

SUBJECT:	USE OF FORCE
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USE OF FORCE

- A. Use of force, for the purpose of this section, shall be the use of any physical action, more than simple restraint, to prevent the escape from custody of a person or to effect the arrest of a person or to defend against another person. The handcuffing of a subject is not considered to be the use of force for the purpose of this section. All Agents will be trained in relevant use of force legal issues prior to receiving a Bureau assignment and before being issued Bureau firearms.
- B. For the purpose of this section, deadly force shall be the use of any force likely or intended to cause death or serious bodily injury. Serious bodily injury is such physical injury as causes great pain and suffering. Firing a gun at a person will always be considered as the use of deadly force.
- C. Any Agent who has to use force which results in any visible or apparent injury to a person, or which results in the person saying that he/she is injured, must insure that the person receives medical attention.
- D. Any Agent who uses force on a person shall immediately report this to his/her Special Agent in Charge who will notify the appropriate Assistant Director. If the use of force occurs during the course of a Bureau investigation, the appropriate facts surrounding the use of force will be included in the investigative report. If the use of force did not occur during the course of a Bureau investigation, the Agent involved will submit a written report setting out the details of the incident to his/her Special Agent in Charge.
- E. The Agent's Special Agent in Charge or designated Assistant Special Agent in Charge or other designated supervisory personnel will be responsible for investigating the use of force or referring the incident to the Special Agent in Charge of Professional Standards, if warranted. The Special Agent in Charge of Professional Standards will be responsible for the supervision of all use of force investigations. All use of force incidents involving the discharge of a Bureau Agent's weapon will be investigated by the Special Agent in Charge of Professional Standards.

USE OF FORCE IN ARREST

- A. Subject to the Policy and Procedure Manual, Procedure 4, Use of Force, Use of Force subsection B., Agents will be justified in **using force** upon individuals when and to the extent they reasonably believe it necessary:

SUBJECT:	USE OF FORCE
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1. To prevent escape from custody or to effect an arrest of a person who they reasonably believe has committed a criminal offense, unless they know the arrest is unauthorized; or
 2. To defend themselves or a third person from what they reasonably believe to be the imminent use of physical force while effecting or attempting to effect an arrest or while preventing or attempting to prevent an escape.
- B. Agents will be justified in **using deadly force** upon another person for a purpose specified in the Policy and Procedure Manual, Procedure 4, Use of Force, Use of Force in Arrest, subsection A., above, only when it is or appears to be reasonably necessary to:
1. Defend themselves or a third person from what they reasonably believe to be the use or imminent use of deadly physical force; or to
 2. Effect an arrest or to prevent the escape from custody of a person who they reasonably believe is attempting to escape by means of a deadly weapon, or who by their conduct or any other means indicates that they present an imminent threat of death or serious physical injury to others unless apprehended without delay; or
 3. To prevent the escape of a convicted felon who they reasonably believe is attempting to escape by means of a deadly weapon, or who by their conduct or any other means indicates they present an imminent threat of death or serious physical injury to others unless apprehended without delay.
- a. "Reasonable belief" means:
 - (1) One actually believes the use of force is a necessity; and
 - (2) "The circumstances as they [appear] to the officer [are] sufficient to create a belief in a reasonable person standing in the officer's shoes that the force used was necessary."
 - b. When determining whether an action is reasonably necessary, one should at a minimum take the following factors into account:
 - (1) The type of offense(s) alleged to have been committed;

SUBJECT:	USE OF FORCE
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- (2) The suspect's reputation and/or criminal history;
 - (3) The suspect's words and actions; and
 - (4) Whether the suspect reasonably appears to be in possession or control of a deadly weapon.
- C. There are no circumstances justifying the use of warning shots with a firearm.
- D. Shooting at or from a moving vehicle is prohibited, except where Agents reasonably believe that there is an imminent threat of serious bodily injury or death for himself/herself or for a third party without such action. Before shooting at or from a moving vehicle, the Agent must reasonably believe the only reasonable means of protecting him/herself and/or a third party is the use of deadly force. Before shooting at a moving vehicle, Agents must consider what the consequences might be to the safety of all persons if the driver of the vehicle is shot.
- E. Any Agent who uses force which results in the death or serious bodily injury of any individual will be temporarily assigned to a District/Section/Unit Office for administrative duty. The Agent may be returned to his/her normal duty assignment following compliance with a fitness for duty psychological evaluation, and completion of an internal investigation. The appropriate Assistant Director will be responsible for determining when the Agent may return to his/her normal duty assignment. The Special Agent in Charge will be responsible for ensuring that the incident is immediately reported to the appropriate Assistant Director and to the Special Agent in Charge of Professional Standards.

USE OF OLEORESIN CAPSICUM

The use of Oleoresin Capsicum may be appropriate in situations where Bureau Agents are confronted by individuals displaying violent and aggressive behavior if there is a need to protect the Agent and avoid injury to the individual.

- A. Definition: Oleoresin Capsicum is an irritant naturally occurring in cayenne peppers. It is prepared for use in an aerosol spray.
- B. Agents will be trained in the use and maintenance of Oleoresin Capsicum aerosol by the Training Section prior to its being issued. Agents will carry only Oleoresin Capsicum issued by the Bureau. Oleoresin Capsicum aerosol will not be carried aboard Bureau aircraft without permission of the pilot.

SUBJECT:	USE OF FORCE
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- C. The primary use of Oleoresin Capsicum or other non-deadly force is to temporarily disable an individual when physical restraint is not reasonable or practical and the situation does not warrant the use of deadly force.
- D. Whenever Oleoresin Capsicum is used on an individual, the individual should be immediately exposed to fresh air and allowed to wash the affected areas with water and soap as soon as practicable.
- E. Agents should monitor anyone exposed to Oleoresin Capsicum and if exposure symptoms persist ensure that medical treatment is given.
- F. The individual should be asked if he/she suffers from any respiratory disease or problem and if so, he/she should be provided medical assistance.
- G. Medical assistance will be provided immediately to any individual who has been sprayed with Oleoresin Capsicum and who develops a breathing problem, unconsciousness or other medical problems.
- H. If an individual is committed to a detention facility after being sprayed with Oleoresin Capsicum, he/she will be decontaminated prior to commitment and the facility will be advised that Oleoresin Capsicum has been used on the individual.
- I. Following any use of Oleoresin Capsicum, Agents will prepare and submit an Oleoresin Capsicum Use Report (SBI-12) to the case file with copies to the Special Agent in Charge of Professional Standards and the Training Section.
- J. The use of Oleoresin Capsicum on an individual is considered a use of force and shall be reported as required in Use Of Force, D page 4-1.

EXCESSIVE FORCE

Nothing in this section constitutes justification for willful, malicious or criminally negligent conduct by an Agent which injures or endangers any person or property, nor shall it be construed to excuse or justify the use of unreasonable or excessive force.