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Sacramento County District Attorney's Office

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District Attorney

**SACRAMENTO COUNTY DISTRICT ATTORNEY'S PROTOCOL FOR  
INVESTIGATION AND REVIEW OF OFFICER-INVOLVED SHOOTINGS  
AND OTHER USES OF FORCE**

**March 24, 2023**

Law enforcement officers serve a critical role in protecting our community. In carrying out their duties, they often face dangerous situations. Circumstances will arise when officers must use deadly force. Officers must only use such force when legally necessary and as prescribed by law. When law enforcement uses deadly force, society has a right to expect that a complete and impartial examination will be conducted.

Thus, the Sacramento County District Attorney's Office and participating local law enforcement agencies agree that the District Attorney's Office will conduct an independent review of officer-involved shooting incidents that result in injury or death, and other uses of force by law enforcement officers resulting in death, within Sacramento County. The purpose of this protocol is to establish the expectations of the District Attorney and the conditions of the involvement of the District Attorney's Office in the full and fair investigation and proper disposition of such cases.

The District Attorney's Office will participate in the investigation and review of these incidents in the manner described below. This participation and review are based on the understanding that the agencies investigating the incident will cooperate with the District Attorney's investigation in the manner as follows. In the event that an investigating agency fails to cooperate, the District Attorney reserves the right to withdraw from any investigation and review of the incident.

The District Attorney will work with law enforcement to ensure that these inquiries are conducted in a fair and professional manner that will serve the interests of justice, the community, the involved officers, those persons injured, and the families of those affected. The primary objective is to accurately, thoroughly, and objectively investigate and review all relevant evidence. The investigation and review conducted by the District Attorney's Office will only address whether the officers involved committed any violation of criminal law.

**DEFINITIONS**

- A. **"Incident"** means all peace officer involved shootings that result in injury or death and other types of use of force that result in death as defined below.

- B. **“Jurisdictional agency”** means the police agency with primary law enforcement jurisdiction over the area where the incident occurred.
- C. **“Officers involved”** means peace officers who have fired their weapons resulting in injury or death or used other force resulting in death.
- D. **“Employing agency”** means the agency which employs the officers involved.

### **CASES COVERED**

This protocol shall apply when either of the following incidents occur within Sacramento County:

1. A peace officer, on or off duty, shoots and injures any person during the scope and course of employment.
2. An individual dies while in the custody or control of a law enforcement officer or agency and the use of force by a peace officer may be a proximate cause of the death.

### **PRIMARY INVESTIGATING AGENCY**

The jurisdictional agency will conduct the primary investigation of the incident. In situations where the agency that employs the officer involved is different than the jurisdictional agency, it is understood that the employing agency may conduct a concurrent investigation of the incident.

### **DISTRICT ATTORNEY NOTIFICATION**

The jurisdictional agency will notify the designated representative of the District Attorney immediately upon learning of the occurrence of any incident as defined above. Notification can be made by contacting the county operator and requesting the on-call District Attorney Investigator.

### **DISTRICT ATTORNEY RESPONSE TO SCENE AND WITNESS INTERVIEWS**

Upon notification, a District Attorney Investigator will respond to the scene of the incident, or will advise the jurisdictional agency that they will not be responding. More than one District Attorney Investigator may respond.

The District Attorney Investigator will contact the supervisor in charge of the incident scene, to be briefed as soon as practical on the incident from the supervisor. Access to the incident scene will be permitted to the District Attorney Investigator to the extent possible without contaminating evidence or otherwise disturbing the scene. The District Attorney Investigator will identify any potential witnesses he/she discovers and point out any item of evidence he/she observes to the supervisor in charge of the investigation.

The District Attorney Investigator may observe the interview of witnesses, and if invited by the jurisdictional agency may participate in the interview of witnesses. The District Attorney desires to ensure public confidence in the integrity of the investigation. As such, following any initial briefing the officers involved give to responding supervisors of the jurisdictional agency, the officers involved will not discuss the incident with other persons, or among themselves, before being interviewed by the jurisdictional agency investigators responsible for the primary investigation of the incident. This is not meant to address such contact or discussion with others as may be required or appropriate under Government Code section 3303 or any other applicable law. The District Attorney also contemplates that investigators of the jurisdictional agency will seek voluntary statements from officers involved in the incident.

The District Attorney Investigator may attend the autopsy of any decedent involved in a fatal incident.

Personnel from the District Attorney's Laboratory of Forensic Services may also be requested to facilitate crime scene documentation and analysis.

### **DISTRICT ATTORNEY'S REVIEW**

Pursuant to Government Code section 12525.3, subd. (b)(1), the California Department of Justice investigates incidents of an officer-involved shooting resulting in the death of an unarmed civilian. The California Attorney General's Office will thereafter review those investigations to determine whether criminal charges are warranted against the involved law enforcement officer(s) and, if not, will prepare and publish a report stating the facts with a detailed analysis and conclusion.<sup>1</sup> The District Attorney's Office will review all other officer-involved shooting incidents that result in injury and death, and other uses of force by law enforcement officers resulting in death, within Sacramento County. A determination of which agency will review an officer-involved shooting incident will be made at the earliest opportunity based on information available at the time, subject to reconsideration if additional information becomes known or circumstances change.

In those situations that will be reviewed by the District Attorney's Office, the District Attorney's Office will expect the jurisdictional agency to give an initial briefing to the supervisor of the District Attorney's Special Investigations section by the third working day following the incident. This briefing will include a verbal review of the evidence, witness statements, and the status of the investigation.

Within 30 days of the completion of the investigation of an incident, the jurisdictional agency shall provide copies of all investigative reports, witness statements, recordings, photographs, diagrams, and all other relevant documents to the District Attorney's Office, unless there is cause for delay. The jurisdictional agency shall make available, for inspection, any item of evidence.

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<sup>1</sup> California Department of Justice, Division of Criminal Law, Special Prosecutions Section Protocols, Assembly Bill 1506, Govt. Code § 12525.3(a), July 2021.

The District Attorney may request the jurisdictional agency to conduct supplemental investigation of any incident or may conduct additional investigation using District Attorney personnel. Copies of any investigative reports prepared by the District Attorney will be provided to the jurisdictional agency as soon as possible.

Under the authority of Penal Code section 832.7(a), the District Attorney's Investigators have access to the personnel file of any officers involved. The District Attorney's Office understands that such review will be strictly confidential, and information learned from such review that is not otherwise publicly available will not be made public or otherwise disclosed without compliance with the *Pitchess* procedure (Evidence Code section 1040 *et seq.*)

The District Attorney shall conduct an independent assessment of the circumstances surrounding incidents as defined in this document. The District Attorney will issue written findings. The written findings will be completed within 90 days of receipt of all necessary reports and materials, unless there is cause for delay. The District Attorney's findings will be made available to the public.

The parties recognize the District Attorney retains the authority to conduct a complete independent original investigation. When deemed necessary, or at the request of the jurisdictional and/or the employing agency, the District Attorney may perform an original independent investigation (separate from that which would ordinarily be conducted by the jurisdictional agency and/or the employing agency). The District Attorney will notify the jurisdictional agency and/or the employing agency if an independent original investigation is being conducted, unless such notification would compromise the integrity of the investigation.

### **MEDIA RELEASE**

The District Attorney may in his discretion elect to issue a media release which details the factual and legal findings of the investigation and review. In the event the District Attorney elects to issue a media release, the District Attorney's Office will provide upon request the jurisdictional agency and other employing agencies with an advance copy before the release is made public.