



Town of Marlborough Police Department

GENERAL ORDER

SUBJECT: Discharge of Firearms

Order Number: 3.28

DATE ISSUED: 09/10/10 BY ORDER OF POLICE CHIEF: COCOZZA

DATE EFFECTIVE: 09/10/10 REPLACES ORDER #(S): APR

DISCHARGE OF FIREARMS

PURPOSE: To establish procedure for reporting the discharge of a firearm by members of the police department.

I. POLICY

It is the policy of this police department that the USE OF FORCE by a member will be accurately reported and subjected to a thorough and objective evaluation. This policy will cover all USE OF FORCE, whether on or off duty, within the Town Boundaries and also while performing duties outside the boundaries of the Town of Marlborough.

II. PROCEDURE

A. Members

A member of this police department, who discharges a firearm, whether on or off duty, other than for training, legal hunting, or target practice purposes, will adhere to the following:

1. Immediately notify the patrol supervisor regarding the circumstances surrounding the weapon discharge (not applicable in cases of destroying animals).
2. File a report through appropriate channels which will include ALL pertinent details relating to the accidental discharge or justification for deliberate discharge. A standard report as well as a use of force report will be completed on ALL firearm discharges including the destruction of animals.
3. In the event the member who discharged the weapon is unable to supply the required written reports, the assigned supervisor shall be responsible for filing, or cause to be filed, the reports as soon as possible.
4. Any member on the scene at the time of the occurrence who is witness to, or participates in, the occurrence will complete a supplement to the original Incident Report (not applicable in cases of destroying animals).

B. Supervisors

1. In every instance when a member of this police department has occasion to discharge a firearm, except when destroying an animal or training, it will be the responsibility of the ranking member on duty to notify the Chief and other department supervisor's as necessary without unnecessary delay.
2. A supervisor will immediately respond to the scene of the weapon discharge and protect the scene pending an investigation.
3. Where an injury is sustained by any person through the use of a firearm, it will be the responsibility of the supervisor at the scene to ensure proper notifications are made. The supervisor on scene will consult with the Chief to determine if a department or other police investigator will be requested to respond to assist in the investigation. The Chief of Police is also responsible for determining if the investigation will be turned over to New York State Police Investigators **or any other division with legal authority to investigate the same.**
4. Afford the member privacy from inquiries by the public and police department personnel not involved in the actual investigation of the incident.
5. Document his/her actions and opinion of the incident.

C. Reporting a Discharge

Any report relating to the discharge of a firearm should include, but not be limited to, the following:

1. Whether the officer was on or off duty.
2. Whether the officer was in uniform or plainclothes.
3. A list of witnesses which should include those who may have only seen part of the entire incident.
4. Names of officers present at the scene, with statements as to their involvement and what they witnessed.
5. Description of weapon(s) used, including:
 - a) Whether or not Town issue.
 - b) Type (e.g., revolver, auto, shotgun, etc.).

- c) Caliber.
 - d) Serial number.
 - e) Make.

 - f) Permit number.
 - g) Number of rounds.
6. Type of ammunition.
 7. Whether officer was wearing a bullet resistant vest and type.
 8. Type of holster and whether Town issue.
 9. Number of rounds fired by officer and adversary.
 10. Lighting and weather conditions.
 11. Nature of incident when dispatched.

D. In the case of an accidental discharge said firearm is to be examined by a police department armorer to ensure it is functioning properly. The police department will replace the weapon and equipment as directed by the Chief of Police.

E. Investigating Supervisor

1. Conduct an investigation into the incident and/or assist assigned investigators as necessary.
2. Except as directed by Chief of Police, the firearm, ammunition and related leather goods will be secured in the same condition as they were immediately following the last discharge (by a supervisor or assigned investigator) The firearm shall be turned over to the assigned supervisor or investigator as warranted. The items will be secured same as evidence, until the termination of any internal or legal proceedings.

F. Assignment to Non-patrol Duty

1. When a member is involved in a shooting, the Chief of Police or his designee will assign that member to non-patrol duties. The assignment to administrative duty does not imply guilt or innocence of the officer involved.

2. A non-patrol duty assignment will be made in the best interests of the police department and the officer.
3. When a member is assigned to non-patrol duty, he/she will:
 - a) Refrain from routine exercise of police arrest and intervention powers.
 - b) Refrain from any public discussion of his/her non-patrol assignment or circumstances related to his/her use of force.
 - c) Retain responsibility for compliance with all laws, police department rules and regulations, general orders and directives governing police department personnel not specifically exempted by this procedure, except as in "a" above.

G. Review and Disposition

1. Upon completion of all reports and investigation, all documentation shall be submitted to the Chief of Police by the assigned supervisor or investigator as warranted.
2. The Sergeant, Lieutenant, and any other personnel deemed appropriate by the Chief of Police shall review the incident to determine whether the discharge is consistent with the policies of this police department and professional law enforcement standards.
3. The above mentioned staff shall forward its conclusions and recommendations as to policy compliance or noncompliance. They may recommend additional training, policy changes, equipment changes or other procedures for consideration by the Chief of Police.