



# MANUAL TRANSMITTAL

Department of the Treasury  
Internal Revenue Service

9.2.3

MARCH 28, 2025

## EFFECTIVE DATE

(03-28-2025)

## PURPOSE

- (1) This transmits revised IRM 9.2.3, Use of Force Procedures.

## MATERIAL CHANGES

- (1) Added required Internal Controls to comply with IRM 1.11.2.2.4, Address Management and Internal Controls and IRM 1.4.2, Resource Guide for Managers Monitoring and Improving Internal Controls.
- (2) Replaced “defensive tactics” with “weaponless tactics” throughout the IRM.
- (3) Replaced “accidental” with “negligent” throughout the IRM.
- (4) Removed § throughout the IRM.
- (5) Incorporated Treasury Order 105-12, Policy on the Use of Force, into the IRM.
- (6) Subsection 9.2.3.2 updated to current procedures.
- (7) Removed subsection 9.2.3.2.1(2).
- (8) Subsection 9.2.3.2.2(1) updated to “IRS-CI has Use of Force guidelines for:”
- (9) Removed subsection 9.2.3.2.2(2).
- (10) Subsection 9.2.3.2.4(2) updated to current procedures.
- (11) Added subsection 9.2.3.3, De-Escalation, with paragraphs (1), (2), and (3) to state current procedures.
- (12) Subsection 9.2.3.4 updated to “Weaponless control techniques include:”.
- (13) Subsection 9.2.3.4(1)(f) updated to “Control and arrest techniques”.
- (14) Removed subsection 9.2.3.4(2).
- (15) Subsection 9.2.3.4.1(1) updated to “Weaponless tactics techniques can be classified into four categories:”.
- (16) Subsection 9.2.3.4.1(d) updated to current procedure.
- (17) Subsection 9.2.3.4.2(2) removed “escalate”.
- (18) Subsection 9.2.3.4.3(3) added “and during”.
- (19) Subsection 9.2.3.5 updated section title to “Less Lethal Devices”.
- (20) Subsection 9.2.3.5(1) updated to “Less lethal devices are weapons whose normal use are not intended or likely to cause serious injury or death.”
- (21) Added subsection 9.2.3.5(2) “Special agents are authorized to use agency issued less lethal devices.”

- (22) Subsection 9.2.3.5.1 updated section title to “Authorized Less Lethal Devices”.
- (23) Subsection 9.2.3.5.1(1) updated to current procedures.
- (24) Subsection 9.2.3.5.1(3) updated to “Special agents should not carry OC while assigned to headquarters-initiated protective details.”
- (25) Subsection 9.2.3.5.1(4) updated to current procedures.
- (26) Subsection 9.2.3.5.2 updated section title to “When Less Lethal Devices May Be Carried” and paragraphs (1), (2), (3), and (4) to current procedures on carrying less lethal devices.
- (27) Subsection 9.2.3.5.3 updated section title to “When Less Lethal Devices May Be Used”.
- (28) Updated subsection 9.2.3.5.3, paragraphs (1), (2), (3), and (4) to current procedures on using less lethal devices.
- (29) Subsection 9.2.3.5.5(1) updated to “OC is purchased by Asset Knowledge Management (AKM) and will be distributed to the field offices through HQ.”
- (30) Removed subsection 9.2.3.5.5(2).
- (31) Subsection 9.2.3.5.5(3) updated to “The SAC shall make provisions to ensure that OC is properly disposed of at the expiration of their shelf life.”
- (32) Removed section 9.2.3.5.6, Collapsible Baton Intermediate Weapon.
- (33) Removed section 9.2.3.5.7, When the Collapsible Baton May Be Carried.
- (34) Removed section 9.2.3.5.8, When the Collapsible Baton May Be Used.
- (35) Added subsection 9.2.3.6, Affirmative Duty to Intervene. (1) “Special agents have an affirmative duty to intervene to prevent or stop, as appropriate, any other officer from engaging in excessive force or any other use of force that violates the Constitution, other federal laws, or department policies on the reasonable use of force.”
- (36) Subsection 9.2.3.7(1) updated to “Deadly force is any force that carries a substantial risk of causing death or serious physical injury.”
- (37) Subsection 9.2.3.7.1(1) updated to current procedures.
- (38) Subsection 9.2.3.7.2(1) updated to current procedures.
- (39) Added subsection 9.2.3.7.2, paragraphs (2), (3), (4), and (5) to current procedures on using deadly force.
- (40) Added subsection 9.2.3.7.3 paragraph (1) “Special agents have the affirmative duty to request or render medical aid, as appropriate, where needed.”
- (41) Added subsection 9.2.3.7.5(g) “Family members or emergency contacts of subjects seriously injured or killed in a use of force incident, must be timely notified.”
- (42) Subsection 9.2.3.8 updated all paragraphs to current procedures.
- (43) Subsection 9.2.3.8.1 updated section title to “Discharge of Agency Issued and Authorized Personally Owned Firearms”.
- (44) Subsection 9.2.3.8.1(2) updated to “When a special agent has a negligent discharge of a firearm, they must report the incident via memorandum and forward through channels to the Director, NCITA.”

- (45) Subsection 9.2.3.8.2 updated section title to “Notification When Intentional or Negligent Firearm Discharge Occurs”.
- (46) Subsection 9.2.3.8.2(3) removed “so that a determination of further action can be made:”, added “and/or a mishandling”, and updated paragraphs (a)-(f) to current procedures.
- (47) Removed subsection 9.2.3.8.2(4).
- (48) Subsection 9.2.3.9.1(1)(d) removed “Attention: Use of Force Senior Analyst”.
- (49) Subsection 9.2.3.9.2 updated section title to “If an Agency Issued or Authorized Firearm was Discharged”.
- (50) Subsection 9.2.3.9.2(2) removed “Attention: Use of Force Senior Analyst”.
- (51) Subsection 9.2.3.9.4(2) added “an agency issued or authorized” and removed “Attention: Use of Force Senior Analyst”.
- (52) Subsection 9.2.3.11.3 updated all paragraphs to current procedures.
- (53) Subsection 9.2.3.12(4) added link to Treasury Order 105-12, Policy on the Use of Force.
- (54) Subsection 9.2.3.12.3(3) added link to Treasury Order 105-12, Policy on the Use of Force.
- (55) Editorial changes made throughout the IRM for clarity.

#### **EFFECT ON OTHER DOCUMENTS**

This IRM supersedes IRM 9.2.3 dated June 17, 2015.

#### **AUDIENCE**

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9.2.3

Use of Force Procedures

## Table of Contents

9.2.3.1 Program Scope and Objectives

9.2.3.1.1 Background

9.2.3.1.2 Authority

9.2.3.1.3 Roles and Responsibilities

9.2.3.1.4 Program Management and Review

9.2.3.1.5 Program Controls

9.2.3.1.6 Acronyms

9.2.3.1.7 Related Resources

9.2.3.2 General Guidelines

9.2.3.2.1 Before Using Force

9.2.3.2.2 Levels of Force

9.2.3.2.3 When Force May Be Used

9.2.3.2.4 Responsibilities of Special Agents (SA), Supervisory Special Agents (SSA), and Non-Treasury Law Enforcement Officers

9.2.3.3 De-Escalation

9.2.3.4 Weaponless Control

9.2.3.4.1 Categories of Weaponless Control Techniques

9.2.3.4.2 When to Use Weaponless Control Techniques

9.2.3.4.3 Handcuffs and Restraints

9.2.3.5 Less Lethal Devices

9.2.3.5.1 Authorized Less Lethal Devices

9.2.3.5.2 When Less Lethal Devices May Be Carried

9.2.3.5.3 When Less Lethal Devices May Be Used

9.2.3.5.4 Effect of Oleoresin Capsicum

9.2.3.5.5 Purchase and Disposal of Oleoresin Capsicum

9.2.3.6 Affirmative Duty to Intervene

9.2.3.7 Deadly Force

9.2.3.7.1 Authority to Carry Firearms

9.2.3.7.2 When Deadly Force May Be Used

9.2.3.7.3 When Deadly Force Results in Injury (Role of Special Agents)

9.2.3.7.4 Rights of Special Agents When Deadly Force Results in Injury

9.2.3.7.5 When Deadly Force Results in Injury -Role of Supervisory Special Agents

9.2.3.8 Use of Firearms by Special Agents (Firearms Policy)

9.2.3.8.1 Discharge of Agency Issued and Authorized Personally Owned Firearms

9.2.3.8.2 Notification When Intentional or Negligent Firearm Discharge Occurs

---

9.2.3.9 Post Use of Force Procedures

9.2.3.9.1 Notification When Force Results in Injury

9.2.3.9.2 If an Agency Issued or Authorized Firearm was Discharged

9.2.3.9.3 Coping with the Incident

9.2.3.9.4 Notification When Force Does Not Result in Injury

9.2.3.10 Special Agents' Responsibilities and Authority When Crimes Are Committed Outside the Jurisdiction of IRS

9.2.3.10.1 Federal Crimes

9.2.3.10.2 Non-Federal Crimes

9.2.3.10.2.1 Department of Justice's Position on Representation

9.2.3.11 Medical and Liability Considerations

9.2.3.11.1 The Federal Tort Claims Act

9.2.3.11.1.1 If Injured Person Alleges Violation of Constitutional Rights

9.2.3.11.2 Special Agents' Rights

9.2.3.11.3 Professional Liability Insurance (PLI)

9.2.3.12 Emergency Driving

9.2.3.12.1 Definitions

9.2.3.12.2 Factors to Consider

9.2.3.12.3 Emergency Driving Tactics

9.2.3.12.4 Other Agencies

9.2.3.12.5 Emergency Equipment

9.2.3.12.6 Rights of Third Parties

9.2.3.1  
(03-28-2025)  
**Program Scope and Objectives**

- (1) Purpose: The purpose of this section is to inform and guide special agents in the application of the Treasury Department's Use of Force Policy. This section contains the following information:
  - General Guidelines,
  - Weaponless Control,
  - Intermediate Weapon Control,
  - Deadly Force,
  - Use of Firearms by Special Agents (Firearms Policy),
  - Post Use of Force Procedures,
  - Special Agents' Responsibilities and Authority When Crimes are Committed Outside the Jurisdiction of IRS,
  - Medical and Liability Considerations,
  - Emergency Driving.
- (2) Audience: All Criminal Investigation (CI) employees.
- (3) Policy Owner: Director, National Criminal Investigation Training Academy (NCITA).
- (4) Program Owner: Director, NCITA.
- (5) Primary Stakeholders: All CI employees.
- (6) Contact Information: To make changes to this IRM section email *\*CI-HQ-IRM*.

9.2.3.1.1  
(03-28-2025)  
**Background**

- (1) In the ever-evolving arena of policing, legislative and social change may dictate or influence the acceptable application of force by special agents in performance of the overall mission of the Internal Revenue Service and Criminal Investigation (IRS-CI). It is the privileged responsibility of the NCITA to provide timely and relevant use of force procedures commensurate with legal and social change. It is of utmost importance that CI Special Agents are knowledgeable and confident in their understanding of use of force procedures to protect themselves, the public, and lawfully carry out their duties.

9.2.3.1.2  
(03-28-2025)  
**Authority**

- (1) See IRM 9.1.4, Criminal Investigation Directives and Functional Delegations of Authority, for the delegated authority relating to IRM 9.2.3, Use of Force Procedures.

9.2.3.1.3  
(03-28-2025)  
**Roles and Responsibilities**

- (1) The Director, NCITA, is responsible for developing, maintaining, and overseeing this IRM and ensuring compliance with current policies and procedures.

9.2.3.1.4  
(03-28-2025)  
**Program Management and Review**

- (1) The Director, NCITA will:
  - a. Review this IRM annually.
  - b. Update this IRM when content is no longer accurate and reliable to ensure employees correctly complete their work assignments.
  - c. Incorporate interim content into the next version of this IRM section prior to the expiration date.

9.2.3.1.5  
(03-28-2025)

#### Program Controls

- (1) The Director, NCITA, will review and oversee their program as well as ensuring employee compliance with all applicable elements of this IRM.

9.2.3.1.6  
(03-28-2025)

#### Acronyms

- (1) The table lists commonly used acronyms and their definitions:

Acronym	Description
AKM	Asset Knowledge Management
CI	Criminal Investigation
DOJ	Department of Justice
EAP	Employee Assistance Program
FLEOGSA	Federal Law Enforcement Officers Good Samaritan Act
FTCA	Federal Tort Claims Act
HIDTA	High Intensity Drug Trafficking Area
HQ	Headquarters
IRS-CI	Internal Revenue Service and Criminal Investigation
JTTF	Joint Terrorism Task Force
NCITA	National Criminal Investigation Training Academy
OC	Oleoresin Capsicum
OCDETF	Organized Crime Drug Enforcement Task Force
PLI	Professional Liability Insurance
SAC	Special Agent in Charge
SES	Senior Executive Services
SSA	Supervisory Special Agent
TIGTA	Treasury Inspector General for Tax Administration
USC	United States Code

9.2.3.1.7  
(03-28-2025)

#### Related Resources

- (1) 5 USC 8101, Compensation for Work Injuries.
- (2) 26 USC 7423(2), Repayments to Officers or Employees.
- (3) 26 USC 7608(b), Authority of Internal Revenue Enforcement Officers.
- (4) 28 USC 1346(b) 2671-2680, Federal Tort Claims Act.
- (5) 31 USC 1341(a)(1)(A), Antideficiency Act Resources.
- (6) 31 USC 1518, Adverse Personnel Actions.
- (7) 31 USC 1519, Criminal Penalty.
- (8) IRM 1.4.9, Resource Guide for Management Officials -- Criminal Investigation.



- (9) IRM 9.1.4.8, Directive No. 7 - Emergency Driving.
- (10) *Professional Liability Insurance SharePoint site.*
- (11) *Treasury Order 105–12, Policy on the Use of Force.*

9.2.3.2  
(03-28-2025)  
**General Guidelines**

- (1) It is policy of IRS-CI to value and preserve human life. Special agents may use reasonable force to establish and maintain lawful control, restrain, overcome resistance, or gain compliance or custody of another. This reasonableness will be based on the facts and circumstances known to the special agent at the time force was used. Special agents may use force only when no reasonably effective, safe, and feasible alternatives appear to exist and may use only the level of force that a reasonable officer on the scene would use under the same or similar circumstances.

9.2.3.2.1  
(03-28-2025)  
**Before Using Force**

- (1) If feasible and if doing so would not increase the danger to the officer or others, special agents should:
  - a. Identify themselves as law enforcement officers, and
  - b. Exercise persuasion, advice, and verbal warning.

9.2.3.2.2  
(03-28-2025)  
**Levels of Force**

- (1) IRS-CI has Use of Force guidelines for:
  - a. Weaponless control,
  - b. Less lethal devices,
  - c. Lethal weapons (including firearms).

9.2.3.2.3  
(03-28-2025)  
**When Force May Be Used**

- (1) Force may be used to:
  - a. Minimize the potential for injury,
  - b. Provide for the safety of the agent and others,
  - c. Accomplish duties authorized by law, such as performing a protective function or effecting an arrest.
- (2) The duty of special agents is to take steps to prevent harm to themselves and others.
- (3) Special agents do not have to wait for injury to occur before taking appropriate action.
- (4) Special agents may have to rapidly escalate or de-escalate the use of force depending on the totality of the circumstances.

9.2.3.2.4  
(03-28-2025)  
**Responsibilities of Special Agents (SA), Supervisory Special Agents (SSA), and Non-Treasury Law Enforcement Officers**

- (1) Special agents are required to be familiar with the policies and procedures regarding use of force and post use of force.
- (2) On an annual basis, the Special Agent in Charge (SAC) will ensure that special agents assigned to them will have reviewed use of force and post use of force procedures.
- (3) Non-Treasury law enforcement officers who are participating in task forces sponsored, led, or funded by the Department of the Treasury must comply with this Use of Force Policy. This policy does not apply to non-Treasury law en-

forcement officers who work with IRS special agents on an ad hoc basis or who assist in a one-time law enforcement operation.

9.2.3.3  
(03-28-2025)  
**De-Escalation**

- (1) Agents will be trained in de-escalation tactics and techniques designed to gain voluntary compliance from a subject before using force.
- (2) De-escalation tactics and techniques should be employed if objectively feasible and if they would not increase the danger to the officer or others.
- (3) When feasible, reducing the need for force allows officers to secure their own safety as well as the safety of the public.

9.2.3.4  
(03-28-2025)  
**Weaponless Control**

- (1) Weaponless control techniques include:
  - a. Special Agent presence and approach,
  - b. Identification,
  - c. Verbal commands,
  - d. Contact controls,
  - e. Compliance techniques,
  - f. Control and arrest techniques.

9.2.3.4.1  
(03-28-2025)  
**Categories of  
Weaponless Control  
Techniques**

- (1) Weaponless tactics techniques can be classified into four categories:
  - a. Cooperative control, which relies on communication skills, verbal directions, relative positioning, and special agent presence.
  - b. Contact control such as the escort position and the palm-heel push.
  - c. Compliance techniques such as joint locks and pressure points.
  - d. Weaponless tactics such as escape techniques, striking techniques, and weapon retention.

9.2.3.4.2  
(03-28-2025)  
**When to Use  
Weaponless Control  
Techniques**

- (1) Special agents should use communication skills when they perceive their presence, identification, and verbal commands are sufficient to establish and maintain control.
- (2) Special agents may use contact control, compliance techniques, or weaponless tactics when they perceive these are necessary to establish and maintain control.

9.2.3.4.3  
(03-28-2025)  
**Handcuffs and  
Restraints**

- (1) The purpose of handcuffs, transport handcuff restraints, and flexcuffs is to restrain the movements of a subject or prevent further physical resistance by a subject.
- (2) All subjects taken into custody should be handcuffed behind their backs and the handcuffs should be double locked to ensure the safety of the special agent and other citizens. Exceptions from this procedure are appropriate when:
  - a. The subject has an injury that does not permit handcuffing behind the back.
  - b. The subject's age or physical limitations warrant a change in procedure.
  - c. It is tactically unsafe for the special agent to double-lock the handcuffs. Transporting the subject for extended periods of time and alternative cuffing methods, preferably both or a combination of belly chains and leg

irons, provide adequate safety. When transporting the subject for extended periods of time requires alternative cuffing methods, such as belly chains and/or leg irons.

- (3) All subjects will be handcuffed prior to, and during, searches to ensure the safety of special agents.

9.2.3.5  
(03-28-2025)  
**Less Lethal Devices**

- (1) Less lethal devices are weapons whose normal use are not intended or likely to cause serious injury or death.
- (2) Special agents are authorized to use agency issued less lethal devices.

9.2.3.5.1  
(03-28-2025)  
**Authorized Less Lethal Devices**

- (1) Oleoresin Capsicum (OC) and the collapsible baton are the only authorized less lethal devices that special agents are allowed to carry.
- (2) OC canisters must consist of a nonflammable aerosol propellant, a nontoxic and nonflammable carrier, and a percentage of OC ranging from 5 to 10 percent.
- (3) Special agents are only allowed to carry agency issued collapsible batons and are not allowed to make modifications to issued batons.
- (4) In the absence of an authorized less lethal device, emergency use of a common object is also permitted as a less lethal device.

9.2.3.5.2  
(03-28-2025)  
**When Less Lethal Devices May Be Carried**

- (1) Special agents are authorized to carry less lethal devices only after they have successfully completed IRS-CI authorized training.
- (2) Special agents must have an authorized less lethal device available to them while on duty. When utilized, less lethal devices must be carried in a secure and readily accessible manner. At least one less lethal device should be carried during warrant operations.
- (3) Special agents should not carry OC while assigned to headquarters-initiated protective details.
- (4) Special agents may carry OC on board an aircraft if secured in checked baggage. The OC canister should be placed in a zip-loc type plastic bag and locked in luggage that will be placed in the cargo compartment of the aircraft. Special agents should contact the airline they will be traveling on to verify permission to transport OC in the above manner. If the airline denies permission, the special agents may obtain OC after arriving at their destination from the nearest CI office. The SAC of that field office will make OC available to visiting special agents upon verification that the special agents have completed the approved training.

9.2.3.5.3  
(03-28-2025)  
**When Less Lethal Devices May Be Used**

- (1) Special agents may use approved less lethal devices when they perceive that weaponless control techniques are or may be insufficient to maintain lawful control and it is objectively reasonable to use the device.
- (2) When attempting to strike an assailant with a collapsible baton, special agents should attempt to strike an assailant at the major muscle groups of the arms and legs and avoid strikes to the trunk of the body. Special agents will not intentionally strike the head or neck unless the standard of necessity for the use of deadly force is satisfied, since serious injury or death may occur.

- (3) The collapsible baton may be used as a non-impact weapon when applied to suitable pressure points on an assailant's body.
- (4) Special agents may use less lethal devices to control animals in situations where the animal poses a threat to special agents or other individuals.

9.2.3.5.4  
(03-28-2025)  
**Effect of Oleoresin Capsicum**

- (1) OC is designed to temporarily render an individual incapable of continuing to resist lawful control.

9.2.3.5.5  
(03-28-2025)  
**Purchase and Disposal of Oleoresin Capsicum**

- (1) OC is purchased by Asset Knowledge Management (AKM) and will be distributed to the field offices through HQ.
- (2) The SAC shall make provisions to ensure that OC is properly disposed of at the expiration of their shelf life.

9.2.3.6  
(03-28-2025)  
**Affirmative Duty to Intervene**

- (1) Special agents have an affirmative duty to intervene to prevent or stop, as appropriate, any other officer from engaging in excessive force or any other use of force that violates the Constitution, other federal laws, or department policies on the reasonable use of force.

9.2.3.7  
(03-28-2025)  
**Deadly Force**

- (1) Deadly force is any force that carries a substantial risk of causing death or serious physical injury.

9.2.3.7.1  
(03-28-2025)  
**Authority to Carry Firearms**

- (1) Special agents are authorized to carry firearms to make arrests and seizures per *26 United States Code (USC) 7608(b)*, Authority of Internal Revenue Enforcement Officers.

9.2.3.7.2  
(03-28-2025)  
**When Deadly Force May Be Used**

- (1) IRS-CI special agents may use deadly force only, when necessary, that is, when the special agent has a reasonable belief that the subject poses an imminent danger of death or serious physical injury to the agent or another person.
- (2) Deadly force may be used to prevent the escape of a fleeing subject where the special agent has probable cause to believe that subject poses an imminent threat of death or serious physical injury to the agent, or another person and such force is necessary to prevent escape.
- (3) If feasible and if doing so would not increase the danger to the special agent or others, a verbal warning to submit to authority should be given prior to the use of force.
- (4) IRS-CI special agents are prohibited from using a choke hold or a carotid restraint unless the standard of necessity for the use of deadly force is satisfied.
- (5) Special agents may direct deadly force against dogs or other animals when necessary for self-defense or the defense of others.

9.2.3.7.3

(03-28-2025)

## **When Deadly Force Results in Injury (Role of Special Agents)**

- (1) Special agents have the affirmative duty to request or render medical aid, as appropriate, where needed.
- (2) Special agents should apply the following procedures when injury, property damage, or death results from the use of deadly force. These procedures are intended as guidelines; they are not intended to be all-inclusive or limiting.
- (3) Special agents should:
  - a. Place the subject under arrest (if appropriate), read the subject the Statement of Rights, and secure any weapons present.
  - b. Call for medical assistance for all injured parties.
  - c. Notify their immediate supervisor.
  - d. If the situation coincides with a protection detail, evacuate the protect-ee(s) to a safe location.
  - e. Secure the scene if possible until local law enforcement arrives.
  - f. Identify individuals with knowledge of the incident for subsequent inter-views by local law enforcement authorities and the Treasury Inspector General for Tax Administration (TIGTA).
  - g. Compile notes, as soon as possible to maintain accuracy.
  - h. Furnish their firearms, if discharged, to local law enforcement authorities. This should be done through the SSA or senior special agent on site and a receipt should be obtained.
  - i. Cooperate with local law enforcement authorities and the TIGTA by identi-fying themselves and providing information in a manner and to the extent consistent with the constitutional protection of special agents, (e.g., that firearms were discharged (or other deadly force employed) while acting in an official capacity; that medical assistance has been requested; that suspects are in custody).
  - j. When discussing the incident, exercise caution so that confidential tax in-formation is not disclosed.

9.2.3.7.4

(01-23-2004)

## **Rights of Special Agents When Deadly Force Results in Injury**

- (1) Special agents have the same constitutional protections as other individuals, (e.g., due process, the right to counsel, etc.).
- (2) Special agents cannot be compelled to make self-incriminating statements.
- (3) The United States **may** provide legal representation, depending on the facts of the incident and the type of action(s) initiated.
- (4) Special agents may choose to consult a private attorney before providing any oral or written statements.
- (5) Special agents will be responsible for selecting and paying for a private attorney.

9.2.3.7.5

(03-28-2025)

## **When Deadly Force Results in Injury -Role of Supervisory Special Agents**

- (1) The SSA or senior special agent at the site should:
  - a. Oversee protection of subject(s), witness(es), other special agents, and the evidence.
  - b. Notify local law enforcement authorities and the TIGTA.
  - c. Act as an intermediary or assign a “companion agent” to act as an inter-mediatary between the special agents, the TIGTA, and local law enforcement authorities until the special agents regain their composure and understand their rights.

- d. Ensure that the special agents involved in the incident receive prompt medical attention, if needed; are removed from the scene as soon as possible; and are not subject to media attention.
- e. If the discharge of a special agent's firearm resulted in injury or death, ensure that the firearms and spent cartridges are placed into evidence with local law enforcement authorities. Normally, a different firearm is issued to the special agent until their regular weapon is returned.
- f. If special agents are injured, personal contacts should be afforded to their families and transportation provided to the site of treatment. If feasible, the contacts should be by someone who knows the families, by a senior special agent, or by an SSA.
- g. Family members or emergency contacts of subjects seriously injured or killed in a use of force incident, must be timely notified.
- h. For more detailed information about the role of a SSA in trauma situations, see IRM 1.4.9, Resource Guide for Management Officials -- Criminal Investigation.

## 9.2.3.8

(03-28-2025)

**Use of Firearms by  
Special Agents  
(Firearms Policy)**

- (1) Special agents may discharge their firearms only, when necessary, that is, when the special agent has reasonable belief that the suspect poses an imminent danger of death or serious physical injury to the agent or to another person.
- (2) Except from participating in an enforcement action, special agents must conceal their handguns upon their persons, keeping them away from public view when conducting official business. However, special agents may display their handguns, if they feel it will relieve a threat against special agents or others.
- (3) Special agents should draw their handguns only when it is objectively reasonable to do so, such as if there is sufficient cause to expect they will be used and doing so affords the agent a tactical advantage.
- (4) Special agents may not fire their firearms solely to disable a moving vehicle. Special agents may fire their firearms at the driver or other occupants of a moving motor vehicle **only** when:
  - a. Special agents and others are in imminent danger of serious physical injury or death; **and**
  - b. Public safety benefits of using such force outweigh the safety risk to special agents or others.
- (5) Warning shots are prohibited due to the risk they pose to innocent parties. In addition, warning shots can communicate to fellow agents/officers that the use of deadly force is warranted, leading to improper reactions.
- (6) Special agents detailed and/or temporarily assigned to another federal law enforcement agency, will follow the policies and guidelines promulgated by that agency (e.g., temporary Air Marshal, Secret Service details, etc.)
- (7) Special agents detailed and/or assigned to multi-agency task forces will follow IRS-CI policies and guidelines (e.g., Joint Terrorism Task Force (JTTF), Organized Crime Drug Enforcement Task Force (OCDETF), High Intensity Drug Trafficking Area (HIDTA), etc.).



## 9.2.3.8.1

(03-28-2025)

### **Discharge of Agency Issued and Authorized Personally Owned Firearms**

- (1) When a special agent discharges a firearm while in the performance of official duties, the post use of force procedures outlined in this section must be followed. These procedures do not apply to routine firearm discharges, such as during firearms training, qualification, testing, etc.
- (2) When a special agent has a negligent discharge of a firearm, they must report the incident via memorandum and forward through channels to the Director, NCITA.

## 9.2.3.8.2

(03-28-2025)

### **Notification When Intentional or Negligent Firearm Discharge Occurs**

- (1) In all instances where a non-training intentional discharge of a firearm occurs, the following notifications must be made, as soon as possible:
  - a. The involved special agent must notify their immediate supervisor of the incident.
  - b. The immediate supervisor must notify TIGTA and the SAC or equivalent level supervisor.
  - c. The SAC, or equivalent level supervisor, must submit a copy of DEA Form 6, Report of Investigation, completed by TIGTA to the Director, NCITA.
- (2) When a special agent has a negligent discharge of a firearm, they must report the incident via memorandum and forward through the appropriate channels, as noted below, to the Director, NCITA.
- (3) In all situations where a negligent discharge and/or mishandling of a firearm occurs, notification must be made, as soon as possible according to the following procedures:
  - a. The involved special agent must notify their immediate supervisor in all negligent discharge situations. Of instances involving weapons mishandling or negligent discharges of a weapon (live weapon or training weapon) occurring in a training environment, the Use of Force Coordinator must be notified and in turn will notify their immediate supervisor.
  - b. The supervisor, with the assistance of the Use of Force Coordinator, when appropriate, and/or the special agent involved in the incident, will prepare a memorandum containing facts surrounding the incident and submit a copy of the memorandum to the SAC or equivalent level supervisor.
  - c. The SAC or equivalent level supervisor will review and submit a copy of the memorandum to their respective Director, Field Operations or Headquarters (HQ) Senior Executive Services (SES) Director.
  - d. In all instances of weapons mishandling and/or negligent discharge, the Director, Field Operations or HQ SES Director must contact their assigned CI Employee Relations and Medical Section personnel to consult on appropriate action. The CI Disciplinary Board has the delegated authority to review and adjudicate all issues related to firearms. TIGTA should also be notified.
  - e. Weapon mishandling and negligent discharges during training or non-training will require the special agent to surrender their IRS-issued weapon to the appropriate SAC, or designee, and be placed on temporary restrictive duty until the Disciplinary Review Board has adjudicated the incident.
  - f. If termination does not occur, following the disciplinary action, if any, the special agent will be removed from temporary restrictive duty and at a

minimum participate in 2 hours of general remedial firearms training and 2 hours of specific remedial training relative to the particulars of the incident.

9.2.3.9  
(08-14-2000)

**Post Use of Force  
Procedures**

- (1) After force is used in an official capacity, special agents must follow these procedures.

9.2.3.9.1  
(03-28-2025)

**Notification When Force  
Results in Injury**

- (1) In all instances where use of force results in injury, serious property damage, or death, the following notifications must be made:
  - a. The involved special agents or assisting special agents (if the involved special agents are incapacitated due to injury) must immediately notify their immediate supervisor of the incident regardless of the time of day.
  - b. The immediate supervisor must immediately notify TIGTA and the SAC.
  - c. The SAC must then notify the Director, Field Operations, who will in turn notify the Chief, CI.
  - d. Special agents must complete page one of Form 9776, Use of Force Incident Report, including a narrative and submit it to the SAC. A copy of this report and attached narrative must be sent through the appropriate channels to the Director, NCITA.

9.2.3.9.2  
(03-28-2025)

**If an Agency Issued or  
Authorized Firearm was  
Discharged**

- (1) If a firearm was discharged and resulted in injury, serious property damage, or death, the following notifications must be made to the:
  - a. Chief, Criminal Investigation, and
  - b. Director, NCITA.
- (2) Absent any legitimate Fifth Amendment (privilege against self-incrimination) concerns, special agents must complete Form 9776, Use of Force incident Report, including a narrative. A copy of this report and attached narrative must be sent through the appropriate channels to the Director, NCITA.
- (3) This procedure must be followed irrespective of whether shots were fired by special agents/officers of other law enforcement agencies, a subject, or a third party.

9.2.3.9.3  
(01-23-2004)

**Coping with the Incident**

- (1) Psychological counseling is available to special agents involved in a use of force incident that resulted in serious injury or death. All communications between the special agents and the psychological counselor will fall under the patient-doctor confidentiality rules.
- (2) Psychological counseling is also available to the agent's immediate family members.
- (3) Special agents involved in a use of force incident and/or their family members may contact the Employee Assistance Program's (EAP) toll free line for law enforcement officers and their families. Counselors with a law enforcement background are available 24 hours a day, 7 days a week to address the unique concerns of law enforcement and their families. In addition to telephone counseling, face to face meetings can also be requested. A counselor can be reached regarding law enforcement concerns at 1-888-270-8958.



- (4) At the discretion of the SAC, administrative leave may be granted to special agents involved in an incident that resulted in serious injury or death.

9.2.3.9.4  
(03-28-2025)  
**Notification When Force Does Not Result in Injury**

- (1) If a special agent uses force at the level of compliance techniques or higher they must complete Form 9776, including a narrative and submit it to the SAC. A copy of this report and attached narrative must be sent to the Director, NCITA.
- (2) If an agency issued or authorized firearm is discharged, special agents must complete page 2 of Form 9776. A copy of this report and attached narrative must be sent to the Director, NCITA.

9.2.3.10  
(04-14-2011)  
**Special Agents' Responsibilities and Authority When Crimes Are Committed Outside the Jurisdiction of IRS**

- (1) The extent of a special agent's responsibilities and authority with respect to crimes committed outside the jurisdiction of IRS is determined, in the first instance, by whether the crimes committed are federal or non-federal.

9.2.3.10.1  
(06-17-2015)  
**Federal Crimes**

- (1) Special agents on official duty are expected to respond when a federal crime is committed in their presence by:
  - a. Notifying the appropriate federal, state or local agency; and
  - b. Responding as federal law enforcement officers **if** there is an imminent threat of death or serious injury or an incident in which the special agents are inextricably involved.

9.2.3.10.2  
(03-28-2025)  
**Non-Federal Crimes**

- (1) The Federal Law Enforcement Officers Good Samaritan Act (FLEOGSA) provides federal law enforcement officers "scope of employment coverage and protection when taking reasonable action to protect individuals from injury or bodily harm during the commission of a crime of violence."
- (2) The law states "...a law enforcement officer shall be construed to be acting within the scope of their employment, if the officer takes reasonable action, including the use of force to: (1) protect an individual in the presence of the officer from a crime of violence; (2) provide immediate assistance to an individual who has suffered or who is threatened with bodily harm; or (3) prevent the escape of any individual who the officer reasonably believes to have committed in the presence of the officer, a crime or violence."
- (3) A "scope of employment" determination is required before the government can represent IRS employees. Moreover, a determination that the employee acted "in the due performance of their official duty" is a prerequisite to reimbursement for monetary judgments against IRS employees, *26 USC 7423(2)*, Repayments to Officers or Employees.
- (4) The FLEOGSA does not enhance the law enforcement authority or jurisdiction of any federal law enforcement officer, nor does it require federal law enforcement officers to become involved. Rather, it assures the agents that if they take reasonable actions to intervene in a crime of violence that may result in a loss of life or serious bodily harm, the Act will provide the agents with significant protection from liability.

- (5) Any actions taken must be “a reasonable officer’s response” as established in *Graham vs. Connor*. In some circumstances, notifying the local authorities rather than becoming involved will be the appropriate response.
- (6) Special agents must always follow the Treasury Department’s Use of Force Guidelines when a firearm is used. These guidelines must be followed regardless of whether a particular state or local law may be more liberal in allowing law enforcement officers to use firearms.

9.2.3.10.2.1  
(01-23-2004)

**Department of Justice’s  
Position on  
Representation**

- (1) The Department of Justice (DOJ) is currently prohibited by statute from representing special agents who acted outside the scope of their employment.
- (2) The DOJ will determine on a case-by-case basis whether special agents acted within the scope of their employment and whether representation by the government is in the interest of the United States.

9.2.3.11  
(08-14-2012)

**Medical and Liability  
Considerations**

- (1) When a subject is injured during the application of a weaponless control technique or less lethal technique, special agents must ensure that the subject receives medical attention, as soon as possible.
  - a. If an injured subject refuses medical assistance, special agents cannot force the subject to receive treatment.
  - b. If a subject in custody refuses treatment, documentation should be obtained from medical personnel that the subject refused treatment.
- (2) If special agents cause injury to a person, the injured person is responsible for paying for needed medical services regardless of how the person was injured, even if by accident.
- (3) Special agents do not have the authority to pay or commit federal funds for medical services to a person injured by special agents, see *31 USC 1341(a)(1)(A)*, Limitations on expending and obligating amounts.
  - a. Inadvertently violating this act could result in administrative discipline, including employment termination. See *31 USC 1518*, Adverse Personnel Actions.
  - b. Violating this act knowingly could result in a fine and imprisonment. See *31 USC 1519*, Criminal Penalty.

9.2.3.11.1  
(01-23-2004)

**The Federal Tort Claims  
Act**

- (1) The Federal Tort Claims Act (FTCA), *28 USC 1346(b) 2671-2680*, allows an individual to claim damages against the United States for injury or death caused by the negligent or wrongful acts or omissions of special agents acting within the scope of their employment, where the United States, if a private person, would be liable under applicable state law.
- (2) For a person to obtain damages, special agents must have acted in a negligent or wrongful manner.
- (3) For the United States to assume liability, special agents must have been acting within the scope of their employment, as determined by the state law where an injury occurred. Otherwise, the United States will not assume liability and special agents acting outside the scope of their employment could be sued in state court and held personally liable for damages upon a judgment against them.

9.2.3.11.1.1  
(01-23-2004)

**If Injured Person Alleges  
Violation of  
Constitutional Rights**

- (1) If an injured person alleges a violation of their constitutional rights, that person could file a lawsuit against the special agents. This is known as a *Bivens* suit (see *Bivens v Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971)). Unlike FTCA cases, special agents are the defendants and not the United States. Special agents will be represented by the government if DOJ determines the special agents were acting within the scope of their official duties and representation is in the interest of the United States. The special agents will be personally liable upon a judgment against them. However, 26 IRC 7423(2) authorizes the Secretary of Treasury to repay damages and costs recovered against federal employees in any suit brought against them by reason of anything done within the scope of their official duties.

9.2.3.11.2  
(07-16-2002)

**Special Agents' Rights**

- (1) If special agents are injured in the performance of their official duties, the special agents may file claims under the Federal Employees' Compensation Act. See *5 USC 81, Compensation for Work Injuries*.

9.2.3.11.3  
(03-28-2025)

**Professional Liability  
Insurance (PLI)**

- (1) PLI is available through private insurance carriers for CI employees. Employees are personally responsible for contacting a private insurance carrier of their choosing to secure PLI and payment of the premiums.
- (2) The following groups of employees are eligible for PLI reimbursement:
  - a. Executives,
  - b. Managers,
  - c. Supervisors,
  - d. Management Officials,
  - e. Criminal Investigation Special Agents.
- (3) The PLI reimbursements will be paid at 50 percent of the cost of premiums paid during the fiscal year. The reimbursement will be included in salary payments and will also be reflected on earnings and leave statements. There is no deadline by which reimbursement requests must be received. One of the following methods will be used to compute reimbursements for PLI premiums paid:
  - a. By payroll allotment and based on 50 percent of the payroll deductions made during the fiscal year.
  - b. Directly to insurance carriers and prorated based on the premium amount for insurance coverage during the fiscal year.
- (4) To receive 50 percent reimbursement of premiums paid during a fiscal year, eligible employees must complete Form 14505, Self-Certification of Premiums Paid for Professional Liability Insurance, form after the end of the fiscal year. The form can be obtained from the *Employee Resources - PLI SharePoint site*. Email forms to HCO.HRSS.Florence@irs.gov or eFax forms to 855-207-0460.

9.2.3.12  
(03-28-2025)

**Emergency Driving**

- (1) Criminal Investigation special agents may engage in emergency driving only when the seriousness of the emergency outweighs the danger created by such driving. When engaging in emergency driving, special agents must continually balance the need to engage in such driving against safety considerations.

- (2) IRM 9.1.4.8, Directive No. 7 - Emergency Driving, establishes guidelines consistent with a uniform Treasury standard for law enforcement officers to use in making decisions regarding emergency driving.
- (3) The goal of this directive is to ensure the safety of law enforcement officers, other persons involved, and the public by balancing the seriousness of the emergency with safety considerations.
- (4) IRM 9.1.4.8, Directive No. 7 - Emergency Driving, applies when a suspect is being followed to make an apprehension, surveillance is being conducted, or exigent circumstances exist. It encompasses driving situations in which the posted speed limit or other traffic laws are disregarded. The directive also notes that some driving maneuvers with a vehicle, referred to as emergency driving tactics (i.e., blocking, ramming, forcing vehicles off the road), may constitute the use of deadly force and may only be used in compliance with *Treasury Order 105-12, Policy on the Use of Force*.

9.2.3.12.1  
(03-26-2008)  
**Definitions**

- (1) Emergency Driving: Driving in a manner that disregards the posted legal speed limits or other traffic laws for one or more of the following purposes:
  - a. Following a suspect vehicle to make an apprehension,
  - b. Conducting surveillance,
  - c. Responding to other exigent circumstances.
- (2) Emergency Driving Tactics: Emergency driving tactics are maneuvers made while pursuing a vehicle that are likely to cause deliberate physical contact between the vehicles. Examples of emergency driving tactics may include blocking (except for slow moving vehicles), cutting off, ramming, and forcing vehicles off the roadway.
- (3) Deadly Force: Deadly force is the use of any force that is likely to cause death or serious physical injury. Deadly force does not include force that is not likely to cause death or serious physical injury but unexpectedly results in such death or injury.

9.2.3.12.2  
(03-26-2008)  
**Factors to Consider**

- (1) When balancing the need for emergency driving with safety considerations, CI special agents should consider all relevant factors, including but not limited to the following:
  - a. The nature of the emergency.
  - b. The imminent danger to public safety if a suspect is not apprehended.
  - c. The seriousness of the offense.
  - d. The probability of apprehending a suspect later.
  - e. The location, weather, speed, traffic, and road conditions.
  - f. The time of day.
  - g. The presence of pedestrians.
  - h. The special agent's driving ability.
  - i. The condition of all the vehicles involved.
  - j. The availability of emergency equipment.
  - k. The availability of assistance from uniformed police officers in marked police vehicles.
  - l. The possibility of alternative courses of action.

9.2.3.12.3  
(03-26-2008)  
**Emergency Driving  
Tactics**

- (1) In some circumstances, emergency driving tactics may constitute the use of deadly force. Those emergency driving tactics that are likely to cause death or serious physical injury may constitute the use of deadly force. Special agents may use deadly force only when necessary; that is, when the special agent has a reasonable belief that the subject of such force poses an imminent danger of death or serious physical injury to the special agent or to another person.
- (2) Deadly force may be used to prevent the escape of a fleeing subject if there is probable cause to believe:
  - a. The subject has committed a felony involving the infliction or threatened infliction of serious physical injury or death; or
  - b. The escape of the subject would pose an imminent danger of death or serious physical injury to the officer or to another person.
- (3) If force, other than deadly force, reasonably appears to be sufficient to accomplish an arrest or otherwise accomplish the law enforcement purpose, the use of deadly force is not necessary. See *Treasury Order 105-12, Policy on the Use of Force*, for additional guidance.

9.2.3.12.4  
(08-14-2012)  
**Other Agencies**

- (1) In the planning of Treasury led joint operations involving other federal, state, or local law enforcement agencies, each participant will be informed of this policy and that this policy will be controlling.

9.2.3.12.5  
(03-26-2008)  
**Emergency Equipment**

- (1) Criminal Investigation should review state requirements for emergency systems/equipment on vehicles engaged in emergency driving and comply when appropriate.

9.2.3.12.6  
(03-26-2008)  
**Rights of Third Parties**

- (1) Nothing in these guidelines is intended to create or does create an enforceable legal right or private right of action.

