

400 – Shooting Policy

Santa Ana Police Department

Departmental Order #400 – Shooting Policy

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Purpose

To establish policy for the use of firearms, investigation of officer involved shootings, and the administrative review of officer involved shootings. This policy applies to any intentional use of a firearm, other than for lawful recreational purposes, and any accidental or unintentional discharge of a firearm.

Background

The use of firearms is one of the most serious acts in which a law enforcement officer will engage and it is imperative that they act within the boundaries of legal guidelines, good judgment and accepted practice.

Applicable State and Federal statutory and case law forms that framework for the following policy and procedures.

Policy

The decision of an officer to use a firearm is limited to the facts known or perceived or which reasonably ought to have been known or perceived by the officer at the time the decision is made to use such force. There are three types of circumstances where a firearm may be used as deadly force:

A. Self-Defense or Defense of Others

A firearm may be used to prevent the death or serious bodily injury to the officer or any other person.

B. To Prevent the Escape of a Violent Felon

A firearm may be used to prevent the escape of a violent felony suspect where the suspect has failed to yield to any type of reasonable warning or physical apprehension, and the officer reasonably believes that the escape will pose an immediate and significant threat of death or serious physical injury to that officer or other persons.

C. Disposal of Animals

1. When an animal is injured to the extent that death is apparently imminent or severe suffering is unavoidable or the symptoms of rabies exist, an officer may discharge a firearm to destroy that animal with the approval of a supervisor. (Prior supervisor approval is to be obtained unless circumstances preclude such prior approval.)
2. Disposal of an animal under these circumstances shall at all times be done in a manner commensurate with the safety of any bystanders. Officers should also use care when the feelings of an animal's owner are involved and that the destruction not take place in their immediate presence. This does not preclude officers from protecting themselves from a vicious animal in the owner's immediate presence.

D. Additional Use of Firearms

1. Warning or Attention Shots

Shots fired into the air or ground in any type of an attempt to cause a felony suspect to stop or surrender are prohibited, except in those extreme cases where the immediate safety of the officer or other persons is at risk. These must be extreme cases and only as a last resort.

2. Moving Vehicles

An officer shall not discharge a firearm at or from a moving vehicle except as the ultimate measure of self-defense or defense of another when the suspect is using deadly force other than the vehicle.

When the vehicle is the deadly force, a firearm is not likely to safely stop the assault and is discouraged unless it reasonably appears to the officer that there are no other safe and viable alternatives available (e.g., the inability to move out of the way).

Definitions

- A. Officer Involved Shooting - Any officer intentionally discharging a firearm on duty or off duty other than in a lawful recreational activity, and any officer accidentally or unintentionally discharging a firearm under any circumstances.
- B. Incident Commander - The supervisor in charge of the scene of an officer involved shooting incident. This will be a Sergeant assigned to the area in which the incident occurred, or in his absence a Sergeant assigned by the Watch Commander or the District Commander. The Incident Commander will maintain control of the scene unless relieved by a person of higher authority.
- C. Shooting Investigative Team or Shooting Team - A group of Detectives from the Crimes Against Persons Unit assigned by the Sergeant of that unit, or higher authority within the chain of command.
- D. Professional Standards Inspectors - Inspectors within the Professional Standards Section who will conduct an administrative investigation and prepare an administrative report for the Chief of Police via the Shooting Review Board.

I. Procedure

The following practices and procedures are adopted in order to ensure that the spirit of the Santa Ana Police Department firearms policy is carried out as intended.

A. Disposal of Injured Animals

Whenever it becomes necessary to dispose of an injured animal by discharging a firearm as described in this Order, the scene supervisor will document the incident on a supervisor's log.

B. Shooting of Vicious Animals

Whenever it becomes necessary to shoot a vicious animal, the scene supervisor will notify the Watch Commander who will assign a Sergeant to immediately respond to the scene for investigation of the incident. In the event the shooting involves an Animal Control Officer, the scene supervisor will comply with Department Order No. 435, Section II, C.

1. In addition, the scene supervisor shall ensure that an information report on the incident is written. Someone not directly involved in the shooting shall complete this report. The scene supervisor shall attach the completed report to the administrative report.

C. Qualifications for the Use of Firearms

All sworn personnel and Jail Transport Team members must meet the Department's minimum requirements for demonstrated proficiency in the use of their firearms, as established in Departmental Order No. 430.

D. Firearms and Ammunition

Only firearms, ammunition and holsters meeting Department authorized specifications shall be carried in the performance of duty, or off duty, as established in Departmental Order Nos. 405 and 410.

E. Reporting the Discharge of a Firearms

Any officer intentionally discharging his/her firearm on duty or off duty other than in a lawful recreational activity, and any officer accidentally or unintentionally discharging a firearm under any circumstances, shall immediately report the incident to the Watch Commander, who will comply with the reporting procedure as described in this Order.

1. Shooting Review Process

The Shooting Review Board will review all shooting incidents, (including shootings of vicious animals), with the exception of non-injury accidental or unintentional shooting incidents. Refer to Section VI of this Order.

2. Exceptions

Administrative reports shall not be required when:

- a. Exempted from doing so by a Bureau Commander or the Chief of Police
- b. Engaged in approved range practice or training
- c. Disposing of an animal pursuant to this Order (supervisor must be notified and incident logged)

F. Drawing and Displaying Firearms

1. Nothing in this procedure shall preclude the drawing of the officer's firearm during the course of an arrest or investigation where deemed necessary for the safety of the officer or other persons, and where there is reasonable cause for the officer to do so.
 - a. The firearm shall not be cocked whenever it is drawn under these circumstances; and
 - b. The firearm shall be re-holstered and secured as soon as practical and prior to any physical contact with the suspect.
2. The firearm shall not be displayed, "dry-fired," cleaned, repaired, loaded or unloaded in public view, or in the police building except for inspection by a superior officer, armory personnel, or in an authorized target range or other area specifically provided for the cleaning of firearms.

G. Administrative Assignments

Recognizing the fact that a shooting incident may cause emotional stress on the officer or the possibility of community concern, an officer involved in such an incident may be assigned administrative duties at the direction of his Bureau Commander or by his own request. Contact with the Department Psychologist will be mandatory within 48 hours of the incident (Departmental Order No. 255). Telephonic assessments with the Department Psychologist are acceptable for vicious animal shootings, field euthanasia of animals, accidental and unintentional discharges where no persons have been injured.

II. Investigation of Shooting by Officers

It is imperative that in all instances involving a reportable discharge of a firearm that the Department conducts a thorough and objective administrative investigation, as well as the complete criminal investigation.

III. Shooting Incidents - In Santa Ana

A. Command of Scene

The Santa Ana Police Department officer assigned the original call is in command of the scene until relieved by a supervisor or other person of higher authority. This includes those instances where more than one agency is participating or assisting in the investigation.

B. Responsibilities at Scene

1. The Incident Commander will be responsible for deployment of personnel and equipment necessary to provide for containment of the crime scene, security of the surrounding area, preservation of evidence and compliance with all reporting requirements.
2. Only assigned investigative units and emergency medical personnel will be allowed within the perimeter of the crime scene, unless authorized by the Incident Commander, or higher authority.
 - a. All personnel entering the scene will be listed in the crime report.
 - b. Any person entering the crime scene may be ordered by the Incident Commander to prepare a supplemental report regarding their reasons for entering the scene and their actions while there.
3. All officers directly involved in the shooting should be isolated from the immediate crime scene as soon as possible. Another officer or supervisor should be assigned to remain with these officers to attend to any personal needs that may arise until the arrival of the assigned investigative units. If more than one officer is directly involved in the shooting, the directly involved officers should be separated as soon as possible and should remain separated until after they have given a statement to Professional Standards.
 - a. The officer's weapon will become evidence if the suspect was struck or if there is any indication that the weapon malfunctioned. The Incident Commander or Shooting Team Supervisor shall make arrangements through the Watch Commander's Office or Professional

Standards to have a replacement weapon issued at the same time that the officer's weapon is taken as evidence.

4. The Santa Ana Police Department Shooting Team will assume command of the immediate crime scene and investigation upon their arrival. All other responsibilities will continue to be the responsibility of the Incident Commander.

C. Notifications

The Watch Commander's Office shall make the following notifications immediately following an officer involved shooting:

1. The appropriate Bureau Commander; in their absence, the involved officer's Division Commander. This includes those cases where no one was injured
2. The Santa Ana Police Department Shooting Team shall respond and investigate officer involved shootings in which:
 - a. Death or injury occurs
 - b. The suspect commits a felonious assault against an officer
 - c. It is directed to do so by a Bureau Commander(s)
3. The Professional Standards Commander, in all officer involved shootings, whether or not a suspect has been injured
4. Orange County District Attorney's Office, for the purpose of conducting a joint investigation in all cases involving death or injury
5. Any other agencies or resources as requested by a Bureau Commander, Incident Commander, or Shooting Team supervisor:
 - a. Orange County Sheriff's Crime Lab/Coroner/ID
 - b. Press Information Officer
 - c. Santa Ana Legal Advisor
 - d. Legal representative or POA representative
 - e. Department psychological services
 - f. Any other assistance as needed

D. Reports

1. Professional Standards Section - Shall prepare an administrative report documenting the circumstances of the shooting, and should include the following:

- a. Summary
- b. Officer(s) involved
- c. Describe officer's weapon, ammunition and holster
- d. Suspect(s) info/status
- e. Witnesses
- f. Details surrounding the shooting
- g. Rangemaster/Armorer's Weapons Inspection Report

This report, unless circumstances prohibit, shall be completed within ten (10) calendar days.

E. Shooting Team

Shall prepare the crime report, assignment of any supplemental reports, and any other reports related to the criminal investigation of the shooting incident.

IV. Shooting Incidents - Outside Santa Ana

A. On-Duty Incidents

1. Any on-duty officer involved in a shooting outside the City of Santa Ana shall immediately notify the law enforcement agency of the jurisdiction where the shooting occurred, and comply with the policies of that agency consistent with the law. The officer should then notify the Santa Ana Police Department Watch Commander.
 - a. The Watch Commander will notify the Professional Standards Section who will respond to the scene of the shooting to perform a concurrent administrative investigation with the handling jurisdiction's criminal investigation.
 - b. The appropriate Bureau Commander shall also be notified.
2. Our officer involved shooting team and other departmental resources may be utilized upon request or agreement of the jurisdiction in which the shooting occurred.

B. Off-Duty Incidents

1. Any officer, while in an off-duty capacity and involved in a shooting incident, shall immediately notify the law enforcement agency for the jurisdiction in which the incident occurred. The officer shall also notify the Watch Commander of the Santa Ana Police Department.
 - a. The Watch Commander will make contact with the law enforcement agency conducting the investigation to ascertain the circumstances and determine if any assistance is requested from our agency, or by our officer.

- b. The Watch Commander will notify the Professional Standards Section who will respond to the scene for coordination with the handling agency and shall perform a concurrent administrative investigation. The Professional Standards Section shall complete a report to the Chief of Police, pursuant to Section III, D of this Order.

2. The Watch Commander will notify the appropriate Bureau Commander.

V. Investigation of Unintentional, Accidental, And Vicious Animal Officer Involved Shooting Incidents

A. Scene Responsibilities Involving an Unintentional Officer Involved Shooting Incident

Any officer who unintentionally discharges his/her firearm either on or off duty shall immediately report the incident to the Watch Commander. If an injury has occurred as a result of the incident, the procedures as outlined in Sections III and IV of this Order shall be followed. If the unintentional discharge does not result in injury, the Watch Commander shall assign a Sergeant to immediately respond to the scene for investigation of the incident and notify the Professional Standards Section.

B. Scene Responsibilities Involving a Vicious Animal Shooting Incident

Any officer who discharges his/her firearm at a vicious animal either on or off duty shall immediately report the incident to the Watch Commander. The Watch Commander shall assign a Sergeant to immediately respond to the scene for investigation of the incident and notify the Professional Standards Section.

C. Scene Responsibilities Involving an Accidental Discharge

Any officer who experiences an accidental discharge either on or off duty shall immediately make his/her weapon safe and report the incident to the Watch Commander. If an injury has occurred as a result of the incident, the procedures as outlined in Sections III and IV of this Order shall be followed. If the accidental discharge does not result in injury, the Watch Commander shall assign a Sergeant to immediately respond to the scene for investigation of the incident and notify the Professional Standards Section. A member of the Professional Standards Section shall respond to collect the officer's weapon and immediately issue a replacement.

D. Reports

The assigned Sergeant shall prepare an administrative report documenting the circumstances of the unintentional, accidental or vicious animal shooting incident, and should include the following information and headings:

1. Summary
2. Officer involved
3. Describe officer's weapon, ammunition and holster
4. Witness information (if applicable)
5. Animal description and owner information (when applicable)
6. Attachments

7. Investigation
8. Scene description
9. Witness statements
10. Officer interview to include details surrounding the shooting incident
11. Recommendation of classification

This report, unless circumstances prohibit and approved by a Commander or person of higher rank, shall be completed within fourteen (14) calendar days and forwarded to the Professional Standards Commander. In shooting incidents involving accidental and vicious animal shootings, the incident will be reviewed through the involved officer's chain of command and the Shooting Review Board will not be convened.

E. Weapons

1. It shall be the investigating Sergeant's responsibility to ensure that the involved officer has his/her weapon inspected by a Department Rangemaster/Armorer as soon as practical.
2. If the investigating Sergeant has reason to believe that the involved officer's weapon malfunctioned, someone from the Professional Standards Section shall be contacted immediately to respond and issue a replacement weapon. In any circumstance where it is reported or suspected that an officer's weapon malfunctioned, the Department's Firearms Examiner or the Orange County Sheriff's Firearms Unit shall inspect the weapon prior to placing it back in service.

VI. Shooting Review Board

The Police Department is charged with the responsibility of objectively evaluating the use of deadly force by its officers. Therefore, when a shooting occurs it is important that all the facts pertaining to the incident be reviewed so that the Department will be able to make appropriate findings and determine an appropriate classification. The Shooting Review Board serves as an independent administrative review of officer involved shootings for the primary purpose of identifying and advising the Chief of Police and the City Attorney of any and all legal issues related to the incident. These issues include, but are not limited to: (1) gathering relevant facts related to the incident that may lead to potential litigation; (2) potential issues involving Department Policies and Procedures (for this and other similar incidents) that may result in a recommended policy change; and/or, (3) remedial action that may be necessary, such as additional training for the involved officer(s). Involved personnel shall be afforded the rights delineated in Santa Ana Police Departmental Order 115 (Employee Bill of Rights), which is in accordance with Government Code Sections 3300-3311. The Shooting Review Board should be conducted as soon as practicable after Professional Standards has completed its administrative investigation.

A. Function

The function of the Shooting Review Board is to act as an advisory body to the Chief of Police. It is charged with the responsibility of examining each shooting incident, whether it occurred on or off duty, intentional or unintentional (other than the disposition of gravely injured animals, non-injury accidental or unintentional shooting incidents, or range activity). The Board will constructively critique each shooting and recommend

to the Chief how it should be classified. The Board does not have the authority to recommend discipline. This action rests with the Chief of Police or his designee if deemed appropriate.

B. Membership

1. The Shooting Review Board will be comprised of five sworn voting members of the Department:
 - a. Chairperson - Appointed by the Chief of Police or his designate
 - b. Commander or Sergeant from Administrative Bureau
 - c. One Officer from the Administrative Bureau
 - d. One Officer from the Investigation Bureau
 - e. One Officer from the Field Operations Bureau
2. The Chairperson may invite other interested parties as he or she deems appropriate and necessary.
3. Each primary and alternate representative board member will be appointed by their respective Bureau Commander.
4. Members of the Board will remain on the Board at the discretion of the Chief of Police or the respective Bureau Commander.

C. Alternates

1. The Chairperson will not chair a Board reviewing his or her direct subordinates. An alternate or past Chairperson should be assigned to avoid a conflict.
2. The Bureau Commander may also appoint an alternate for those instances where the primary member is not available when the Board convenes.

D. Duties and Responsibilities

1. The Chairperson will convene the Board at the conclusion of a completed investigation and as soon as practical after receipt of the administrative reports.
2. The Board will avail itself of any facilities of the Department necessary to conduct a complete examination of the circumstances involved in a shooting incident.

E. Officers' Rights and Privileges

1. An officer in a shooting incident will be advised by the Chairperson of the Board as to when and where the Shooting Review Board meeting will be held.
2. Any officer involved in a shooting incident may be represented by legal counsel or other representative of their choice through all phases of the review process.

F. Findings and Report

1. The findings of the Shooting Review Board are based on the facts and information available to the board at the time of the review. The Chief of Police may decide to act upon additional information received after the completion of the Shooting Review Board's report. Any action taken based on additional information would not require the Shooting Review Board to change its findings. The findings of the Board will include one of the following categories:

- a. Justified - Where the facts and circumstances surrounding the use of deadly force support the officer's decision, as defined in the Policy Statement.
- b. Unjustified - Where use of deadly force clearly does not meet the requirements as defined in the Policy Statement.
- c. Accidental - Where the officer's weapon discharged through a mechanical malfunction.
- d. Unintentional - Where the officer did not intend to discharge his/her weapon.

2. The report format will be as follows:

- a. Meeting: When, where and how many sessions
- b. Board members present
- c. Observers present (i.e., attorney, POA representative or psychologist)
- d. Officer involved: Name, badge number, assignment, days off, working status (vacation, administrative leave, IOD, etc.), and date of hire
- e. Firearm used: Type, serial number, model number, modifications, holster description and ammunition
- f. Officers or other persons interviewed
- g. Evidence considered (i.e. photographs, green channel, 911 calls, etc.)
- h. Synopsis of incident to include and clearly identifying the officer's actions prior to, during, and after the shooting that may be of concern related to training/liability.
- i. Comments (if needed)
- j. Recommended classification
- k. Signature blocks for approval: Chairperson, Bureau Commander of affected Bureau, Chief of Police

3. This memorandum will include identified ancillary issues and shall be written to the City Attorney via the Chief of Police for follow-up action as deemed necessary through the affected employee's chain of command.
4. At the conclusion of the examination of the shooting, the Board shall submit a written report within 30 days or within a reasonable time period allowing for the complexity of the reviewed incident. The report shall be submitted via the affected officer's Bureau Commander to the Chief of Police. After the Chief of Police reviews and approves the written report it shall be forwarded to the Training Bureau Commander for processing, and then submitted to the City Attorney for retention pursuant to the city's record retention policy. The affected officer will be provided with a memorandum articulating the findings of the Shooting Review Board.

VII. Major Incident Review Board

- A. At the discretion of the Chief of Police or his designate, the Shooting Review Board will convene as the Major Incident Review Board.
- B. The purpose of the Major Incident Review Board is to examine those incidents where circumstances dictated police action and to determine if the action(s) taken was in compliance with Department policy.
 1. To examine those incidents that the Chief of Police or his designate has determined to be of major proportions or a significant police intervention.
 2. Any other incident of which a review would benefit the Department.