



GENERAL ORDER

Discharged Firearm

Purpose and Scope

This order applies to on- or off-duty sworn employee discharges of any firearm, whether intentional or accidental that: result in injury or death to a human or animal; or do not result in injury or death; or occur when an employee is fired upon, regardless of injury or whether the employee or others returned fire; or involve officers who have been authorized by the Chief Probation Officer to carry a firearm off-duty as a result of a threat or other circumstance warranting such authorization.

This order does not apply to firearm discharges that occur as part of training, recreation, or hunting that are not otherwise alleged to be dangerous or negligent.

Affected Personnel

All employees

Authority

Administrative Directive
Government Code
Penal Code

Effective Date

August 4, 2020

I. Off-Duty Discharge

Unless otherwise authorized, any employee who discharges a firearm off-duty outside the scope of his/her employment does so as a private citizen and is acting completely independent of the County. Any consequences or liability of any kind, including but not limited to: any liability claim, legal defense cost, indemnity, or any claim based on workers' compensation that arises out of any act or incident involving the off-duty discharge of a firearm, is solely the responsibility of the involved employee. The County assumes no liability or responsibility for such actions.

The Department recognizes, however, that off-duty discharges of firearms by its employees may be deemed by a court of competent jurisdiction to impose liability or responsibility on the Department and the County of Sacramento¹. Therefore, the

¹ Gov. Code § 815 et seq.

Department, in its discretion, may investigate and review off-duty discharges of firearms by its employees consistent with this order.

If an employee discharges a firearm off-duty and there is injury or death to a human or the incident is under investigation by a local law enforcement agency, the employee shall make verbal notification, via personal contact, to the employee's supervisor or the supervisor's designee as soon as reasonably practical. As a last resort, personal contact shall be made with a supervisor assigned to the Youth Detention Facility by calling 916-876-9304. The supervisor notified shall immediately notify his/her manager or designee, who may respond to the incident scene.

II. Involved Officer Responsibilities in On-Duty Firearm Discharges

Whenever a probation officer discharges a firearm in the course of his/her employment, the officer shall immediately stabilize the situation.

A. As soon as safety permits the officer shall:

1. Notify the local law enforcement agency with jurisdiction.
2. Secure and maintain the scene of the incident to the best of the officer's ability until the law enforcement agency having jurisdiction arrives
3. Request medical attention for any injured persons and administer first-aid if necessary and it is safe to do so.
4. Immediately notify, via personal contact, the officer's direct supervisor or the supervisor's designee, and, if desired, the involved officer's union representative.
5. Remain at the scene until dismissed by the local law enforcement agency and/or the department representative, unless it is unsafe to do so.
6. Protect any discharged firearm for examination, absent extraordinary circumstances. Whenever there is an intentional or accidental discharge of a firearm by a probation officer, his/her firearm shall be surrendered, when requested, to the investigating agency or for other investigative purposes. Chain of evidence procedure must be followed if the firearm is being relinquished for investigative purposes.
7. If practical, avoid driving immediately following the incident. If the probation officer(s) involved in the shooting needs transportation, a member of the Probation Department shall be assigned to provide transportation.
8. Refer media inquiries to the Chief Probation Officer or his/her designated representative. Involved personnel shall not comment to anyone from the media or general public.
9. Cooperate fully with any investigation related to the incident, to the extent such cooperation does not infringe upon the officer's constitutional and statutory rights.

III. Supervisor Responsibilities for On-Duty Firearm Discharges

A. Once an officer notifies his/her supervisor or designee of a firearm discharge, the supervisor shall:

1. Immediately notify his/her manager or the manager's designee and the Field Watch Commander;
2. Respond to the scene of the incident.

- B. The Field Watch Commander shall immediately respond to the scene of the incident.

IV. Incident Commander and Point of Contact Responsibilities for On-Duty Firearm Discharges

- A. Whenever a manager is notified of the discharge of a firearm by a probation officer, the person notified, or his/her designee, shall immediately contact another manager and respond to the scene of the incident.
- B. One manager on scene, or his/her designee, shall assume the role of incident commander while the other acts as the point of contact for communications.
- C. The person assigned as the incident commander shall immediately take command of and secure the incident scene until relieved by the law enforcement agency having jurisdiction.
- D. The person assigned as point of contact for communications shall be responsible for notifying, as soon as possible, the Chief Probation Officer, Assistant Chief Probation Officer(s), Professional Standards manager, and Safety Specialist. This person shall also be responsible for maintaining contact between interested parties and the incident commander and shall apprise all parties of updated information, as necessary and pertinent.
- E. If necessary, the incident commander may immediately order any involved officer to provide limited public safety information to secure the scene and pursue the suspect(s), including:
 - 1. Outstanding suspect(s) information
 - 2. Number and directions of shots fired
 - 3. Boundaries of the incident scene
 - 4. Identity of any known witness(es) and suspect(s)
- F. If necessary, additional Probation Department personnel may be called to the scene to assist.
- G. Probation personnel responding to the scene to assist shall cooperate with any investigation by other law enforcement agencies.
- H. With due consideration for the preservation of life and the arrest of the suspect, if applicable, it shall be the responsibility of the involved officer(s) and responding probation personnel to preserve all evidence until properly relieved by jurisdictional law enforcement officers or other appropriate investigative personnel.
- I. The law enforcement agency investigator at the scene shall be responsible for the collection of evidence.

- J. All information gathered by the responding probation personnel should be given as soon as possible to the local law enforcement officers or other appropriate investigative personnel.
- K. The incident scene should be protected, witnesses identified, and any statements offered by witnesses documented by law enforcement personnel.
- L. If necessary, contact information for County Risk Management shall be left at the scene. Community resources may be disseminated as necessary.
- M. All officers who are involved with the firearm discharge shall be afforded a minimum of two paid days off work, which shall commence within three business days of the incident.
 - 1. Time off shall be mandatory for all officers who discharge their firearm.
 - 2. Involved officers who do not discharge their firearm may choose whether or not to take time off.
 - 3. All reports should be completed prior to the time off unless circumstances dictate otherwise and the officers' Chief Deputy has approved.

V. Law Enforcement Investigation

- A. The Department shall ensure every firearm discharge by an employee at another human being, regardless of injury or death, is investigated by the law enforcement agency having jurisdiction over the location of the incident.
- B. The Probation Department will defer to the jurisdictional agency the responsibility to report to the local District Attorney's Office (DA) any discharge of a firearm by a sworn employee that results in injury or death.²
- C. If there has been a death or injury as a result of the discharge of a firearm, an employee of the Probation Department should be assigned to remain with the probation officer(s) involved in the shooting and to provide assistance. The person assigned shall not be directly involved in the incident and shall refrain from inquiring about the facts of the incident.
- D. As part of the law enforcement investigation, the Department employee shall be afforded his or her rights under state and federal law.
- E. To the extent permitted by the outside law enforcement agency conducting the law enforcement investigation, the employee(s) may:
 - 1. Receive a reasonable amount of rest before providing a statement.
 - 2. Receive appropriate medical treatment before providing a statement.
 - 3. Have an uninvolved representative present during the interview, so long as the unavailability of a particular representative does not cause an unreasonable delay in the investigation.

² Sacramento County District Attorney's Protocol for Investigation and Review of Officer-Involved Shootings and Other Uses of Force, March 6, 2015.

4. Review audio and video recordings, as well as documents related to the incident, before providing a statement, so long as the unavailability of said items does not cause an unreasonable delay in the investigation.

VI. Documentation of a Discharged Firearm

If the discharge does not result in a law enforcement investigation (for example, discharges that were an accidental discharge or the intentional shooting of an animal or inanimate object), the probation officer shall, within 48 hours, submit a report via the Event Reporting System (ERS) and may be required to submit a law enforcement report. The report shall contain:

- A. A complete and detailed description of the incident and specific reason for the use of the firearm.
- B. The names and contact information for all persons present during the incident, including other law enforcement personnel (noting position, title, agency), witnesses, and any other individuals present (including probation status when applicable).

VII. Discharges at the Shooting Range

- A. All accidental discharges shall be reported by the Range Master.
- B. Incidents of discharge resulting in injury, death, or property damage shall be reported by the Range Master.

VIII. Firearm Inspection

- A. The investigating agency shall collect any firearm(s) discharged in shooting incidents from the employee(s) for physical examinations that may be necessary as part of the investigation.
- B. The employee(s) may be issued a temporary replacement firearm if so authorized by the Chief Probation Officer and Department Range Master.
- C. Under the supervision of the Range Master, the probation officer shall be provided the opportunity to practice at the range with the newly-issued firearm prior to carrying it on duty.

IX. Administrative Leave

- A. When the discharge of a firearm by a probation officer results in injury or death to another person, the officer shall be relieved immediately of field duties and placed on administrative leave³ without loss of pay or benefits, until otherwise notified by the Chief Probation Officer or his/her designee.
- B. While on administrative leave, the officer must remain available for formal interviews, unless circumstances dictate otherwise.

³ Per Sacramento County Probation Department Administrative Leave Policy.

- C. The involved officer shall not discuss the incident with anyone except as required or permitted by law.

X. Psychological Counseling/Debriefing

- A. Any probation officer involved in an Officer Involved Shooting shall be offered and may be required, to undergo a debriefing with a designated psychologist as soon as possible following the incident. The debriefing shall not be related to any investigation of the incident. The debriefing session shall be protected by the psychotherapist-patient privilege to the extent allowed by law.
- B. Before the probation officer returns to work from an administrative or other leave resulting from the shooting incident, the officer, at the discretion of the Chief Probation Officer, may be required to undergo a fitness for duty examination. This evaluation shall not be completed by the same psychologist used for the initial debriefing.
- C. The assigned supervisor of the affected employee shall provide the employee with an Employee Assistance Program (EAP) referral.

XI. Traumatic Incident: Other Agencies

In the event an officer is participating in a multi-agency operation and a discharge of a firearm by an officer of another department or law enforcement agency results in injury or death to another person, the involved probation officer and/or assisting probation officers, may be relieved of field responsibilities as described above, at the discretion of the Chief Probation Officer or designee.

XII. Discharged Firearm Review

- A. Every firearm discharge by an employee, whether on- or off-duty, as covered by this order, shall be subject to a Discharged Firearm Review. This administrative review is not an internal investigation and will not be reflected as such in the employee's personnel file.
- B. The Discharged Firearm Review may be based on, but is not limited to:
 - 1. Any evidence developed as part of the law enforcement investigation, if applicable.
 - 2. Any additional evidence deemed appropriate to consider.
 - 3. Any additional interviews conducted of witnesses or the involved employee. All employees interviewed as part of the Discharged Firearm Review shall be afforded the same rights as if the review were an internal affairs investigation.
- C. The Discharged Firearm Review shall review the facts surrounding the incident.
- D. There shall be one Discharged Firearm Review for the entire shooting incident.

- E. Non-human shooting incidents shall have a Discharged Firearm Review completed within 15 business days after the completion of the Event Report (ER) and law enforcement report.
- F. Shooting incidents that require a law enforcement investigation shall have a Discharged Firearm Review completed within 30 business days after the closure of the law enforcement investigation.
- G. In non-human shooting incidents, the Professional Standards and Training Division shall email a *Discharged Firearm Review Notice* to involved officers following the completion of the Event Report (ER) and/or law enforcement report. In incidents requiring a law enforcement investigation, a *Discharged Firearm Review Notice* shall be emailed following the closure of the law enforcement investigation. If the Board elects to require the officer(s) to attend the review, the notice shall include the date and time of the Discharged Firearm Review.
- H. Composition of the Discharged Firearm Review Board:
 - 1. A Probation Division Chief, as designated by an Assistant Chief Probation Officer, shall serve as Chairperson.
 - 2. The Chairperson shall select from the following personnel a minimum of five Review Board members, as appropriate, so long as none was involved in the incident as a responding or participating officer:
 - a. A Probation Division Chief and/or Assistant Division Chief;
 - b. Direct Supervisor of the involved officer(s);
 - c. Field Watch Commander;
 - d. Department Range Master;
 - e. Representative from the Professional Standards and Training Division;
 - f. Supervisor not directly overseeing involved officer(s);
 - g. A peer officer;
 - h. A sworn peace officer from an outside law enforcement agency; and
 - i. Department instructor for the type of weapon, device, or technique used.
 - 3. Officer(s) involved or present during the incident may be required to participate, at the discretion of the Board. If the officer(s) involved are required to participate, he or she may elect to bring a representative.
- I. As part of, or following, the Discharged Firearm Review, the Board may convene in closed session.
- J. At the conclusion of the Board's review, the Chairperson shall submit a *Discharged Firearm Review Board Recommendation Report* to the Chief Probation Officer, which shall be restricted to the following:
 - 1. A brief written summary of the incident, as determined by the facts.
 - 2. Policy modification recommendations, if appropriate.
 - 3. Training modification recommendations, if appropriate.

4. The signature of each member of the Discharged Firearm Review Board.
- K. At the conclusion of the Board's review and at the discretion of the Chairperson, the Chairperson may submit a *Discharged Firearm Review Board Findings Report* to the Chief Probation Officer. The Chief Probation Officer may refer the report to the appropriate manager or the Department's Internal Affairs Unit to handle separately any alleged misconduct or policy violation discovered as a result of the Discharged Firearm Review process.

Attachments

Discharged Firearm Incident Checklist: Involved Officer Responsibilities
Discharged Firearm Incident Checklist: Incident Commander Responsibilities
Discharged Firearm Incident Checklist: Point of Contact Responsibilities
Discharged Firearm Review Notice
Discharged Firearm Review Board Considerations
Discharged Firearm Review Recommendation Report
Discharged Firearm Review Board Findings Report
Discharged Firearm Information Cards
Sacramento County District Attorney's Protocol for Investigation and Review of Officer-Involved Shootings and Other Use of Force, March 6, 2015

Amends/Replaces Previous Order

Discharged Firearm General Order (effective 7/15/2016)

Authorized By Lee Seale **Date** 3/17/2020
Lee Seale, Chief Probation Officer