



USE OF FIREARM

Enforcement Division
Policy Number: 4.03.00

Effective Date: 2/1/08

POLICY

The Texas Alcoholic Beverage Commission (TABC) authorizes certified peace officers (CPOs) to carry authorized firearms and use them when a lesser degree of force is impracticable. CPOs will maintain proficiency with authorized firearms and will be prepared to use them if necessary.

Misuse or negligent discharge of a firearm will result in disciplinary action.

ROLES AND RESPONSIBILITIES

a. Training Coordinator shall:

1. Coordinate firearms proficiency training to be given by firearms instructors in both the spring and the fall.
2. Maintain all documentation regarding training and certification of CPOs.
3. Notify Enforcement Headquarters annually of all officers who are not in compliance.

b. Captains shall:

1. Act as the firearms coordinator.
2. Appoint firearms instructors as needed in each district that:
 - are classified as "Agent I" or above;
 - are or will be certified in a firearm instructor's course;
 - consistently demonstrate 95% proficiency with firearms.
3. Supervise the duties of firearms instructors.
4. Authorize personal firearms for use as a duty weapon.
5. Distribute ammunition to CPOs in his or her region.
6. Request ammunition as necessary from the supervising assistant chief of enforcement.
7. Complete and forward documentation to the training coordinator as necessary.

c. Firearms Instructors shall:

1. Schedule two firearms proficiency training sessions each year—one to be completed in the spring and the other to be completed in the fall.

2. Report all required documentation to the captain.

PROCEDURES

a. Firearm Proficiency.

1. All CPOs will complete firearms proficiency training twice a year—once in the spring and once in the fall.
2. The firearms instructors will arrange firearms proficiency training for CPOs as assigned by the captain.
3. Refer to *Firearms Proficiency*, § 4.03.01 of this manual, for policies and procedures regarding firearms proficiency training.

b. Use of Firearm.

1. The TABC authorizes CPOs to use firearms when a lesser degree of force is insufficient.
2. A CPO will only discharge a firearm to prevent the loss of life, except that a CPO may:
 - discharge an authorized firearm for practice or recreational shooting at a firing range or in any area where firing a weapon is lawful and safe;
 - discharge an authorized firearm at any animal that is obviously mad or vicious and poses an immediate threat or is suffering from an apparently fatal wound.
3. A CPO will not fire a “warning shot.”

c. Reporting Deployment or Engagement of a Firearm.

1. A CPO *engages* a firearm when he or she displays, generally aims, and is prepared to use the firearm.
2. A CPO *deploys* a rifle or shotgun when he or she removes it from his or her vehicle for a purpose other than inspection of the firearm, transferring from one unit to another, or other authorized purpose.
3. A CPO will verbally notify his or her sergeant or supervisor after engaging a firearm in a threatening manner. The CPO will then follow up with a *Use of Force Report* to the sergeant or supervisor.
4. A CPO is not required to submit a *Use of Force Report* for the precautionary deployment of a firearm, unless it is a rifle or shotgun.
5. A CPO who deploys a rifle or shotgun will notify his or her supervisor as soon as possible and will complete a *Use of Force Report*.

d. Reporting Firearm Discharge.

1. CPOs must report all discharges of a firearm, whether accidental, intentional, on-duty, or off-duty. The following activities are exceptions to this rule:

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- discharge of a firearm for recreation or sport;
 - organized competitions; and
 - discharge of a firearm to demonstrate proficiency.
2. A CPO will immediately report the discharge of a firearm by verbally describing the incident to his or her sergeant or supervisor. Refer to *Incident Notification*, § 1.06.00 of this manual, if the discharge of a firearm results in an injury.
 3. A CPO will also notify the highest ranking CPO within reasonable proximity to the incident. This CPO will secure the scene and provide assistance to any investigation.
 4. Immediately after giving the verbal report and before the end of the shift, the CPO will submit a written report up the chain of command to the assistant chief of enforcement.
 5. The report should include the following information:
 - date, time, and location of the discharge;
 - any injury or damage resulting from the discharge;
 - type of firearm and ammunition used; and
 - summary of circumstances surrounding the discharge.
 6. The sergeant or supervisor will submit the written report, along with any other official reports and statements, to the regional captain as soon as possible. The captain will submit the reports and his or her recommendations to Enforcement Headquarters as soon as possible.
 7. If a sergeant or supervisor suspects that a firearm has been used improperly, either while on-duty or off-duty, the sergeant or supervisor will immediately report the incident up the chain of command to the chief or assistant chief of enforcement.
 8. The chief or assistant chief of enforcement will determine whether disciplinary action is necessary following a review of the incident by a representative of the Legal Services Division, the Office of Professional Responsibility, and the training coordinator.
- e. Firearm Discharge Resulting in Injury or Death.**
1. A CPO involved in a firearm discharge resulting in injury or death will immediately notify a sergeant or supervisor according to the procedures described in this section and *Incident Notification*, § 1.06.00 of this manual, when the use of a firearm results in injury or death.
 2. The first arriving sergeant or supervisor will provide support for the CPO, help secure the scene, and offer any assistance to responding law enforcement and medical staff.
 3. The sergeant or supervisor shall also ensure that the chain of command notification has been followed so that both a representative of Enforcement Headquarters and the Office of Professional Responsibility have been notified.
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4. A CPO who discharges a firearm resulting in a person's death will immediately be placed on administrative leave and will undergo counseling at the agency's expense by a licensed mental health professional trained to work with law enforcement personnel.
5. Any CPO involved in a use of deadly force incident *may* be placed on administrative leave and *may* undergo counseling at the agency's expense by a licensed mental health professional trained to work with law enforcement personnel.
6. The CPO may be allowed to return to work on administrative duties following release by the mental health professional.
7. The chief or assistant chief of enforcement will review the incident with the general counsel, the Office of Professional Responsibility, and the training coordinator to determine whether the CPO acted within agency policies and procedures.
8. The CPO may only return to field duty upon the release by the licensed mental health professional and after the complete review of the incident by the chief of enforcement.

FORMS

Use of Force Report, Form 4-410
