and Security Duties (March 12, 1993)
- 1.4 Arizona Department of Public Safety – 8 Hour Unarmed Security Guard Training Program (February 2, 2007)
- 1.5 Arizona Department of Public Safety - 16 Hour Armed Security Guard Firearms Training Program (February 2, 2007)
- 1.6 Legal Issues Relating to the Use of Deadly Force, Version 14.0, Michael P. Anthony (July, 2010)
- 1.7 Army Regulation 15-6, Procedures for Investigating Officers and Boards of Officers (October 2, 2006)

**2.0 Purpose:** The purpose of this Use of Force Model is to establish guidelines and a standard of conduct regarding levels of force by which all Department of Emergency and Military Affairs (DEMA) Security Officers perform while protecting personnel and property at Arizona National Guard installations, facilities and armories.

**3.0 Scope:** This Use of Force Directive applies to all DEMA Security Personnel who are hereinafter referred to as “Security Personnel” or “Security Officer” in support of the Arizona National Guard mission. This directive includes Security Supervisors and Security Chiefs.

### **4.0 Definitions:**

- 4.1 Reasonable Belief: When the facts and circumstances cause a reasonable and prudent person to act or think in a similar way under the circumstances.
- 4.2 Non-Deadly Force: A tactic that when properly applied has minimal or no risk of causing death.
- 4.3 Deadly Force: Any tactic or use of force that creates a substantial risk of causing death or serious physical injury, such as the use of a firearm.
- 4.4 Serious Physical Injury: A bodily injury that creates a reasonable risk of death; causes serious and permanent disfigurement; or results in long term loss or impairment of the functioning of any bodily member or organ.
- 4.5 Excessive Force: The application of an unreasonable amount of force in a given incident based on the totality of the circumstances.
- 4.6 Types of Resistance:
  - 4.6.1 Psychological Intimidation: Non-verbal cues indicating a subject’s unwillingness or threats through attitude, appearance, and/or physical readiness.
  - 4.6.2 Verbal non-compliance: Verbal responses indicating unwillingness or threats.
  - 4.6.3 Passive Resistance: Physical actions that do not prevent a Security Officer’s attempt to control.
  - 4.6.4 Defensive Resistance: Physical actions that attempt to prevent a Security Officer’s control, but does not involve attempts to harm the Security Officer.

- 4.6.5 Active Aggression: Physical actions of assault.
- 4.6.6 Aggravated Active Aggression: Deadly force encounter.

- 5.0 **Use of Force Policy**: Security Personnel engaged in force protection on installations, facilities and armories will use only the force that is reasonably necessary in conformity with Arizona statutes and the laws and constitution of the United States.
  - 5.1 A security officer may threaten or use physical force against another, but not deadly force, when the security officer reasonably believes physical force is necessary to:
    - 5.1.1 Protect himself or a third person from another's use or attempted use of unlawful physical force;
    - 5.1.2 Protect National Guard facilities and/or property, or facilities or property under the control of the Arizona National Guard, from theft or criminal damage;
    - 5.1.3 Protect against or terminate the commission or attempted commission of a criminal trespass by another person.
  - 5.2 A security officer may threaten or use deadly physical force against another **only when the security officer reasonably believes that deadly physical force is necessary to protect himself or a third person against another's use or attempted use of unlawful deadly physical force.**
  - 5.3 The response option(s) employed will be reasonable and based on the totality of the circumstances.
  - 5.4 Security Personnel involved in the use of force have the responsibility of providing the facts and circumstances they believe justified the use of force by communicating information to their supervisors and completing the necessary reports and memoranda.
  - 5.5 Elements of Force – Security employees shall consider the following:
    - 5.5.1 Ability - Suspect has the reasonable ability to carry out the act.
    - 5.5.2 Opportunity - Suspect has the reasonable opportunity to carry out the act.
    - 5.5.3 Jeopardy - Suspect creates jeopardy to the security employee or others.
  - 5.6 Security Personnel must tailor the type and level of force to its necessity.
  - 5.7 Once a particular level of force is no longer required, Security Personnel must discontinue its use.
  - 5.8 Security Personnel may never use excessive force in discharging their responsibilities. Use of excessive force may result in administrative or civilian disciplinary proceedings and for Guardsmen prosecution under the applicable military justice code, The United States code and/or the Arizona code.
    - 5.8.1 Security Personnel will intervene, if a reasonable opportunity exists, when they know or should know that another security employee is using unreasonable force.
    - 5.8.2 Security Personnel will immediately report any excessive force, or perception of the use of excessive force by any other employee to a supervisor immediately.
  - 5.9 At no time will Security Personnel pursue individuals or vehicles off the installation, or when it potentially could endanger bystanders or other personnel.
  - 5.10 Detention of individuals and vehicles is not authorized unless directly involved a potential deadly force confrontation.
  - 5.11 Verbal provocation alone does not justify use of force, whether non-deadly or deadly.

#### 6.0 **Response Options:**

- 6.1 **Presence & Identification of Authority.** The appearance of properly equipped and well-disciplined personnel at a situation may reduce potential conflict.
- 6.2 **Verbal Direction, Persuasion, or Command:** Commands of direction or an announcement of arrest.

- 6.3 **Request Local Law Enforcement to Respond:** In situations that would lead a reasonable Security Officer to conclude that it might be necessary to use force beyond that of "Presence" or "Verbal Direction, Persuasion, or Command" to resolve, security personnel must (if there is sufficient time and opportunity):
  - 6.3.1 Notify the Security Chief (or in his/her absence the highest ranking security employee on duty).
  - 6.3.2 Call the appropriate law enforcement authority and request them to respond.
  - 6.3.3 Nothing in this section shall prevent nor relieve the Security Officer from taking appropriate actions in accordance with procedures to respond to, evacuate people from, or otherwise protect and safeguard persons in the area, to include the Security Officer.
- 6.4 **Soft Empty Hand Control/Restraint:** Techniques that have a minimal chance of injury. Techniques include:
  - 6.4.1 The application of wrist locks, joint locks, control holds or pressure points to restrain or control a person.
  - 6.4.2 Placing persons in a prone position.
  - 6.4.3 Handcuffing (metal, plastic or soft restraint devices).
- 6.5 **Chemical agents:** Oleoresin Capsicum (OC). Once certified with OC, Security Personnel must carry it whenever on duty and in uniform.
- 6.6 **Intermediate Control Techniques:** Techniques that have a probability of injury, to include:
  - 6.6.1 Hard empty hand control techniques to include body strikes with hands or legs to the subject to include pain and compliance applications.
  - 6.6.2 Impact weapons (baton).
- 6.7 **Taser:** Once certified with Taser, Security Personnel must carry it whenever on duty and in uniform.
- 6.8 **Deadly Force:** Before using deadly force, the following conditions must be met:
  - 6.8.1 All other means have been exhausted or are not practicable under the circumstances.
  - 6.8.2 The use of deadly force does not significantly increase the risk of death or serious bodily harm to innocent persons.
  - 6.8.3 Self defense to avoid the immediate threat of death or serious bodily harm. The threat of harm is not restricted to firearms, but may include assault with bricks, pipes or other heavy missiles, incendiary and explosive devices or any other material which should be reasonable expected to cause deadly physical force.
  - 6.8.4 Security Personnel will not fire warning shots.
  - 6.8.5 Security Personnel will not discharge a firearm from a moving vehicle.
  - 6.8.6 The intentional use of a security vehicle against a person on foot will be considered a use of deadly force.
  - 6.8.7 Security employees driving vehicles will not attempt to collide with other vehicles or use a security vehicle to force any vehicle off the roadway.

**7.0 Response Options – Animals that create a danger or hazard to others**

- 7.1 A security presence should be established quickly to create a buffer zone between animals and persons that may come into the area.
  - 7.1.1 Options include keeping people away from the animals and/or animals away from the people until the threat is removed or until animal control or local law enforcement can respond.

- 7.1.2 Unless the animal creates an immediate threat, security personnel should take the time to develop and carry out a plan of action to protect persons, property, and the animal.
- 7.1.3 Security employees should not place themselves in a position where they unreasonably increase the potential for creating an immediate threat to their safety or others.
- 7.2 Request animal control or local law enforcement to respond.
- 7.3 Security Chiefs shall maintain listings of appropriate animal control/rescue agencies or organizations for their location.

8.0 **Training Requirements:** All Security Personnel will receive both the Department of Public Safety Certified 8 Hour Unarmed Training Program and the 16 Hour Armed Security Guard Firearms Training Program before being authorized to carry any associated weapon or equipment or apply any other tactic within their certification level. An 8 Hour Armed Security Guard Continuing Firearms Training will be required annually to remain on the Security Force.

- 8.1 All use of force training will include components that cover the legal justifications for use of force under Arizona and US law, with particular attention to ARS, Title 13, Chapter 4 as it relates to justifications for the use of physical force and deadly physical force for non-law enforcement persons.
- 8.2 The Directorate of Military Support:
  - 8.2.1 Is the certifying official for all security personnel, training, and duty responsibilities throughout the Arizona Army National Guard and DEMA.
- 8.3 The Security Director shall:
  - 8.3.1 Be the approving authority for all training outlines relating to these Use of Force Policies and Procedures.
  - 8.3.2 Provide direction and clarification to installation security chiefs regarding this directive.
  - 8.3.3 Provide oversight and direction to use of force training programs at all installations.
  - 8.3.4 Seek guidance or clarification from their servicing legal officer or higher command on legal or procedural issues requiring clarification.
- 8.4 Installation Security Chiefs shall:
  - 8.4.1 Ensure all personnel under their direction or control receive training on this directive no less than annually.
  - 8.4.2 Ensure all Security Personnel receive training on the response options at a frequency prescribed by the Director of Security or more often as needed to maintain their proficiency.
  - 8.4.3 Provide direction to Security Personnel, seek clarification through the Security Director, or recommend corrections to procedures any time a portion of this directive is unclear or in need of change.
- 8.5 All Security Personnel shall:
  - 8.5.1 Actively participate in training
  - 8.5.2 Ask questions regarding any use of force policies that are unclear or areas where they feel additional training is necessary.

9.0 **Equipment Requirements:**

- 9.1 Security Personnel will only use equipment they are qualified and certified on such as weapons, chemical agents, batons, and Tasers, as approved by Director of Military of Support. The use or carry of personally owned items is not authorized.

- 9.2 Security personnel will check their assigned equipment on a regular basis in accordance with the schedule recommended during their training. Any equipment in need of repair or replacement will be immediately reported to a supervisor.
- 9.3 Supervisors shall regularly inspect the equipment of Security Personnel under their command to ensure its availability and functionality.

**10.0 Reporting Requirements:**

- 10.1 Any time there is an injury or an alleged injury as a result of force used by any Security Officer, the following will take place:
  - 10.1.1 Examine any person claiming injury and render first aid (appropriate with the level of certification), if necessary.
  - 10.1.2 Request medical support to respond to the scene, if appropriate.
  - 10.1.3 Immediately notify the chain of command.
- 10.2 All uses of force above that of "Presence," "Verbal Persuasion, Negotiation or Command" and "Local Law Enforcement Notification" will be fully reported immediately through the chain of command to the Security Chief.
  - 10.2.1 The Security Chief will make appropriate notifications to the Installation Commander and Joint Operations Center (JOC) as soon as practical.
  - 10.2.2 The JOC shall then notify the DOMS and Director of Security immediately.
- 10.3 All uses of force, regardless of level, will be detailed and incorporated in all reports prepared for the incident.
- 10.4 Actions After Serious Incident and Weapons Discharges: Where the use of force is required, Security will accomplish the following:
  - 10.4.1 Secure, control and isolate the area.
  - 10.4.2 Administer first aid and evacuate casualties, if necessary.
  - 10.4.3 Get unit status of personnel and ammo, if applicable.
  - 10.4.4 Ensure initial reports have been sent to higher headquarters by quickest means.
  - 10.4.5 Get witness' names and identifying information from all involved personnel.
  - 10.4.6 Follow up with Serious Incident Report (SIR) or Command Critical Incident Report (CCIR).
  - 10.4.7 Make no statement to anyone except the following:
    - 10.4.7.1 Chain of command.
    - 10.4.7.2 Military Investigating Officer
    - 10.4.7.3 Local Law Enforcement Officer.
    - 10.4.7.4 Any other person designated in the DEMA Whistleblower and Anti-Reprisal Policy

**11.0 Use of Force Review:**

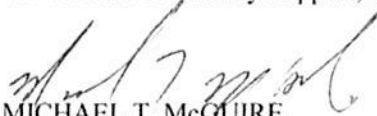
- 11.1 All uses of force involving intermediate control techniques, deadly force, or incidents that result in serious/life threatening injury or death will be reviewed by a 15-6 Command Investigation or a Use of Force Review Board to analyze the facts of the incident and determine the appropriateness of the use of force in accordance with this directive.
- 11.2 The Board will be comprised of individuals as determined by the TAG for each incident, but as a minimum shall include:
  - 11.2.1 The DOMS
  - 11.2.2 The Director of Security
  - 11.2.3 The Administrative Services Officer
  - 11.2.4 The Installation Commander
  - 11.2.5 The JAG (Advisory)

- 11.3 The Board will make recommendations regarding the incident, including the appropriateness of the use of force and whether or not any training issues need to be addressed.
- 11.4 A written summary of the incident and the findings and recommendations of the 15-6 Investigating Officer or the Board will be provided to the TAG.
- 11.5 Persons who violate the Use of Force procedure are subject to disciplinary action up to and including separation from employment, as well as legal action.

**12.0 Post Use of Force Trauma:**

- 12.1 The physical and emotional well being of Security Personnel is a primary concern following any use of force incident. The following guidelines have been established to ensure that the physical and emotional needs of employees are addressed.
- 12.2 Definitions:
  - 12.2.1 Use of Force Incident: Any situation where a security employee seriously injures or kills a person.
  - 12.2.2 Persons Directly Involved: Employees who seriously injure a person or who are seriously injured and those who participate in the incident.
  - 12.2.3 Post Use of Force Trauma: The emotional and physical effects that may occur to persons who have been involved physically or emotionally in a use of force incident.
- 12.3 Assistance at the Scene of Any Use of Force Incident
  - 12.3.1 The Security Chief will make a determination at the scene of each incident to determine the appropriate resources to be utilized. Such assistance could include:
    - 12.3.1.1 Human Resources Personnel
    - 12.3.1.2 Health Services Clinic staff
  - 12.3.2 Appropriate senior personnel, at the discretion of the TAG, will initiate personal contact with the involved security employee and family to provide support and assistance as soon as possible.
- 12.4 Post Use of Force Counseling
  - 12.4.1 Employees Directly Involved in a Use of Force Incident - All employees directly involved in a use of force incident will attend at least one session of psychological debriefing with a contract psychologist.
    - 12.4.1.1 The employee's Security Chief through Human Resources will schedule the psychological debriefing as soon as possible after the incident.
    - 12.4.1.2 Employees will not be returned to enforcement duties until the debriefing is completed. Confidentiality of the items discussed during the visit will be maintained. Verification of the visit from the psychologist office, including authorization to return to work will be forwarded to TAG for review.
  - 12.4.2 Employees not directly involved in a Use of Force Incident - All employees who feel that they are or may be negatively affected as a result of their involvement are strongly encouraged to take advantage of the counseling services available through the Employee Assistance Program.
- 12.5 Post Use of Force Reassignment
  - 12.5.1 Any employee who seriously injures or kills a person and who is able to work may be assigned a paid leave of absence following the incident at the discretion of the TAG.
  - 12.5.2 The employee will be assigned to a non-enforcement position pending administrative review.

- 12.5.3 The employee will attend a psychological evaluation before returning to duty.
- 12.5.4 Any other employee directly involved in a Use of Force Incident resulting in death or serious injury to any person may be reassigned to a non-enforcement position pending administrative review of the incident. The employee will attend a psychological debriefing.
- 12.6 The work shifts for any employee involved in a use of force incident that results in reassignment be coded as Administrative Time.
- 12.7 All employees directly involved in a discharge of a firearm incident will be scheduled by their Security Chief for an appointment at the range prior to returning to enforcement duty from administrative leave.
  - 12.7.1 The Security Chief will accompany the employee to the range along with a designated firearms trainer and tactics trainer for their location.
  - 12.7.2 This appointment will provide employees with the opportunity to fire a handgun and discuss any weapons related questions they may have as a result of their shooting incident.
  - 12.7.3 There will also be the opportunity to discuss any tactical related questions they may have with a tactics instructor.
- 12.8 The administrative review process will be considered complete when:
  - 12.8.1 If found to be within procedures: upon TAG review of the findings of the Use of Force Review Board or 15-6 Investigation.
  - 12.8.2 If found to be contrary to procedures: upon completion of the investigation /review process, grounds for termination might exist.
- 13.0 **Availability:** A copy of this Use of Force Directive will be available at each installation where Security Personnel are deployed at all times for review.
- 14.0 **Point of Contact:** POC for this Directive is the Director of Military Support, at (602) 267-2774.

  
MICHAEL T. McGUIRE  
Major General, AZNG  
The Adjutant General

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<sup>1</sup> This document was reviewed and approved telephonically by Assistant Attorney General Brian Luse on 22 April 2014. A copy of the confirmation e-mail is attached and incorporated by reference.