

STOCKTON POLICE DEPARTMENT

GENERAL ORDER

USE OF FIREARMS
SUBJECT

DATE: JANUARY 11, 2022

NO: Q-1n

FROM: INTERIM CHIEF JIM CHRASKA

TO: ALL PERSONNEL

INDEX: **USE OF FIREARMS**
DEADLY FORCE
LESS LETHAL FORCE

I. POLICY

It is the policy of the Stockton Police Department to use firearms, which are authorized by the Chief of Police when appropriate during the course of duty, in accordance with General Order Q-1, "Use of Force." Officers shall give a verbal warning, when feasible, before using deadly force.

The authority to use physical force, conferred on peace officers by this section, is a serious responsibility that shall be exercised judiciously and with respect for human rights and dignity and for the sanctity of every human life as stated in PC 835a (a)(1).

II. DEFINITION OF TERMS

- A. "Deadly force" means any use of force that creates a substantial risk of causing death or serious bodily injury, including, but not limited to, the discharge of a firearm.
- B. A threat of death or serious bodily injury is "imminent" when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the peace officer or another person. Imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed.
- C. "Totality of the circumstances" means all facts known to the peace officer at the time, including the conduct of the officer and the subject leading up to the use of deadly force.
- D. Firearm – 18 U.S. Code § 921(a)(3)(A) defines a firearm as "Any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive."

Both "Lethal" and "Less Lethal Weapons" are classified as firearms.
- E. Lethal firearm – Lethal firearms are firearms designed to fire lethal ammunition.
- F. Less Lethal Weapon System – Less Lethal Weapon Systems are less lethal use of force options designed to resolve potentially dangerous situations by striking a subject with one or more flexible or non-flexible projectiles specifically designed to be fired from either 12-gauge, 37mm, or 40mm weapon systems, with the goal of gaining the subject's compliance and the cessation of their hostile behavior. Use of a Less Lethal Weapon System is an alternative use-of-force option. It is not intended as a substitute for a firearm used exclusively for the application of lethal force.
- G. Lethal Munitions – Lethal ammunition intended to be fired from lethal weapons.
- H. Less Lethal Munitions – Less Lethal Munitions are those munitions specifically designed to be either hand-delivered (in the case of sting ball grenades or diversionary devices) or fired from a Less Lethal Weapon System (12 gauge, 37mm, and 40mm).

- I. Discharge/Intentional Discharge – Occurs when a firearm, as defined above, is fired as intended by its design.
- J. Negligent Discharge – Occurs when a firearm, as defined above, is fired as intended by its design but as a result of the negligent operation by the individual in possession of the firearm.
- K. Environmental Discharge – Occurs when a firearm, as defined above, and its ammunition is involved in the discharge of ammunition in a manner not intended by its design. Environmental discharge of ammunition can be caused by the ammunition’s primer being struck in such a way as to cause the priming compound to ignite and detonate the cartridge’s gun powder and projectile.
 - 1. Example: A cartridge lands on the ground, and the primer strikes a rock, causing the priming compound to ignite and detonate the cartridge’s gun powder and expel the projectile from its cartridge case.

III. **PROCEDURE**

A. Use of Firearms

- 1. Firearms may be discharged in the performance of a police duty only under the following circumstances:
 - a. When the officer reasonably believes, based on the totality of the circumstances, that such force is necessary for either of the following reasons:
 - (1) To defend against an imminent threat of death or serious bodily injury to the officer or another person.
 - (2) To apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended. Where feasible, a peace officer shall, prior to the use of force, make reasonable efforts to identify themselves as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts.

A threat of death or serious bodily injury is “imminent” when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the peace officer or another person.
 - b. At an approved firearms range.
- 2. When using Less Lethal Weapon Systems and Less Lethal Munitions in accordance with General Order Q-1m (Less Lethal Weapons Systems).
- 3. Lethal firearms will not be discharged under the following circumstances:
 - a. At a person suspected of committing a misdemeanor and the suspect is not posing an imminent threat to use deadly force or force likely to produce great bodily injury.
 - b. As warning shots.
 - c. When capturing or preventing the escape of a person believed to have committed a felony that did not involve use or threat to use deadly force.
 - d. In general, officers are prohibited from discharging a firearm from their moving vehicle or at another moving vehicle, providing only for exceptions that require such actions to end an imminent threat to human life.

- e. A peace officer shall not use deadly force against a person based on the danger that person poses to themselves if an objectively reasonable officer believes the person does not pose an imminent threat of death or serious bodily injury to the peace officer or another person.
 - 4. Officers shall make every effort to avoid putting themselves into a position where they could be struck by a fleeing vehicle, requiring them to use a firearm to protect themselves.
 - 5. Before discharging a firearm, officers should consider their surroundings and potential risks to bystanders, to the extent reasonable under the circumstances.
 - 6. Drawing or exhibiting firearms
 - a. Unnecessarily or prematurely drawing or exhibiting a firearm limits an officer's alternatives in controlling a situation, creates unnecessary anxiety on the part of citizens, and may result in an unwarranted or accidental discharge of the firearm. Officers shall not draw or exhibit a firearm unless the circumstances surrounding the incident create a reasonable belief that it may be necessary to use the firearm in conformance with Department policy on the Use of Force. When it is determined the use of lethal force is not necessary, firearms shall be secured or holstered as soon as practicable.
 - b. Nothing in this policy shall preclude an officer from drawing a firearm when the officer reasonably believes it necessary for the officer's own safety, that of another officer, or a community member.
- B. Responsibility when a firearm is discharged
 - 1. A Department member who discharges a firearm either accidentally or in the performance of a police duty, except while hunting or at a firing range, will protect the scene and evidence and will ensure that the on-duty Watch Commander and the employee's supervisor are notified as soon as time and circumstances permit.
 - a. Command Officer's Responsibility:
 - (1) When a firearm is discharged but does not result in an injury, the involved officer's supervisor shall be assigned to investigate the incident.
 - (2) When a firearm is discharged and results in injury or death, the Watch Commander will coordinate the initial investigation. The Watch Commander will make all notifications as required per General Order Q-6 (Investigation of Officer-Involved Shootings).
 - b. Responsibilities of the Investigations Division:
 - (1) When Investigations Division personnel respond to the scene, the assigned investigator(s) will assume command of the investigation. (Refer to General Order Q-6)
 - 2. Reporting the discharge of a firearm or other use of deadly force:
 - a. Department members who discharge a firearm accidentally, in performance of a police duty, or otherwise use any deadly force by any means shall notify a supervisor and comply with the supervisor's specific instructions.
 - b. The notification that a department member has discharged their firearm or used deadly force is required as soon as practical or at least within one hour after the occurrence. This includes an out-of-city incident.

c. Off-duty Department members shall notify the on-duty Watch Commander.

3. Report by Department Members:

a. A Department member performing any function during the investigation of a firearm being discharged or any type of deadly force used shall submit the appropriate report prior to securing from duty.

b. Each individual Department member involved in the incident, no matter how insignificant, shall submit a subsequent report detailing their individual actions during the investigation. This includes Department members performing crowd control, traffic control, collection or transportation of evidence, etc.