

Cherokee Nation Code Annotated
Title 21: Crimes and Punishments
Part III. Crimes Against the Person
Chapter 24: Homicide
§ 732. Justifiable homicide by officer

Cite as: 21 CNCA § 732

A peace officer, correctional officer, or any person acting by his command in his aid and assistance, is justified in using deadly force when:

1. In effecting an arrest or preventing an escape from custody following arrest and the officer reasonably believes both that:

a. such force is necessary to prevent the arrest from being defeated by resistance or escape, and

b. there is probable cause to believe that the person to be arrested has committed a crime involving the infliction or threatened infliction of serious bodily harm, or the person to be arrested is attempting to escape by use of a deadly weapon, or otherwise indicates that he will endanger human life or inflict great bodily harm unless arrested without delay; or

2. The officer is in the performance of his legal duty or the execution of legal process and reasonably believes the use of the force is necessary to protect himself or others from the infliction of serious bodily harm; or

3. The force is necessary to prevent an escape from a penal institution from custody while in transit thereto or therefrom unless the officer has reason to know:

a. the person escaping is not a person who has committed a crime involving violence, and

b. the person escaping is not likely to endanger human life or to inflict serious bodily harm if not apprehended.

Historical Data

LA 10–90, eff. November 13, 1990.