

Reclamation Manual

Directives and Standards

Subject:	Use of Force
Purpose:	Establishes uniform procedures regarding the use of force by Bureau of Reclamation law enforcement and security personnel. The benefit of this Directive and Standard (D&S) is that it establishes protocols for the use of force by Reclamation law enforcement and security personnel; explains the legal basis for use of force; and explains the Reclamation procedures to use following a use of force incident or weapons discharge.
Authority:	Reclamation Act of 1902 (June 17, 1902; ch.1093; 32 Stat.388; 43 U.S.C. § 391 et. seq.), as amended and supplemented; Law Enforcement Authority at Bureau of Reclamation Facilities Act of 2001 (November 12, 2001; Pub. L. 107-69; 115 Stat. 593; 43 U.S.C. §§ 373b and 373c); Homeland Security Act of 2002 (November 25, 2002; Pub. L. 107-296, Title XVII, § 1706(b); 116 Stat. 2316 (partially codified at 40 U.S.C. § 1315)); 43 CFR 422, <i>Law Enforcement Authority at Bureau of Reclamation Projects</i> ; Departmental Manual (DM) Part 446, <i>Law Enforcement</i> ; U.S. Supreme Court Case <i>Graham v. Connor</i> , 490 U.S. 386 (1989).
Approving Official:	Director, Security, Safety, and Law Enforcement (SSLE)
Contact:	Chief, Information Sharing and Law Enforcement Support, SSLE (84-42000)

1. Introduction.

- A. One of the greatest trusts placed upon Reclamation's law enforcement and security personnel is the responsibility of balancing the constitutional interests of an individual against the interest of society. It is therefore incumbent upon this office to ensure law enforcement officers and security personnel operating under Reclamation jurisdiction are equipped with the necessary tools to conduct themselves in their official capacities to the full extent of their capabilities without trepidation. It is the intent of this D&S to provide such a tool by ensuring law enforcement officers and security personnel are aware of Reclamation's protocol following such a use of force incident.
- B. Use of force is constitutionally permissible when justifiable and where legal circumstances exist. The U.S. Supreme Court decision, *Graham v. Connor*, 490 U.S. 386 (1989) established "objective reasonableness" as the standard for judging whether the Fourth Amendment has been violated in association with a use of force incident. Per 490 U.S. at 396 "The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the

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scene, rather than with the 20/20 vision of hindsight.” Pursuant to requirements of the Department of the Interior in 446 DM 1.5.E and F, the Director, SSLE has been designated by the Commissioner as the Bureau Director of Law Enforcement (BDLE) and therefore is Reclamation’s Official to promulgate and implement this D&S.

2. **Applicability.** This D&S applies to:

- A. Reclamation law enforcement officers (RLEO) including Hoover Dam police officers;
- B. security guards who are contractors in the service of Reclamation;
- C. armed Federal security guards (AFSG) who are employees of Reclamation;
- D. supervisors and managers of Reclamation employees who are law enforcement and security personnel; and
- E. state or local government, including an Indian Tribe, that has been authorized pursuant to 43 U.S.C. § 373b(c)(2) to act as law enforcement officers to enforce Federal laws and regulations within a Reclamation project or on Reclamation lands, when acting under such authority.
- F. This D&S does not apply to Federal law enforcement personnel to include Bureau of Land Management Special Agents operating under interagency agreement under the authorities of 43 U.S.C. § 373. Those personnel will apply their respective agencies’ policies in a use of force situation.

3. **Definitions.**

- A. **AFSG.** A Reclamation security guard who has been trained, certified, and authorized to carry firearms for the protection of life only within the framework of legal authority, agency policy, and training.
- B. **Deadly Force.** As defined by the Review of the Department of Justice’s Use of Less-Lethal Weapons, deadly force is an amount of force that is likely to cause either serious bodily injury or death to another person.
- C. **Law Enforcement or Security Duties.** Duties performed during the scope of employment to protect and secure Reclamation properties, Reclamation employees, and the public. These duties, depending on job series and position description, may or may not include receiving a law enforcement commission or being delegated the authority to perform certain tasks, carry and use a firearm, perform arrests, etc. This D&S does not give additional authorities to any individual or position, such as carrying or using firearms, beyond those provided for by law.

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- D. **Law Enforcement and Security Managers (LESM).** Positions with direct line authority over armed Reclamation employees who are in a position to use force during the conduct of their official duties. Specifically these are the:
- (1) Special Agent in Charge (SAC);
 - (2) Chief, Hoover Dam Police Department (Chief);
 - (3) Supervisory Security Specialist, Grand Coulee Security Response Force; and
 - (4) positions assigned the direct line authority, contractual responsibility and/or oversight over Reclamation security guards or law enforcement.
- E. **Less than Lethal Force.** As defined by the Review of the Department of Justice's Use of Less-Lethal Weapons, the amount of effort required by law enforcement personnel to compel compliance by an unwilling subject when circumstances require use of some force, but use of deadly force would not be appropriate.
- F. **RLEO.** A person who:
- (1) has entered Federal service through established law enforcement selection criteria;
 - (2) has received professional law enforcement training according to published standards;
 - (3) has been commissioned or sworn to perform law enforcement duties;
 - (4) is authorized to carry a firearm;
 - (5) is authorized to make arrests;
 - (6) is authorized to search for and seize evidence; and
 - (7) has been authorized pursuant to 43 U.S.C. §§ 373b(c)(1) or 373b(c)(2), or any other legal mechanism (e.g. Federal Register notice, interagency agreement, memorandum of agreement, etc.) providing authorization from the Secretary to the RLEO.
- G. **Security Guard/Officer.** Any Reclamation uniformed employee or contractor, armed or unarmed, assigned to security duties for the protection of critical infrastructure, key resources, and facility employees and visitors. They are a member of the facility security force and have the training, equipment, and

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appropriate certifications to perform specific security functions. For the purposes of this D&S, the term “security officers” includes security guards and will be used hereinafter for the sake of brevity.

- H. **Serious Physical Injury.** Any bodily injury which involves a substantial risk of death; protracted and obvious disfigurement; or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

4. Responsibilities.

A. **Director, SSLE.** The Director, SSLE will:

- (1) administer and oversee the Law Enforcement and Security Programs, which include implementing the provisions of Pub. L. 107-69 (43 U.S.C. §§ 373b and 373c) and performing the duties of the Law Enforcement Administrator as specified in 446 DM and in 43 CFR 422.2(d) and 422.5;
- (2) ensure regional guidelines regarding use of force are in compliance with applicable case law, statutes and regulations, policy, and this D&S;
- (3) provide programmatic oversight to ensure all employees to whom this D&S applies, are familiar with and comply with this D&S and other applicable policies and procedures;
- (4) convene a Board of Review regarding use of force incidents in accordance with Reclamation Manual D&S, *Boards of Review* (SLE 06-02); and
- (5) delegate to the appropriate personnel, as deemed necessary, the responsibilities referred to in this D&S, unless otherwise prohibited.

B. **SAC.** The SAC will:

- (1) review and forward to the Director, SSLE (with a copy to the Chief Security Officer (CSO)) any oral or written reports regarding use of force in accordance with the reporting requirements found in 446 DM 17, *Serious Incident Reporting; D&S, Emergency Notification System* (SLE 07-01), Appendix A - *Reportable Incident Criteria*; this D&S; or other applicable policies and/or procedures;
- (2) Ensure that proper investigations are coordinated, conducted and agency reporting adequately addresses the circumstances surrounding the use of force incident; and

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- (3) notify the Director, SSLE; CSO; and the Department's Office of Law Enforcement and Security (OLES) of any use of force incident that results in serious physical injury or death.

C. **LESM.** The LESM will:

- (1) ensure applicable personnel have obtained the necessary training as required by Paragraph 7 of this D&S;
- (2) ensure employees to whom this D&S applies show proficiency and comply with its contents;
- (3) review and forward to the SAC and CSO any oral or written reports regarding use of force in accordance with the reporting requirements found in Appendix A of this D&S, or other applicable policies and/or procedures; and
- (4) ensure that a report, which includes a summary of the incident, is prepared and submitted, through the SAC, and forwarded in accordance with 446 DM 17 *Serious Incident Reporting*, and other applicable policies and procedures.

D. **RLEO, AFSGs, and Security Officers.** RLEO, AFSGs, and security officers will:

- (1) thoroughly understand and comply with all provisions of this D&S that are applicable to their position, authorities, and duties;
- (2) comply with the requirements following a use of force incident found in Appendix A of this D&S;
- (3) notify their supervisor immediately of any use of force incidents that result in serious physical injury or death; and
- (4) complete all reports involving use of force as required by Appendix A of this D&S, or other applicable policies and/or procedures.

5. **Directives.** RLEOs, AFSGs and security officers will use the amount of force reasonably necessary to conduct Reclamation's law enforcement/security operations:

- A. **Use of Deadly Force.** Deadly force as defined in Paragraph 3.B. is used when the RLEO or security officer has a reasonable belief that the subject poses an imminent danger of death or serious physical injury to the RLEO, AFSG, security officer or to another person.

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- B. **Use of Less than Lethal Force.** Less than lethal force as defined in Paragraph 3.E. of this D&S is used to stop an unlawful action or to induce control or compliance.

6. **Deadly Force.**

- A. Use of deadly force parameters include:

- (1) Deadly force may not be used solely to prevent the escape of a fleeing felon.
- (2) If feasible, and to do so would not increase the danger to the RLEO, AFSG, security officer, or others, a verbal warning to submit to the authority of the RLEO or security officer will be given prior to the use of deadly force.
- (3) Firearms may not be fired solely to disable a moving vehicle or watercraft.
- (4) Warning shots are not permitted.
- (5) Deadly force may be directed against animals when they pose an imminent threat/danger to the RLEOs, AFSGs, security officers, or others or when the said personnel are:
 - (a) engaged in authorized wildlife resource management practices, and imminent danger is absent; and
 - (b) engaged in the authorized dispatch of injured animals, and imminent danger is absent.

- B. **Other Considerations When Using Deadly Force.** Of paramount concern is the preservation of life and prevention of physical injury. RLEOs, AFSGs, and security officers who believe a subject poses an imminent danger of death or serious physical injury to themselves or another person will only use the amount of force necessary to preserve life and prevent physical injury to themselves or others involved.

7. **Training.**

- A. All RLEOs and AFSGs will be initially trained in accordance with this D&S and training programs developed and implemented by the Federal Law Enforcement Training Center (FLETC) or other Reclamation identified training institutions that teach approved Federal use of force law and policy.
- B. Reclamation requires annual training regarding use of force for all RLEOs, AFSGs, and security officers.

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- C. Minimum training requirements include practical exercises and classroom curricula in accordance with FLETC standards for use of force.
8. **Rights of Third Parties.** This D&S is not intended to create any right or benefit, substantive or procedural, enforceable at law or in equity, against the United States, the Department, Reclamation, or other entities, its officers or employees, or any other person.
9. **Appendices.**
- A. Procedures Following a Use of Force Incident or Weapons Discharge.
 - B. Use of Deadly Force Case Law.
10. **References:**
- A. 40 U.S.C. § 1315 – *Law enforcement authority of Secretary of Homeland Security for protection of public property.*
 - B. Departmental Manual 446 DM 1, *General Policy and Responsibilities for Law Enforcement Programs.*
 - C. Departmental Manual 446 DM 17, *Serious Incident Reporting.*
 - D. Departmental Manual 446 DM 20, *Use of Deadly Force.*
 - E. Departmental Manual 446 DM 22, *Electronic Control Devices.*
 - F. Departmental Manual 446 DM 23, *Police Canine Units.*
 - G. Reclamation Manual SLE 07-01, *Emergency Notification System.*
 - H. Report Number I-2009-003, *Review of the Department of Justice’s Use of Less-Lethal Weapons*, May 2009.
 - I. Federal Law Enforcement Training Center, *Use of Force Guidelines* (1/07).
 - J. U.S. Department of Justice, Policy Statement on the *Use of Deadly Force* (07/01/2004).
 - K. *Graham v. Connor*, 490 U.S. 386 (1989)
 - L. *Tennessee v. Garner*, 471 U.S. 1 (1985)
 - M. *Scott v. Harris*, 550 U.S. 372 (2007)

RECLAMATION MANUAL TRANSMITTAL SHEET

Effective Date: _____

Release No. _____

Ensure all employees needing this information are provided a copy of this release.

Reclamation Manual Release Number and Subject

Summary of Changes

NOTE: This Reclamation Manual release applies to all Reclamation employees. When an exclusive bargaining unit exists, changes to this release may be subject to the provisions of collective bargaining agreements.

Filing instructions

Remove Sheets

Insert Sheets

All Reclamation Manual releases are available at <http://www.usbr.gov/recman/>

Filed by: _____

Date: _____