



U.S. Department of Justice

Executive Office for United States Attorneys

Office of the Director

Room 2261, RFK Main Justice Building
950 Pennsylvania Avenue, NW
Washington, DC 20530

(202) 252-1000

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TO: ALL UNITED STATES ATTORNEYS
ALL FIRST ASSISTANT UNITED STATES ATTORNEYS
ALL EXECUTIVE ASSISTANT UNITED STATES ATTORNEYS
ALL ADMINISTRATIVE OFFICERS
ALL DISTRICT OFFICE SECURITY MANAGERS

FROM: 
Corey E. Ellis
Acting Director

SUBJECT: Guidance on Personal Firearms Policy for United States Attorneys' Offices

CONTACTS: Ana Indovina
Assistant Director
Facilities and Support Services Staff
Ana.Indovina@usdoj.gov
(202) 252-5964

Timothy D. George
Assistant Director
Security and Emergency Management Staff
Timothy.George@usdoj.gov
(202) 252-5694

This memorandum provides guidance for implementation of the Firearms Policy for United States Attorneys' Offices, issued by the Attorney General on August 19, 2019 (attached).

I. Overview of the Personal Firearms Policy

Because of the nature of their work, United States Attorneys (USAs) and Assistant United States Attorneys (AUSAs) face an increased risk to their personal safety and the safety of their families. Given these risks, many USAs and AUSAs carry personally owned firearms for protection. USAs, AUSAs, and other personnel of United States Attorneys' offices (USAOs) may carry or possess personally owned firearms as long as such carrying is consistent with

applicable federal, state, local, or tribal law; any regulation or policy specific to the particular federal facility in which they operate (as discussed below); and with Department of Justice policy.

Under Title 18, United States Code, Section 930, it is a crime to “knowingly possess[] . . . a firearm or other dangerous weapon in a Federal facility” absent an applicable exception. 18 U.S.C. § 930(a). For purposes of the prohibition, a federal facility means “a building or part thereof owned or leased by the Federal Government [which may include a parking facility], where Federal employees are regularly present for the purpose of performing their official duties.” 18 U.S.C. § 930(g)(1). State laws or licensing procedures allowing individuals to carry weapons do not supersede or otherwise affect this prohibition.

To perform their official duties, USAs and AUSAs report to work in federal facilities. In fact, USAs and AUSAs often work in the same federal court facilities where the defendants they prosecute appear for court hearings or in easily identifiable federally owned or leased office space nearby. USAs and AUSAs are responsible for engaging in and supervising the prosecution of those defendants, and are the public faces of those prosecutions. Previously, Department policy prohibited all USAO personnel, including USAs and AUSAs, from carrying firearms in federal facilities unless deputized as Special Deputy United States Marshals. This policy made it impracticable for USAs and AUSAs to carry personally owned firearms while commuting to and from the federal facilities in which they work.

Section 930’s prohibition contains an exception, however, for “the lawful performance of official duties by an . . . employee of the United States . . . who is authorized by law to engage in or supervise the . . . prosecution of any violation of law.” 18 U.S.C. § 930(d)(1). In announcing the new Personal Firearms Policy, Attorney General Barr clarified that USAs and AUSAs are employees of the United States authorized by law to engage in or supervise the prosecution of violations of law, and are therefore excepted from § 930’s prohibition when engaged in the lawful performance of official duties. The Personal Firearms Policy further specifies that, for purposes of applying this exception, a USA or AUSA who has lawfully carried a personally owned firearm for self-protection while traveling to work is engaged in the lawful performance of official duties for the limited purpose of carrying that firearm into the federal facility in which he or she works (including federal court facilities and federal parking facilities) in order to place that firearm in a designated secure storage area upon arrival or retrieve it upon departure.

It remains the policy of the Department that USAs and AUSAs, like other USAO personnel, may not carry firearms for self-protection while performing other official functions of their position (e.g., conducting witness interviews, or meeting with agents, law enforcement personnel, defense counsel, witnesses, victims, or other groups). For purposes of the Personal Firearms Policy, travel between home and the federal facility that contains the work place is not an official function of USAs, AUSAs, or other USAO personnel.

Additionally, the Department’s position remains that employees of the USAOs who are not USAs or AUSAs must be deputized pursuant to *Justice Manual* § 3-15.170 to carry firearms in any federal facility. Unquestionably, the Department is committed to the safety of all employees. What the Department can do with respect to the carrying of personal firearms in

federal facilities, however, is limited by 18 U.S.C. § 930. The exception in § 930(d)(1) applies to “the lawful performance of official duties by an ... employee of the United States ... who is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of law.” Title 28, United States Code, Sections 541, 542, and 547 specifically authorize USAs and AUSAs to prosecute violations of the law. The Department has not interpreted the § 930(d)(1) exception to extend to non-USAs or non-AUSA professionals in the USAOs. Accordingly, the Department is unable to include them in the new policy at this time. USAO personnel who are or who wish to become deputized should refer to USAPP No. 3-15.170.001.

It is important to note that the *use* of a firearm by USAO personnel at any time, including a USA or AUSA who carries a firearm for self-protection, is governed by applicable state, local or tribal law pertaining to self-defense and personal protection, and is not an official function.

The Personal Firearms Policy does not confer law enforcement authority, such as the authority to make arrests or execute search warrants, on any USAO employees, including USAs and AUSAs. The Personal Firearms Policy also does not confer on any USAO employees, including USAs and AUSAs, any entitlement to law enforcement officer retirement under the Civil Service Retirement System, the Federal Employee Retirement System, or under the combined system.

The Department recognizes that all USAO personnel may be threatened in the performance of their official duties. These threats should be reported immediately to the USA, to the United States Marshals Service (USMS), and to EOUSA by submitting an Urgent Report. EOUSA will coordinate with the USMS and our other law enforcement partners to implement the appropriate protective measures.

II. Implementation of the Personal Firearms Policy

Before USAs and AUSAs may begin to carry personally owned firearms into the federal facilities in which they work in accordance with the Personal Firearm’s Policy, USAOs must take certain steps in preparation.

A. Federal Facility Coordination

USAOs generally lease office space in one of three types of buildings: United States Court facilities, federal building facilities, and commercially leased facilities. Each of these types of federal facility may have its own regulations and policies regarding the possession of personally owned firearms in the building. Prior to implementing the Personal Firearms Policy, each USA must determine whether the particular building in which the USAO is located is subject to any such regulations or policies, and coordinate with the appropriate authorities.

- United States Court Facilities. USAs should contact the Chief Judge and the United States Marshal for their districts to discuss the Department’s new Personal Firearms Policy and plans for implementation. It may be the case that United States District Court facilities already have secure firearms storage lock-boxes inside the threshold that the USA and AUSAs may be able to use.

- Federal Building Facilities. USAs should coordinate with the Federal Protective Service through the Facility Security Committee, to discuss the Department's new Personal Firearms Policy and plans for implementation. USAs should determine whether secure firearms storage already exists within the secure perimeter of their federal buildings and, if so, whether AUSAs may use this secure storage for their personally owned firearms. If secure firearms storage space does not yet exist in a particular federal building or lacks the capacity to accommodate USA and AUSA firearms, space may be obtained, if available, for USAOs to build a secure firearms storage area after coordination with EOUSA's Facilities and Support Services (FASS) Staff.
- Commercial Leased Facilities. USAs should coordinate with the General Services Administration through EOUSA's FASS Staff to determine whether the USAO's lease contains any provisions related to the possession of firearms in the building and whether the lessor has any other generally applicable prohibitions that might restrict USAs and AUSAs from carrying personally owned firearms into the building.

EOUSA is available to consult with USAs about this coordination process.

B. Secure Firearms Transportation and Storage

The presence of additional firearms in the USAO workplace necessitates appropriate employee safety and security precautions. In order to ensure the safety of all USAO employees, USAs must take steps to ensure that firearms are transported safely and that any firearms brought into the federal facility are properly secured in a manner designed to minimize the risk of negligent discharge and prevent theft of the firearms.

Any USA or AUSA who elects to carry a personally owned firearm pursuant to the Personal Firearms Policy must maintain and transport the firearm, at all times, in a holster that meets the following requirements:

- Covers the trigger guard,
- Is specifically designed for the weapon or family of weapons to ensure proper fit,
- Does not allow for upward pressure on any exposed portion of the muzzle, which could result in the handgun being ejected (*i.e.*, belt slide, yaqui slide, or skeletonized holsters), and
- Secures the handgun with at least one retention device in the form of a strap, thumb-break, finger-break, tension screw, or other method that retains the weapon via a physical block or through pressure on the weapon.

Each USAO is responsible for making secure firearms storage available at the threshold of any federal facility into which the USA or AUSAs have transported firearms pursuant to the Personal Firearms Policy. USAs and AUSAs should maintain firearms in their holsters at all times upon entering federal facilities and while storing the firearms in the secure firearms storage.

Secure firearms storage should be located inside the security perimeter of the federal facility in which the USAO is located, but close to the threshold. EOUSA recognizes that each USAO's office space is different. USAs, in consultation with their District Office Security Managers, are therefore in the best position to determine where in their respective federal facilities secure firearms storage should be located. EOUSA's FASS Staff is available for consultation, should USAs desire to locate secure firearms storage within their offices and can provide guidance on the specifications and purchase of heavy-duty pistol lockers.

In addition, USAs may elect to construct secure ballistics rooms to prevent rounds from penetrating through the walls, ceiling, and floor of the secure firearms storage area in order to minimize risks from discharged firearms. For suggested guidance in constructing such a facility, please see the attached specifications used by the USMS for weapons storage at the entrances to United States courthouses. EOUSA is available to consult on the types of secure firearms storage available to USAOs and will prepare the design and construction of secure ballistics rooms as necessary.

III. Compliance with Personal Firearms Policy

All USAs or AUSAs who wish to carry personally owned firearms consistent with the Personal Firearms Policy must sign a Personal Firearms Acknowledgment form provided by EOUSA. *See attached.* Any USAO employee who violates federal, state, local, or tribal law, the Department's Personal Firearms Policy, or USAO protocols with respect to the possession or use of a personally owned firearm is subject to discipline, including, but not limited to, loss of the ability to possess a personally owned firearm within the threshold of a federal facility.

Attachments:

- Firearms Policy for United States Attorneys' Offices
- Excerpt from United States Marshals Service Publication 64, Volume III, *Judicial Security Systems Requirements and Specifications*
- Personal Firearms Acknowledgment Form

cc: All United States Attorneys' Secretaries