



**USE OF FIREARMS
GENERAL ORDER #12.02**

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POLICY

It is the policy of the County of Santa Clara Office of the Sheriff (“Sheriff’s Office”) that all sworn staff employed by the Sheriff’s Office who are authorized to carry firearms use those firearms in a manner that protects officer safety while recognizing the sanctity and dignity of human life.

This policy applies to all sworn staff of the Sheriff’s Office, and reference to “deputy” or “deputies” throughout this policy refers to all sworn staff.

PROCEDURE

A. DRAWING THE FIREARM

1. A deputy shall draw and exhibit a firearm only:
 - a. At an authorized firing range.
 - b. During inspections.
 - c. When directed to do so by a superior officer or by the range staff or range master.
 - d. When the deputy reasonably believes it necessary for his or her own safety or for the safety of others. A deputy also may draw and be ready to use a firearm any time he or she reasonably believes that he or she or another person may be in danger of death or great bodily injury.

2. A deputy transferring a firearm must unload it and check to make sure it is empty. The deputy receiving the firearm must personally check it to make sure that it is unloaded.

B. DISCHARGING A FIREARM

The discharge of a firearm at or towards another person constitutes deadly force. A deputy may discharge a firearm at or towards another person only when the deputy reasonably believes, based on the totality of the circumstances, that such force is necessary for one of the following reasons:

1. To defend against an imminent threat of death or serious bodily injury to the deputy or to another person.
2. To apprehend a fleeing person for any **felony** that threatened or resulted in death or serious bodily injury, if the deputy reasonably believes that the person will cause death or serious bodily injury to another if his or her apprehension is delayed. Where feasible, a deputy 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 deputy has objectively reasonable grounds to believe the person is aware of those facts.
3. As a member of the Sheriff's Emergency Response Team (SERT) when he or she is directed by the commander in charge of the team to use deadly force based on the totality of circumstances known to the commander and consistent with this General Order and General Order #12.00 ("Use of Force").
4. A deputy may not discharge firearm at another person based on the danger that a person poses to themselves, if an objectively reasonable deputy would believe the person does not pose an imminent threat of death or serious bodily injury to the deputy or to another person.
5. For purposes of the above, the following definitions apply:
 - a. An "imminent" threat of death or serious bodily injury is one where, based on the totality of the circumstances, a reasonable deputy 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. An 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 immediately confronted and addressed.

- b. "Totality of the circumstances" means all facts known to the peace officer at the time, including the conduct of the deputy and the subject leading up to the use of deadly force.
- c. "Feasible" means reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person.

A deputy may reasonably exercise his/her discretion to determine that discharging a firearm is inadvisable after all methods short of the use of deadly force have been exhausted, even if a suspect is not apprehended as a result.

Notwithstanding the above, a deputy may also discharge a firearm for the following additional reasons:

1. To kill a dangerous animal, or to kill an animal that is so badly injured that humanity requires its removal from further suffering and no other disposition is practical.
2. For target practice at an approved range as directed by the range master in attendance.
3. To give an alarm or to call for assistance in a life-threatening situation when no other means can be used, when discharge would not jeopardize the safety of other persons.

A deputy must consider their surroundings and potential risks to bystanders, to the extent reasonable under the circumstances, before discharging a firearm.

For general guidance on use of force principles, please consult General Order 12.00 ("Use of Force").

C. FIREARMS SHALL NOT BE DISCHARGED:

1. When lesser force can reasonably and effectively be used.
2. When there is an unreasonable risk of danger to bystanders.
3. As a warning to a suspect.
4. At or from a moving vehicle, except when a life-threatening situation requires immediate action in the form of deadly force.

- a. Deputies shall, when feasible, move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. A deputy should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the threat of the vehicle, or if deadly force is directed at the officer or others.
5. At a moving vehicle with the intent to disable it, except as a member of the Sheriff's Emergency Response Team when the member is directed to do so by the commander in charge of the team.

D. PROCEDURE WHEN FIREARM IS DISCHARGED

Emergency medical attention shall be provided to any person who sustains any injury requiring medical attention or loss of consciousness, resulting from a deputy's discharge of a firearm, provided that the threat posed to the deputy has subsided and it is safe to render or summon such aid.

Whenever a deputy intentionally or accidentally (other than for practice, qualification, or recreational purposes) discharges any firearm, the deputy shall follow the procedures described in General Order #12.03 ("Procedure When a Firearm Is Discharged").

E. SHOOTING REVIEW BOARD

The Chairperson of the Shooting Review Board, as defined in General Order 12.03, shall convene the board to examine all incidents involving the discharge of a firearm at or towards another person. The Chairperson has the discretion to convene the Shooting Review Board to examine any other incident in which a firearm was used.

For instances, when a firearm is discharged other than at a person (for example to kill a dangerous animal), the circumstances shall be reviewed by the deputy's immediate supervisor to evaluate all of the facts and to determine if the firearms discharge is within Sheriff's Office policy. The result of the Supervisor's determination shall be documented on a Blue Team Report and forwarded to the Division Commander for review.

Laurie Smith

**LAURIE SMITH
SHERIFF**