

Memorandum

TO: ALL DEPARTMENT PERSONNEL **FROM: Dave Knopf**
Acting Chief of Police

SUBJECT: DUTY MANUAL ADDITIONS: **DATE: December 21, 2020**
DRAWING AND POINTING
A FIREARM AT ANOTHER PERSON

Memo# 2020-049

BACKGROUND

The Department understands the need to document the use of available force options. In 2010, the Department implemented Duty Manual Section L 2614 USE OF TASER AND REPORTING REQUIREMENTS which required Department members to document the display of a Taser to gain compliance from a subject. Since the implementation of this Taser policy, it has become a law enforcement best practice to also document when an officer points a firearm at a member of the public. In addition, Government Code section 7286(b)(4) directs law enforcement agencies to maintain a policy with clear and specific guidelines regarding situations in which officers may or may not draw a firearm or point a firearm at a person. Government Code section 7286(b)(14) directs law enforcement agencies to maintain a policy requiring officers to provide or procure medical assistance for injured persons when reasonable and safe to do so.

To comport with the Government Code and best practices, officers will now be required to document when they point firearms at a subject on a new *Firearm Pointed Template*. When a *General Offense Report* (Form 200-2-AFR) (G.O.) is written, the officer shall complete a *Firearm Pointed Template* for each person at whom the officer points a firearm. When a G.O. is not written, a Street Check shall be created, and the officer shall complete a *Firearm Pointed Template* for each person at whom the officer points a firearm. Officers will not be required to document when they draw, equip, or exhibit a firearm that is not intentionally pointed at a person (e.g., low ready).

When completing the *Firearm Pointed Template*, officers will be required to select the reason for pointing the firearm. Officers may select one or all of the following reasons:

- The subject presented a deadly threat or a threat of serious bodily injury to officers or the public
- The subject was armed, believed to be armed, or was known to carry weapons
- The subject was violent, believed to be violent, or had a known history of violence

ANALYSIS

The Duty Manual has been revised to reflect changes described below. Additions are shown in *italics and underlined*.

L 2638.1 **PROVIDING FIRST AID AFTER THE USE OF A FIREARM**

Added 12-21-20

If a person is injured by a Department member's use of a firearm, whether on-duty or off-duty, whether intentional or unintentional, the following steps shall be taken as soon as practical:

- Immediately summon emergency medical aid
- Check breathing and heartbeat at the scene
- Administer first aid if required

When the injured person is in custody, the treatment will be provided at Valley Medical Center (VMC). Another hospital emergency room may be used if the injured person is taken there for emergency medical treatment or if VMC is closed for admissions.

When the injured person is not in custody, the treatment may be provided at the injured person's facility of choice. If they are unable to provide a preferred facility, the treatment will be provided at VMC. Another hospital emergency room may be used if the injured person is taken there for emergency medical treatment or if VMC is closed for admissions.

Whether the injured person is in custody or not in custody, when treatment is being provided in a medical facility, there is no need to transport the injured person to VMC, unless requested to do so by the treating physician.

L 2638.2 **DRAWING A FIREARM**

Added 12-21-20

Drawing a firearm is defined as when an officer removes a firearm from their holster or equips themselves with a rifle or shotgun.

An officer may draw their firearm if they reasonably believe, based on the totality of the circumstances, that deadly force is or may become necessary, or when, consistent with training, circumstances create a reasonable belief that the display of a firearm may help to establish or maintain control in a potentially dangerous situation.

When it is determined that the use of deadly force is not necessary, as soon as practicable, handguns shall be secured or holstered and rifles/shotguns shall be secured.

L 2638.3 **POINTING A FIREARM AT ANOTHER PERSON**

Added 12-21-20

An officer may intentionally point their firearm (e.g. handgun, shotgun, rifle) at another person if the officer reasonably believes, based on the totality of the circumstances, there is a substantial risk that deadly force is or may become necessary (i.e., the officer reasonably believes there is a credible threat of death or serious bodily injury to himself or herself, other officers, or members of the public). An officer need not wait until the threat becomes imminent before pointing

ALL DEPARTMENT PERSONNEL

SUBJECT: DUTY MANUAL ADDITIONS: DRAWING AND POINTING A FIREARM AT ANOTHER PERSON

December 21, 2020

Page 3 of 4

his or her firearm at a person. However, an officer must be able to articulate why he or she reasonably believes deadly force may become necessary. Nothing in this section is intended to take away an officer's ability to defend themselves or another person from serious bodily injury or death.

When an officer points a firearm at another person, this action shall be documented on the Firearm Pointed Template. When a General Offense Report (Form 200-2-AFR) (G.O.) is written, the officer will complete a Firearm Pointed Template for each person at whom the officer points a firearm. When a G.O. is not written, a Street Check will be created, and the officer will complete a Firearm Pointed Template for each person at whom the officer points a firearm.

The pointing of a firearm at another person does not require the completion of an "Automated Use of Force Template" unless the firearm is discharged or used in a manner which constitutes a reportable use of force as defined by Duty Manual Section L 2644 - DEFINITION OF REPORTABLE FORCE.

Drawing, equipping, or exhibiting a firearm without intentionally pointing it at a person (e.g., having the firearm at a "low ready" position) does not require documentation.

When it is determined that the use of deadly force is not necessary, as soon as practicable, handguns shall be secured or holstered and rifles/shotguns shall be secured.

EXCEPTION: When an Officer Involved Incident occurs and the investigation is conducted in accordance with the Santa Clara County Police Chiefs' Association Officer-Involved Incident Guidelines, the Department member's statement and all required templates will be completed as described in DM section L 2645.

ORDER

Effective immediately, all Department personnel shall adhere to the above Duty Manual sections.



DAVE KNOPF
Acting Chief of Police

DK:SD:MB

Attachments: Firearm Pointed Template

ATTACHMENT – Firearm Pointed Template

Template: FIREARM POINTED	
If you pointed your firearm at a person (not including low-ready), you must complete this template.	
If this event is being investigated as an OII, refer to Duty Manual Section L 2645 Reportable Force by Department Members - To determine who should complete the template.	
Police Event Number #	SJPD Primary Agency?
Initial contact reason (select only one):	
What type of Firearm did you point (Check all that apply):	
☐ Handgun ☐ Rifle	
☐ Shotgun ☐ Other firearm	
Reason(s) for pointing the firearm (Check all that apply):	
☐ The subject presented a deadly threat or a threat of serious bodily injury to officers or the public	
☐ The subject was armed, believed to be armed, or was known to carry weapons	
☐ The subject was violent, believed to be violent, or had a known history of violence	
SUSPECT INFORMATION	
Suspect Name:	
☐ Unknown	
Enter the suspect's name below IF known	
Last Name:	
Given Name(s):	
DOB:	☐ DOB Unknown
Gender:	
Race:	
OFFICER INFORMATION	
Officer Name:	Badge Number:
Gender:	
Race:	
On duty:	
Shift Type:	
Officer dress:	
Years of experience:	
Assignment:	