

**MARIN COUNTY SHERIFF'S OFFICE
GENERAL ORDERS MANUAL**

**CHAPTER 4 - WEAPONS
GO-04-03
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DATE: 12-22-16

USE AND DISCHARGE OF FIREARM

POLICY

It is the policy of the Marin County Sheriff's Office that deputies should exhaust all other reasonable and lawful means of discharging their duties before resorting to the use of firearms.

PROCEDURE

Firearms shall only be discharged under the following circumstances:

1. At an approved range and under the direction of the Range Master or his designee.
2. When killing seriously injured or dangerous animals where other disposition is impractical.
3. When necessary in the defense of the deputy's life, or to prevent serious injury to his/her person.
4. When necessary in the defense of another person's life, or to prevent serious injury to that person.
5. When necessary to affect the capture of a fleeing felony suspect when, and only when, the felony is of the violent variety, i.e., a forcible and atrocious one which threatens death or serious bodily harm.

Firearms shall not be discharged under the following circumstances:

1. As a warning.
2. To effect the capture of a misdemeanor suspect.
3. From or at a moving vehicle, except when necessary in the defense of the deputy's life or the life of another person.
4. When the deputy has reason to believe, based upon attendant circumstances, that the discharge may endanger the lives of passers-by or other persons not involved in the crime, and the deputy's life, or another person's life, is not in imminent danger.

REPORTS AND INVESTIGATIONS

When a deputy determines that he/she must dispatch a seriously injured and/or dangerous animal due to the unavailability of a Humane Society officer, he/she will, whenever possible, notify the on-duty supervisor of the circumstances prior to dispatching the animal. If the supervisor is not available, the deputy will notify Comm. Center of the action to be taken, and he/she will notify the on-duty supervisor of the action taken as soon as practical.

Whenever a deputy, whether on or off-duty, discharges his/her firearm accidentally he/she shall notify an on-duty supervisory officer as soon as practical. If no supervisory officer is available, the deputy shall notify an appropriate command officer in the Patrol Division.

After such notification, the deputy shall prepare and submit a written report of the incident, forwarding it to the Sheriff through channels. This report shall be completed no later than by the end of the deputy's tour of duty on the date of the incident - subject to the provisions of Government Code 3303.

Whenever a deputy, whether on or off-duty, discharges his/her firearm in the defense of the deputy's life, or to prevent serious injury to his person, or in the defense of another person's life, or to prevent serious injury to that person, or when necessary to affect the capture of a fleeing felony suspect when, and only when, the felony is of a violent variety, the supervisor on-scene shall obtain a public safety statement from the deputy involved in discharging of his/her firearm for the purpose of securing the scene and pursuit of suspects.

The public safety information shall be limited to such inquiries as outstanding suspect information, number and direction of shots fired, parameters of the incident scene, and the identity of known witnesses. These questions shall be followed by an order not to discuss the incident with anyone, prior to the arrival of the assigned investigators, with the exception of a representative of the deputy's choosing.

The supervisor or investigating officer shall impound the involved deputy's weapon and any unexpended rounds and/or magazines whenever such a discharge was directed at or towards a person or vehicle.

The supervisor or investigative officer may also impound additional safety equipment from the deputy's duty belt, as necessary and/or appropriate. This equipment will only be taken once it is safe to do so and the deputy is in a safe environment. The deputy will be issued a replacement weapon and equipment as soon as practical, pending the release of the impounded equipment.

Whenever a deputy, whether on or off-duty, discharges his/her firearm in the defense of the deputy's life, or to prevent serious injury to his person, or in the defense of another person's life, or to prevent serious injury to that person, or when necessary to affect the capture of a fleeing felony suspect when, and only when, the felony is of a violent variety, the deputy shall submit to a blood sample for alcohol/drug screening. Absent consent from the deputy, such compelled samples, and the results of any such testing, shall not be disclosed to any criminal investigation.

The deputy shall also be placed on paid administrative leave. Prior to being returned to duty, a deputy who has discharged of his/her firearm as described above shall undergo a comprehensive physiological examination, conducted by a licensed clinical psychologist of the Department's choosing, to determine the deputy's psychological suitability for return to work.

The interview with the psychologist shall be considered privileged and will not be disclosed to the department, except to the extent the deputy is or is not fit for return to duty.

Whenever a deputy, whether on or off-duty, discharges his/her firearm either accidentally or officially (except at an approved range or when authorized by this policy to dispatch a seriously injured or dangerous animal) a special investigation will be initiated by the Bureau Commander of the responsible member.

The investigator shall inquire into the circumstances surrounding the discharge of the firearm by the deputy. The inquiry shall encompass contributory causes to determine if the deputy's actions brought about the need to discharge his firearm.

After determining and evaluating the facts, the investigator shall arrive at a finding that the discharge was either "Justifiable," "Unjustifiable," or "Accidental," as defined herein:

Justifiable: When the circumstances at the time of the discharge were consistent with the provisions of this order, the discharge shall be classified as Justifiable.

Unjustifiable: When the circumstances at the time of the discharge were not consistent with the provisions of this order, the discharge shall be classified as Unjustifiable.

Accidental: A discharge that occurs without premeditation, by chance, unexpected, or as the result of extrinsic causes, without an element of negligence, shall be classified as Accidental.

The completed investigation will be submitted to the Undersheriff through the investigative chain of command. The report shall contain a summary of the circumstances surrounding the discharge, the findings of the investigator, and any recommendations relating to needed training.

The Undersheriff will review the report for the purposes of determining the thoroughness of the investigation and appropriateness of the recommendation made. Once approved, the Undersheriff will forward the report to the Sheriff.

One or more of the following corrective actions may be taken by the Sheriff when indicated, subject to the provisions of the Marin County Code, Personnel Commission Regulations and State and Federal Regulations:

1. Counseling
2. Training
3. Oral Reprimand
4. Written Reprimand
5. Suspension
6. Demotion
7. Termination

RELATED STANDARDS:

Graham v. Conner, 490 U.S. 386 (1989)
Tennessee v. Garner 471 U.S. 1 (1985)
Lyonns v. Los Angeles 75 L. ED 2d 675, 692
Burns v. Honolulu, 82 District Court #79-0274, 9th Circuit Court of Appeals #81-4665
Forrester v. San Diego, 25 F. 3d 804, 9th Circuit Court of Appeals
Penal Code Section 149
Penal Code Section 835a.
Penal Code Section 836.5
Penal Code Section 843

AFFECTED DIVISIONS:

All

DATE OF REVISIONS:

6/24/94
10/4/94
9/1/99

By order of

**ROBERT T. DOYLE
SHERIFF-CORONER**