



Department of Defense DIRECTIVE

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ASD(C3I)

SUBJECT: Use of Deadly Force and the Carrying of Firearms by DoD Personnel
Engaged in Law Enforcement and Security Duties

References: (a) DoD Directive 5210.56, "Use of Force by Personnel Engaged in Law Enforcement and Security Duties," February 25, 1992 (hereby canceled)
(b) Section 1585 of title 10, United States Code
(c) Title 14, Code of Federal Regulations, Part 108.11, "Carriage of Weapons," current edition
(d) Section 1472 of title 49, United States Code
(e) Section 922(g)(9) of title 18, United States Code

1. REISSUANCE AND PURPOSE

This Directive reissues reference (a) and implements the provisions of reference (b) that govern the carrying of firearms *and the use of deadly force* by *DoD military and civilian* personnel performing law enforcement and security duties, and references (c) and (d) that apply to the carrying of firearms by DoD military and civilian personnel aboard commercial aircraft.

2. APPLICABILITY AND SCOPE

This Directive:

2.1. Applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities in the Department of

Defense (hereafter referred to collectively as "the DoD Components"). The term "Military Services," as used herein, refers to the Army, the Navy, the Air Force, and the Marine Corps.

2.2. Authorizes DoD personnel to carry firearms while engaged in law enforcement or security duties, protecting personnel, vital Government assets, or guarding prisoners.

2.3. Does not apply to DoD personnel engaged in military operations and subject to authorized rules of engagement, or assigned to duty in the following areas or situations, as defined by an executive order or a DoD Directive:

2.3.1. In a combat zone in time of war.

2.3.2. In a designated hostile fire area when rules of engagement apply, or when the combatant commander issues operations orders setting forth different criteria.

2.3.3. Under the operational control of another Federal Agency carrying firearms in support of the mission, subject to the approval and requirements of both the Federal Agency and the DoD Component.

2.3.4. Civil disturbance mission area.

2.3.5. Military Services personnel performing training missions.

2.4. Requires that the principles defined in this Directive on use of deadly force with firearms be applied equally to personnel using any weapon or equipment which, when properly employed in their intended application, would exert deadly force.

2.5. Requires establishing criteria for compliance with its provisions by contract security forces.

3. DEFINITIONS

3.1. Armed. Equipped with a loaded firearm.

3.2. Deadly Force. Force that a person uses causing, or that a person knows or should know would create a substantial risk of causing, death or serious bodily harm. Deadly force shall be used only as set forth in enclosure 2.

3.3. Defense Criminal Investigative Organizations (DCIOs). The Naval Investigative Service Command, the Air Force Office of Special Investigations, the Army Criminal Investigations Command, and the Defense Criminal Investigative Service, and any successor organizations.

3.4. Imminent. The determination of whether a particular threat or danger is "imminent" is based on an assessment of all the circumstances known to DoD personnel at the time. "Imminent" does not necessarily mean "immediate" or "instantaneous."

3.5. Locking Device for Firearms

3.5.1. A device that when installed on a firearm and secured by a key or mechanically, electronically, or electro-magnetically operated combination lock prevents the firearm from being discharged without first deactivating or removing the device by means of a key or mechanically, electronically, or electro-magnetically operated combination lock; or

3.5.2. A mechanical, electrical, or electro-magnetic locking mechanism incorporated into the design of the firearm that prevents discharge of the weapon by anyone not having access to the key or other device designed to unlock and allow discharge of the firearm.

3.6. Serious Bodily Harm. Does not include minor injuries, such as a black eye or a bloody nose, but does include fractured or dislocated bones, deep cuts, torn members of the body, serious damage to the internal organs, and other life-threatening injuries.

4. POLICY

It is DoD policy:

4.1. To limit and control the carrying of firearms by DoD military and civilian personnel. The authorization to carry firearms shall be issued only to qualified personnel when there is a reasonable expectation that life or DoD assets will be jeopardized if firearms are not carried. Evaluation of the necessity to carry a firearm shall be made considering this expectation weighed against the possible consequences of accidental or indiscriminate use of firearms. DoD personnel regularly engaged in law enforcement or security duties shall be armed. In addition, safety lock devices and instructions for their proper use shall be provided with all firearms issued to such personnel who have been authorized to retain firearms at their residence or

non-government locations. Procedures on authorization to carry and the carrying of firearms are in enclosure 1.

4.2. That DoD military and civilian personnel engaged in law enforcement or security duties shall avoid the use of force where they can carry out their duties without resorting to its use. In such cases where the use of force is warranted, DoD personnel shall use the minimum amount of force necessary to reach their objective. Deadly force shall only be used as described in enclosure 2.

4.3. That when personnel must carry firearms aboard aircraft, either on their person or in baggage, commercial airline or military passenger service representatives shall be notified before the flight departure. Personnel shall carry written authorization to carry the firearm and proper identification to include a full-face photograph. If the firearm is carried in baggage, the weapon shall be unloaded and securely locked in the baggage. Procedures for the authorization and carrying of firearms on commercial and/or military aircraft are in enclosure 3.

5. RESPONSIBILITIES

5.1. The Assistant Secretary of Defense for Command, Control, Communications and Intelligence shall monitor compliance with this Directive as it relates to counterintelligence, law enforcement and security matters.

5.2. The Inspector General of the Department of Defense shall monitor compliance with this Directive as it relates to criminal investigative policy and law enforcement functions in the DCIOs.

5.3. The Heads of the DoD Components shall:

5.3.1. Authorize DoD personnel to carry firearms in accordance with this Directive. The Director of Administration and Management shall also exercise this authority for OSD and the Defense Legal Services Agency.

5.3.2. Establish, as needed, implementing procedures to ensure compliance with this Directive, and to ensure that all bargaining obligations have been satisfied prior to implementation.

5.3.3. Ensure that local commanders develop criteria, consistent with this Directive and local law, for the carrying of firearms and the use of force by contract security forces.

6. EFFECTIVE DATE

This Directive is effective immediately.



Paul Wolfowitz
Deputy Secretary of Defense

Enclosures - 3

- E1. Guidance on the Arming of DoD Law Enforcement and Security Personnel
- E2. Guidance on Use of Deadly Force
- E3. Guidance for DoD Personnel Who Carry Firearms While Aboard Commercial and Military Aircraft

E1. ENCLOSURE 1

GUIDANCE ON THE ARMING OF DoD LAW ENFORCEMENT AND SECURITY PERSONNEL

E1.1.1. Authorizations to carry firearms shall be granted by the Heads of the DoD Components or their designees. Personnel to be issued a firearm shall be briefed thoroughly on their individual responsibilities and shall receive the mandatory training as required by this Directive.

E1.1.2. An authorization to carry firearms may be granted to personnel authorized to be engaged and in fact engaged in the following activities:

E1.1.2.1. Law enforcement activities, including investigations of espionage, sabotage, and other serious crimes in which DoD programs, personnel, or property are the victim; in cases where DoD personnel are involved in serious crimes; or where investigations are conducted in hazardous areas or under hazardous circumstances.

E1.1.2.2. Protecting classified information, systems, or equipment.

E1.1.2.3. Protecting the President of the United States, high ranking Government officials, DoD personnel, or foreign dignitaries.

E1.1.2.4. Protecting DoD assets and personnel.

E1.1.2.5. Guarding prisoners.

E1.1.3. DoD military and civilian personnel may be authorized to carry firearms for personal protection in overseas areas when the DoD Component headquarters intelligence center identifies a credible and specific threat against DoD personnel in that regional area. Firearms shall not be issued indiscriminately for that purpose. The Heads of the DoD Components, or their designees, must approve authorizations. Before individuals are authorized to carry a firearm for protection under this Directive, the Heads of the DoD Components or their designees must evaluate the probability of the threat in a particular location, the adequacy of support by DoD protective personnel, the adequacy of protection by U.S. or host nation authorities, and the effectiveness of other means to avoid personal attacks.

E1.1.4. Except in situations requiring immediate action to protect life or vital Government assets, all authorizations to carry firearms by personnel shall be in writing, signed by the appropriate authorizing official, and issued only to personnel who

satisfactorily have completed qualification training, proficiency testing, and use of deadly force training within the preceding 12 months. Written authorization does not have to be maintained by the person while the weapon is carried except as noted in paragraph 4.3., above, of this Directive. As a minimum, annual firearm qualification training is also required of all personnel issued and maintaining firearms. Records of individual qualification results must be retained for as long as the individual possesses a firearm.

E1.1.5. DoD military and civilian personnel regularly assigned to law enforcement or security duties may be given a continuing authorization to carry firearms provided they pass the required yearly qualification standards. Personnel assigned firearms for personal protection under the provisions of paragraph E1.1.3., above, shall be authorized to carry firearms on a case-by-case basis only for the duration of specific assignments or threats. Procedures shall be established to ensure that any individual being issued a firearm has written authorization in effect before the actual issuance of the weapon.

E1.1.6. Firearms shall be returned to a designated control point on completion of the assignment for storage and accountability in accordance with Component procedures. The Secretaries of the Military Departments and the Inspector General, Department of Defense may authorize exceptions to this requirement for the DCIOs.

E1.1.7. An individual authorized to carry a firearm is responsible for ensuring proper safeguards to prevent loss, theft, or unauthorized use. All firearms issued to DoD security or law enforcement personnel, who have been authorized to retain such firearms at their residence or

non-government locations, shall be accompanied by safety lock devices and instructions for their proper use.

E1.1.8. The Heads of the DoD Components, or their designees, shall authorize weapons to be carried off an installation by DoD personnel engaged in official duties.

E1.1.9. Only Government-owned and issued weapons and ammunition are authorized to be carried by DoD personnel while performing official duties. The Secretaries of the Military Departments and the Inspector General, Department of Defense, may authorize an exception to this requirement for the DCIOs.

E1.1.10. The Domestic Violence Amendment to the Gun Control Act (reference (e)) makes it a felony for anyone who has ever been convicted of a misdemeanor crime of domestic violence at any time prior to or after the passage of the September 30, 1996 law to possess any firearm or ammunition. There is no exception for law enforcement and security personnel. For any individual who has ever been convicted of a misdemeanor crime of domestic violence within the meaning of this statute, continued retention of any firearm or ammunition, whether Government-issued or privately owned, is illegal and may subject that individual to felony criminal penalties. Penalties may include a sentence of imprisonment of up to 10 years and a fine of up to \$250,000, as well as administrative actions.

E1.1.10.1. Law enforcement or security personnel who have qualifying convictions:

E1.1.10.1.1. May not possess any firearm or ammunition.

E1.1.10.1.2. Must immediately return any Government-issued firearm or ammunition to their supervisor.

E2. ENCLOSURE 2

GUIDANCE ON USE OF DEADLY FORCE

E2.1.1. Guidance regarding the use of deadly force is provided in paragraph E2.1.2., below. The Heads of the DoD Components shall consult, as appropriate, with the General Counsel, Department of Defense, the General Counsel of the DoD Component, or their designees, for legal sufficiency of the Component's use of deadly force implementing guidance. The Heads of the DoD Components, or their designees, may impose further restrictions on the use of deadly force if deemed necessary in their judgment and if such restrictions would not unduly compromise the national security interests of the United States.

E2.1.2. Deadly force is justified only under conditions of extreme necessity and when all three of the following circumstances are present:

E2.1.2.1. Lesser means have been exhausted, are unavailable, or cannot be reasonably employed;

E2.1.2.2. The risk of death or serious bodily harm to innocent persons is not significantly increased by use; and

E2.1.2.3. The purpose of its use is one or more of the following:

E2.1.2.3.1. Self-Defense and Defense of Others. When deadly force reasonably appears to be necessary against a hostile person(s) to protect law enforcement or security personnel who reasonably believe themselves or others to be in imminent danger of death or serious bodily harm by the hostile person(s).

E2.1.2.3.2. Assets Involving National Security. When deadly force reasonably appears necessary to prevent the actual theft or sabotage of assets vital to national security. DoD assets shall be specifically designated as "vital to national security" only when their loss, damage, or compromise would seriously jeopardize the fulfillment of a national defense mission. Examples include nuclear weapons; nuclear command, control, and communications facilities; and designated restricted areas containing strategic operational assets, sensitive codes, or special access programs.

E2.1.2.3.3. Assets Not Involving National Security But Inherently Dangerous To Others. When deadly force reasonably appears to be necessary to prevent the actual theft or sabotage of resources, such as operable weapons or ammunition, that are inherently dangerous to others; i.e., assets that, in the hands of an

unauthorized individual, present a substantial potential danger of death or serious bodily harm to others. Examples include high-risk portable and lethal missiles, rockets, arms, ammunition, explosives, chemical agents, and special nuclear material.

E2.1.2.3.4. Serious Offenses Against Persons. When deadly force reasonably appears necessary to prevent the commission of a serious crime that involves imminent danger of death or serious bodily harm (for example, setting fire to an inhabited dwelling or sniping), including the defense of other persons, where deadly force is directed against the person threatening to commit the crime. Examples include murder, armed robbery, and aggravated assault.

E2.1.2.3.5. Protect Public Health or Safety. When deadly force reasonably appears to be necessary to prevent the destruction of public utilities or similar critical infrastructure vital to public health or safety, the damage to which, would create an imminent danger of death or serious bodily harm.

E2.1.2.3.6. Arrest or Apprehension. When deadly force reasonably appears to be necessary to arrest or apprehend a person who, there is probable cause to believe, has committed one of the serious offenses referred to in subparagraphs E2.1.2.3.2. through E2.1.2.3.5., above.

E2.1.2.3.7. Escape. When deadly force has been specifically authorized by the Heads of the DoD Components and reasonably appears to be necessary to prevent the escape of a prisoner, provided there is probable cause to believe that such person:

E2.1.2.3.7.1 Has committed or attempted to commit one of the serious offenses referred to in subparagraphs E2.1.2.3.2. through E2.1.2.3.5., above; and

E2.1.2.3.7.2 Would pose an imminent danger of death or serious bodily harm to law enforcement or security personnel or to any other person.

E2.1.3. For contract security forces, use of deadly force criteria shall be established consistent with this Directive and local law.

E2.1.4. Personnel shall not be permitted to perform law enforcement or security duties requiring the use of weapons until they have received instruction on applicable regulations for the use of deadly force in the performance of such duties. Additionally, annual refresher training shall be given to all personnel assigned to those duties to ensure that they continue to be thoroughly familiar with all restrictions on the use of deadly force.

E2.1.5. Personnel carrying weapons for personal protection under the provisions of paragraph E1.1.3, enclosure 1, shall have the necessary training on deadly force commensurate with that prescribed by this Directive.

E2.1.6. Additional requirements for the use of firearms:

E2.1.6.1. Warning shots are prohibited.

E2.1.6.2. When a firearm is discharged, it will be fired with the intent of rendering the person(s) at whom it is discharged incapable of continuing the activity or course of behavior prompting the individual to shoot.

E2.1.6.3. Shots shall be fired only with due regard for the safety of innocent bystanders.

E2.1.6.4. In the case of holstered weapons, a weapon should not be removed from the holster unless there is reasonable expectation that use of the weapon may be necessary.

E2.1.6.5. The Heads of the DoD Components may establish additional considerations in implementing procedures over the use of firearms.

E3. ENCLOSURE 3

GUIDANCE FOR DoD PERSONNEL WHO CARRY FIREARMS WHILE ABOARD COMMERCIAL AND MILITARY AIRCRAFT

E3.1.1. The following rules satisfy both the Federal Aviation Administration administrative regulations and military directives for DoD personnel who carry firearms aboard commercial and/or military aircraft: (Those rules were developed to ensure the safety of aircraft and the personnel on the aircraft.)

E3.1.2. DoD personnel authorized to carry firearms aboard commercial and/or military aircraft shall follow the following rules:

E3.1.2.1. Personnel shall possess written authorization to carry firearms, such as a letter of authorization or the DoD Component credentials. Exceptions shall only occur as a result of prior coordination with competent authority.

E3.1.2.2. If the firearm is not required during the flight, the person carrying the firearm shall:

E3.1.2.2.1. Declare to the commercial airline representative or military passenger service representative before the baggage is checked that a firearm is in the baggage and that the firearm is unloaded.

E3.1.2.2.2. Inform the commercial airline representative or military passenger service representative that the container is appropriate for air transportation. If the firearm is a handgun or other weapon that normally is not fired from the shoulder position, the baggage shall be locked and the key shall be kept by the person carrying the firearm.

E3.1.2.3. If a firearm must be accessible during flight, the person carrying the firearm shall:

E3.1.2.3.1. Notify the airlines or passenger service representative at least 1 hour before the plane departs that the weapon shall be carried on the aircraft. If an emergency occurs and the airline cannot be notified 1 hour before the plane departs, then the airline shall be notified expeditiously.

E3.1.2.3.2. Present official Government identification and written authorization, which contain his or her full-face picture, signature, and the official seal of the authorizing organization, to the airline's attendant.

E3.1.2.3.3. Consume no alcoholic beverages eight hours before or during the flight.

E3.1.3. When the total cabin load of an aircraft on a flight for DoD purposes is used exclusively by the DoD Components, the following conditions apply to everyone except law enforcement or security personnel whose duties require that they be armed.

E3.1.3.1. No firearms shall be loaded (i.e., no magazine inserted or rounds in the chambers) and all bolts to such firearms shall be locked in the "open" position and the safety engaged, as appropriate.

E3.1.3.2. Before DoD personnel board the aircraft, the commercial airlines representative or the passenger service representative shall be notified by the unit commander (or officer in charge of the charter) that weapons shall be carried aboard the aircraft.