



**U.S. Immigration
and Customs
Enforcement**

MEMORANDUM FOR:

Tae D. Johnson
Acting Director

THROUGH:

Matthew C. Allen /S/
Senior Official Performing the Duties of the Deputy
Director

Patrick J. Lechleitner /S/
Acting Executive Associate Director
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(b) (6), (b) (7)(C) /S/
Associate Director
Office of Professional Responsibility

(b) (6), (b) (7)(C) /S/
Principal Legal Advisor
Office of the Principal Legal Advisor

FROM:

(b) (6), (b) (7)(C)
Assistant Director
Office of Policy and Planning

CHRISTOPHER S KELLY

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CHRISTOPHER S KELLY
Date: 2021.03.04
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SUBJECT:

Canine Use of Force by U.S. Immigration and Customs
Enforcement (ICE) Law Enforcement Officers

Purpose

To request your approval of Appendix VIII: Guidelines and Procedures for Canine Use of Force to the ICE *Firearms and Use of Force Handbook*.

Background

Specially trained canines are widely used by law enforcement agencies to perform actions ranging from tracking and detection of substances and persons to physical apprehension of suspects by biting and holding. Homeland Security Investigations (HSI) procured five trained

canines and paired those canines with four Canine Handlers to create trained teams to deploy with Special Response Teams (SRT).

The enclosed Appendix will be added to the ICE *Firearms and Use of Force Handbook* to define agency level policy and procedures regarding the operational use of canines as an intermediate force asset. Separate policies are in development regarding management and maintenance of a canine program, as required by Department of Homeland Security (DHS) policy.

Discussion

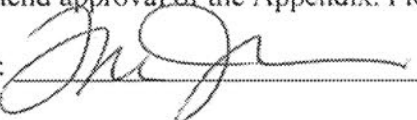
HSI is developing Directorate-level policy which will delineate canine program policy for the HSI SRT canine program. The attached draft appendix broadly delineates requirements that any directorate-developed canine program must meet before canines may be deployed as a use of force asset. By enacting agency-wide policy, this appendix will ensure that use of force by ICE canines is standardized, whether they are fielded by the HSI canine program or any potential future program developed by another directorate.¹ Currently, only non-bargaining unit employees may serve as Canine Handlers. Canines may not be used to support civil immigration enforcement operations.

Canine use of force is limited to apprehension by biting and holding. Before a handler may command a canine to apprehend a subject, the handler must ensure that release of the canine is "necessary and objectively reasonable in view of the facts and circumstances confronting the Canine Handler," which is the ICE and DHS standard for the use of force. A Canine Handler's determination that release is not appropriate may not be overridden. In addition, the Canine Handler will continually assess the situation after release and will recall the Canine, if warranted by the situation.

The Office of Policy and Planning worked with HSI, the Office of Firearms and Tactical Programs, Management and Administration, the Office of Professional Responsibility, and the Office of the Principal Legal Advisor to review and clear this Appendix.

Recommendation

I recommend approval of the Appendix. Please indicate your decision below:

Approve:  Disapprove: _____
Modify: _____ Need more discussion: _____

Attachment:

¹ There are no current plans or discussions regarding additional ICE Directorates or Program Offices creating canine programs. Additionally, this ICE-level policy meets the DHS requirement that a component with a canine program have a component-level policy regarding the use of canines, at least with respect to deployment and their potential use as an intermediate use of force weapon.

Canine Use of Force by U.S. Immigration and Customs Enforcement (ICE) Law Enforcement
Officers

Page 3 of 3

1. Appendix VIII to ICE Directive 19009.2: *Firearms and Use of Force Handbook* (Nov. 8, 2019, or as updated).

APPENDIX VIII – GUIDELINES AND PROCEDURES FOR CANINE USE OF FORCE

This appendix establishes the guidelines and procedures relating to the use of specially trained canines to apprehend subjects during law enforcement operations. Permissible canine use of force is limited to apprehension by biting and holding by Certified Canines.

Certified Canine Handlers who meet the requirements set forth in this Appendix may release a Certified Canine as a use of force in the course of their law enforcement duties in criminal law enforcement operations. Certified Canines may not be used to apprehend a subject for civil immigration violations. Only non-bargaining unit employees may serve as Canine Handlers. The release of a Certified Canine must comply with all applicable directorate-level policies, as well as current U.S. Department of Homeland Security (DHS) and U.S. Immigration and Customs Enforcement (ICE) policies, most notably use of force and canine policies. The release of a Certified Canine is considered an intermediate use of force. In addition to training required by other directives, Canine Teams must complete all initial certification training prescribed in this Appendix before the Canine Team can be authorized for use of force in an operational setting. Canines may be certified to perform non-use of force duties by other policy directives.

A. DEFINITIONS

- 1) Approved Canine Training: Basic Canine Handler Training, maintenance training, and remedial training provided by Canine Instructors.
- 2) Basic Canine Handler Training: An ICE Directorate-approved Basic Canine Handler Training course that selected and certified law enforcement officers or agents must complete in order to become a Canine Handler.
- 3) Certified Canine: A canine that an ICE Directorate received, approved, accepted and certified for training or field use for apprehension of subjects.
- 4) Canine Bite: Any incident in which a Certified Canine inflicts or is alleged to have inflicted physical injury by biting a person other than in a training environment.
- 5) Canine Deployment: The movement of a Canine Team to a field location, operation, or scene, for the intended purpose of utilizing the canine in a law enforcement operation.
- 6) Canine Handler: An ICE officer or agent who is assigned to handle a Certified Canine and who successfully completed Basic Canine Handler Training and possesses current certification with an assigned Certified Canine.
- 7) Canine Instructor: A Canine Handler who successfully completed an ICE Directorate-approved canine instructor course or other non-ICE canine instructors approved by the ICE Directorate.
- 8) Canine Release: The act of commanding a Certified Canine (while on or off lead) to perform a physical apprehension by biting and holding.
- 9) Canine Team: A Canine Handler and a Certified Canine that successfully completed the

training and certification process together and possess a current certification with each other.

- 10) Certification: The process of testing a Canine Team and attesting to the fact that the Canine Team demonstrated the ability to meet minimum standards of competence required by agency and program policy and handbooks.
- 11) Maintenance Training: Time devoted exclusively to maintaining a Canine Team's proficiency. Maintenance Training is conducted during official duty hours.
- 12) Physical Apprehension: Any Canine Release resulting in the Certified Canine physically controlling a subject by biting and holding.
- 13) Recertification: The process of reaffirming that a Canine Handler, a Certified Canine, or a Canine Instructor demonstrated the ability to meet minimum standards of competence required by agency and program policy and handbooks.
- 14) Release Warning: A verbal announcement from a Canine Handler prior to a release command, notifying a subject of the intent to release the Certified Canine if the subject does not comply with instructions.
- 15) Remedial Training: Required training to address and correct deficiencies in a Canine Team that failed to recertify in the prescribed 12-month period.

B. CERTIFICATION, TRAINING, AND DOCUMENTATION

- 1) Canine Handlers are required to successfully pass a Directorate-approved Basic Canine Handler Training course and complete the operational certification process with their assigned Certified Canine.
- 2) Canine Teams are required to recertify in their practiced disciplines on an annual basis. The certification tests are administered on a Pass/Fail basis. Failure to meet the minimum training requirements will result in team decertification for use of force.
- 3) Annual certification tests will be proctored by a Canine Instructor designated by the Directorate. Specific testing criteria will be covered in directorate-level policies.
- 4) Each Canine Team will complete maintenance training in certification areas as required by their Directorate.
- 5) Each Canine Handler must receive annual training on the ICE Canine use of force policy, as outlined in this Appendix and any relevant policies issued hereafter.
- 6) Upon decertification of a Canine Team, that team must successfully complete a 40-hour remedial training course and pass a recertification test to return to operations. Failure to recertify during the second attempt because of noted canine and/or handler deficiencies may result in a team separation as outlined in the Directorate's policy. Detailed guidelines for team separation based on failure to recertify must be stated in the Directorate policy. Training records will be documented and maintained in

accordance with Directorate requirements.

C. GUIDELINES FOR CANINE DEPLOYMENT AND RELEASE

- 1) Canine Handlers are responsible for the actions of their assigned Certified Canine at all times, both in the performance of their duties and during off-duty hours. Certified Canines shall not be left unattended in any area to which the public may have unrestricted access to the Certified Canine.
- 2) Certified use of force trained Canine Teams may be deployed for any law enforcement operation as authorized by Directorate policy, and as permitted by ICE policy and this Appendix.
- 3) Any release of a Certified Canine must always be necessary and objectively reasonable in view of the facts and circumstances confronting the Canine Handler. Canine Handlers should consider all facts and circumstances when deciding whether to release a Certified Canine, including but not limited to the severity of the offense, the subject's threat level to law enforcement officers or others (including whether the subject is restrained), and whether the subject is actively resisting or attempting to evade arrest, including by hiding or fleeing from law enforcement. For example, a handlers should generally not release a Certified Canine for a subject who is restrained, absent extraordinary circumstances.
- 4) The release of a Certified Canine must always comply with this Appendix and all current DHS and ICE use of force policies.
- 5) The Canine Handler's evaluation that release is not appropriate will not be overridden.
- 6) If practical, the Canine Handler will conduct a canine operations brief prior to deployment of the Certified Canine, to include:
 - Positioning
 - Perimeter and entry team procedures
 - Canine apprehension procedures
 - Injured handler procedures
 - Injured non law-enforcement individual procedures and
 - Injured canine procedures
- 7) Prior to releasing the Certified Canine to apprehend a subject, the Canine Handler or another law enforcement officer will give a clear and loud verbal release warning, taking into consideration factors such as communication barriers (traffic noise, music, etc.), distance between officer and the subject(s), and probable location of the subject(s). A reasonable amount of time should be given for any individuals in the area to comply with commands prior to the Certified Canine's release. A release warning is not required during exigent circumstances, if tactically unfeasible, or if such announcement may endanger the safety of the canine or officers or agents.

The release warning shall contain the following information:

- The identity of person giving the warning

- To whom the release warning is directed
- What the individual(s) are being asked to do
- What will happen if the individual(s) do not comply

Example: “This is the Police. If you are in the building/area/field/yard speak to me now or I will send the canine and he will find you.”

If practical this release warning should be conducted a minimum of three times.

Example: “This is the Police. If you are in the building/area/field/yard, speak to me now or I will send the canine and he will find you.”

“Second warning, this is the Police. If you are in the building/area/field/yard, speak to me now or I will send the canine and he will find you.”

“Third and final warning, this is the Police. If you are in the building/area/field/yard speak to me now or I will send the canine and he will find you.”

- 8) The size of the structure or area should be taken into consideration when giving a release warning. If the structure or area is large, additional release warnings may be required.
- 9) After the decision is made to release a Certified Canine, the Canine Handler will constantly assess/evaluate the Certified Canine, the subject, and the situation to determine if a change in tactics, including discontinuing the release of the Certified Canine, is appropriate.

D. REPORTING REQUIREMENTS

- 1) When reporting a use of force incident involving a Certified Canine, authorized officers must follow all procedures outlined in the ICE Firearms and Use of Force Handbook for use of force reporting requirements. Supervisors are required to complete a Significant Incident Report (SIR) in the Significant Event Notification System (SEN), an ICE Use of Force, Assaults, and Discharge (UFAD) report and a memorandum containing a narrative description of the event. In addition to the information normally contained in a UFAD report, any injuries resulting from the use of a Certified Canine must also be documented and reported in the memorandum. Documentation must describe reported injuries, including photographs of the injuries after medical attention, the attending physician’s identification information, and the physician’s diagnosis and prognosis of the sustained injuries.
- 2) Lost or stolen Certified Canines and equipment associated with the use of a Certified Canine shall be reported in accordance with ICE or Directorate policy, and DHS Instruction Manual 119-03-001-01, *Personal Property Asset Management Manual* (May 22, 2018).

E. CANINE BITES

- 1) The Canine Handler must report any bite, whether the bite occurred during or outside of an operational deployment, to their supervisor as soon as practical but no later than 24 hours from the incident.
- 2) When a Certified Canine is released to apprehend a suspect and a bite occurs, the Certified Canine will be separated from the subject when it is safe to do so, taking into consideration the safety of all officers, any other persons at the scene, and whether the subject has been controlled.
- 3) Whenever an injury related to the deployment or release of a Certified Canine occurs, or there is a complaint of an injury, the following actions shall be taken:
 - Canine Handlers must seek medical assistance as soon as practical. If medical treatment is refused by the injured party, the Canine Handler or the commanding officer on the scene will advise the party that a doctor is the only qualified person who can determine whether treatment is necessary. Treatment refusal will be documented in the corresponding report.
 - All injuries sustained from a Certified Canine bite shall be documented to include photographs of the injuries taken at the time of the incident or as soon as possible thereafter. When practical, photographs should be taken after the individual receives medical attention, but prior to the application of bandages.
 - The Certified Canine involved in the bite should be removed from the scene as soon as practical.
 - Canine bite injuries must be reported in accordance with the Reporting Requirements as set forth in Section D of this Appendix and Chapter 4 of the ICE Firearms and Use of Force Handbook 19009.1.