

## Officer-Involved Shootings and Deaths

### 305.1 PURPOSE AND SCOPE

The purpose of this policy is to establish policy and procedures for the investigation of an incident in which a person is injured or dies as the result of an officer-involved shooting or dies as a result of another action of an officer.

In other incidents not covered by this policy, the Chief of Police may decide that the investigation will follow the process provided in this policy.

### 305.2 POLICY

The policy of the San Diego Community College District PD is to ensure that officer-involved shootings and deaths are investigated in a thorough, fair and impartial manner. When a peace officer, on or off duty, is involved in a shooting resulting in injury or death, or any other type of force incident that results in death, the San Diego Police Department shall conduct the primary investigation of the incident as set forth in the San Diego Countywide Protocol for the Investigation and Review of Officer-Involved Shootings and Other Deadly Force Incidents MOU, and in accordance with State laws and Regional protocols.

The agency that employs the officer involved, or other designated investigating agency, may conduct a concurrent investigation of the incident. Concurrent investigations shall be conducted jointly, with full cooperation by investigators representing all involved agencies, as needed, and permitted by law.

The jurisdictional agency shall submit investigative documentation of use of force incidents, to the District Attorney's Office for review.

Internal affairs investigations shall be conducted in compliance with all laws governing such inquiries.

### 305.3 TYPES OF INVESTIGATIONS

Officer-involved shootings and deaths involve several separate investigations. The investigations may include:

- A criminal investigation of the suspect's actions.
- A criminal investigation of the involved officer's actions.
- An administrative investigation as to policy compliance by involved officers.
- A civil investigation to determine potential liability.

### 305.4 CONTROL OF INVESTIGATIONS

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Jurisdiction is determined by the location of the shooting or death and the agency employing the involved officer. The investigation will be conducted in accordance with the SDCCDPD's MOU with the San Diego Police Department and all applicable State laws and Regional protocols.

#### **305.4.1 CRIMINAL INVESTIGATION OF SUSPECT ACTIONS**

The investigation of any possible criminal conduct by the suspect is controlled by the agency in whose jurisdiction the suspect's crime occurred and will be done in accordance with the SDCCDPD's MOU with the San Diego Police Department.

If multiple crimes have been committed in multiple jurisdictions, identification of the agency that will control the investigation may be reached in the same way as with any other crime. The investigation may be conducted by the agency in control of the criminal investigation of the involved officer, at the discretion of the Chief of Police and with concurrence from the other agency.

#### **305.4.2 ADMINISTRATIVE AND CIVIL INVESTIGATION**

Regardless of where the incident occurs, the administrative and civil investigation of each involved officer is controlled by the respective employing agency.

### **305.5 INVESTIGATION PROCESS**

The following procedures are guidelines used in the investigation of an officer-involved shooting or death.

#### **305.5.1 UNINVOLVED OFFICER RESPONSIBILITIES**

Upon arrival at the scene of an officer-involved shooting, the first uninvolved SDCCDPD officer will be the officer-in-charge and will assume the responsibilities of a supervisor until properly relieved. This officer should, as appropriate:

- (a) Secure the scene and identify and eliminate hazards for all those involved.
- (b) Take reasonable steps to obtain emergency medical attention for injured individuals.
- (c) Request additional resources from the Department or other agencies.
- (d) Coordinate a perimeter or pursuit of suspects.
- (e) Check for injured persons and evacuate as needed.
- (f) Brief the supervisor upon arrival.

#### **305.5.2 SUPERVISOR RESPONSIBILITIES**

Upon arrival at the scene, the first uninvolved SDCCDPD supervisor should ensure completion of the duties as outlined above, plus:

- (a) Attempt to obtain a brief overview of the situation from any uninvolved officers.
  1. In the event that there are no uninvolved officers who can supply adequate overview, the supervisor should attempt to obtain a brief voluntary overview from one involved officer.

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- (b) If necessary, the supervisor may administratively order any SDCCDPD officer to immediately provide public safety information necessary to secure the scene, identify injured parties and pursue suspects.
  - 1. Public safety information shall be limited to such things as outstanding suspect information, number and direction of any shots fired, perimeter of the incident scene, identity of known or potential witnesses and any other pertinent information.
  - 2. The initial on-scene supervisor should not attempt to order any involved officer to provide any information other than public safety information.
- (c) Provide all available information to the Patrol Sergeant and Dispatch. If feasible, sensitive information should be communicated over secure networks.
- (d) Take command of and secure the incident scene with additional SDCCDPD members until properly relieved by another supervisor or other assigned personnel or investigator.
- (e) As soon as practicable, ensure that involved officers are transported (separately, if feasible) to a suitable location for further direction.
  - (a) Each involved SDCCDPD officer should be given an administrative order not to discuss the incident with other involved officers or SDCCDPD members pending further direction from a supervisor.
  - (b) When an involved officer's weapon is taken or left at the scene for other than officer-safety reasons (e.g., evidence), ensure that he/she is provided with a comparable replacement weapon or transported by other officers.

#### 305.5.3 PATROL SERGEANT RESPONSIBILITIES

Upon learning of an officer-involved shooting or death, the Patrol Sergeant shall be responsible for coordinating all aspects of the incident until he/she is relieved by the appropriate command staff. The Patrol Sergeant will respond to the scene and request the appropriate resources. The Patrol Sergeant will notify the appropriate Regional Police Lieutenant. The Patrol Sergeant will request assistance from the San Diego field lieutenant and field sergeant. The Patrol Sergeant will be responsible for briefing the responding homicide team.

All outside inquiries about the incident shall be directed to the Regional Police Lieutenant.

#### 305.5.4 NOTIFICATIONS

The following person(s) shall be notified as soon as practicable:

- Chief of Police
  - Chancellor
  - Vice Chancellor
- Investigation Unit Regional Lieutenant
  - Affected Campus President (if necessary)
- Outside agency investigator (if appropriate)

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- Investigation Unit supervisor
- Psychological/peer support personnel
- Chaplain
- SDPD will notify the Coroner (if necessary)
- Involved officer's agency representative (if requested)
- Public Information Officer

### 305.5.5 NOTIFICATION TO DEPARTMENT OF JUSTICE

The California Department of Justice (DOJ) is required to investigate an officer-involved shooting resulting in the death of an unarmed civilian. The Regional Patrol Lieutenant in coordination with SDPD should promptly notify the DOJ in all incidents involving an officer-involved shooting resulting in the death of an unarmed civilian, including where it is undetermined if the civilian was unarmed.

For purposes of notification, "unarmed civilian" means anyone who is not in possession of a deadly weapon (Government Code § 12525.3).

### 305.5.6 INVOLVED OFFICERS

The following shall be considered for the involved officer:

- (a) Any request for legal or union representation will be accommodated.
  1. Involved SDCCDPD officers shall not be permitted to meet collectively or in a group with an attorney or any representative prior to providing a formal interview or report.
  2. Requests from involved non-SDCCDPD officers should be referred to their employing agency.
- (b) Discussions with licensed attorneys will be considered privileged as attorney-client communications.
- (c) Discussions with agency representatives/employee groups will be privileged only as to the discussion of non-criminal information (Government Code § 3303(i)).
- (d) A licensed psychotherapist shall be provided by the Department to each involved SDCCDPD officer. A licensed psychotherapist may also be provided to any other affected SDCCDPD members, upon request.
  - (a) Interviews with a licensed psychotherapist will be considered privileged.
  - (b) An interview or session with a licensed psychotherapist may take place prior to the member providing a formal interview or report. However, involved members shall not be permitted to consult or meet collectively or in a group with a licensed psychotherapist prior to providing a formal interview or report.
  - (c) A separate fitness-for-duty exam may also be required (see the Fitness for Duty Policy).

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- (e) Peer Counselors are cautioned against discussing the facts of any incident with an involved or witness officer (Government Code §8669.4)

Care should be taken to preserve the integrity of any physical evidence present on the involved officer's equipment or clothing, such as blood or fingerprints, until investigators or lab personnel can properly retrieve it.

Each involved SDCCDPD officer shall be given reasonable paid administrative leave following an officer-involved shooting or death. It shall be the responsibility of the Patrol Sergeant to make schedule adjustments to accommodate such leave.

### **305.6 CRIMINAL INVESTIGATION**

The District Attorney's Office is responsible for the criminal investigation into the circumstances of any officer-involved shooting or death.

If available, investigative personnel from this department may be assigned to partner with investigators from outside agencies or the District Attorney's Office to avoid duplicating efforts in related criminal investigations.

Once public safety issues have been addressed, criminal investigators should be given the opportunity to obtain a voluntary statement from involved officers and to complete their interviews. The following shall be considered for the involved officer:

- (a) SDCCDPD supervisors and Investigation Unit personnel should not participate directly in any voluntary interview of SDCCDPD officers. This will not prohibit such personnel from monitoring interviews or providing the criminal investigators with topics for inquiry.
- (b) If requested, any involved officer will be afforded the opportunity to consult individually with a representative of the officer's choosing or an attorney prior to speaking with criminal investigators. However, in order to maintain the integrity of each involved officer's statement, involved officers shall not consult or meet with a representative or an attorney collectively or in groups prior to being interviewed.
- (c) If any involved officer is physically, emotionally, or otherwise not in a position to provide a voluntary statement when interviewed by criminal investigators, consideration should be given to allowing a reasonable period for the officer to schedule an alternate time for the interview.
- (d) Any voluntary statement provided by an involved officer will be made available for inclusion in any related investigation, including administrative investigations. However, no administratively coerced statement will be provided to any criminal investigators unless the officer consents.

#### **305.6.1 REPORTS BY INVOLVED SDCCDPD OFFICERS**

In the event that suspects remain outstanding or subject to prosecution for related offenses, this department shall retain the authority to require involved SDCCDPD officers to provide sufficient information for related criminal reports to facilitate the apprehension and prosecution of those individuals (Government Code § 3304(a)).

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While the involved SDCCDPD officer may write the report, it is generally recommended that such reports be completed by assigned investigators, who should interview all involved officers as victims/witnesses. Since the purpose of these reports will be to facilitate criminal prosecution, statements of involved officers should focus on evidence to establish the elements of criminal activities by suspects. Care should be taken not to duplicate information provided by involved officers in other reports.

Nothing in this section shall be construed to deprive an involved SDCCDPD officer of the right to consult with legal counsel prior to completing any such criminal report.

Reports related to the prosecution of criminal suspects will be processed according to normal procedures but should also be included for reference in the investigation of the officer-involved shooting or death.

### 305.6.2 WITNESS IDENTIFICATION AND INTERVIEWS

Because potential witnesses to an officer-involved shooting or death may become unavailable or the integrity of their statements compromised with the passage of time, a supervisor should take reasonable steps to promptly coordinate with criminal investigators to utilize available personnel for the following:

- (a) Identification of all persons present at the scene and in the immediate area.
  - 1. When feasible, a recorded statement should be obtained from those persons who claim not to have witnessed the incident but who were present at the time it occurred.
  - 2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, officers should attempt to identify the witness prior to his/her departure.
- (b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by a member of the Department.
  - 1. A written, verbal or recorded statement of consent should be obtained prior to transporting a witness. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transportation.
- (c) Promptly contacting the suspect's known family and associates to obtain any available and untainted background information about the suspect's activities and state of mind prior to the incident.

### 305.6.2 INVESTIGATIVE PERSONNEL

Once notified of an officer-involved shooting or death, it shall be the responsibility of the designated Investigative Unit supervisor to assign appropriate investigative personnel to handle the investigation of related crimes. Department investigators will be assigned to work with

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investigators from the District Attorney's Office and may be assigned to separately handle the investigation of any related crimes not being investigated by the District Attorney's Office.

All related department reports, except administrative and/or privileged reports, will be forwarded to the designated Investigative Unit supervisor for approval. Privileged reports shall be maintained exclusively by members who are authorized such access. Administrative reports will be forwarded to the appropriate Regional Lieutenant.

### **305.6.4 DISTRICT ATTORNEY RESPONSE TO THE SCENE**

District Attorney Investigators may respond to the scene of incidents, which occur in the County of San Diego.

The District Attorney Investigator will contact the supervisor in charge of the incident scene. A briefing of the incident and a familiarization of the scene will be given as soon as practical (this may be facilitated by the responding SDPD Homicide Team). The investigator will be permitted access to the incident scene to the extent possible without contaminating evidence or otherwise disturbing the scene.

The District Attorney Investigator may participate in the interview of witnesses, if invited by the jurisdictional agency. The investigator will identify any potential witnesses they discover and point out any item of evidence they observe to the officer in charge of the investigation. The District Attorney Investigator may provide advice or assistance sought by the jurisdictional agency.

### **305.7 ADMINISTRATIVE INVESTIGATION**

In addition to all other investigations associated with an officer-involved shooting or death, this department will conduct an internal administrative investigation of SDCCDPD officers to determine conformance with department policy. The investigation will be conducted under the supervision of the Investigation Unit and will be considered a confidential officer personnel file.

Interviews of members shall be subject to department policies and applicable laws (see the Personnel Complaints Policy).

- (a) Any officer involved in a shooting or death may be requested or administratively compelled to provide a blood sample for alcohol/drug screening. Absent consent from the officer, such compelled samples and the results of any such testing shall not be disclosed to any criminal investigative agency.
- (b) If any officer has voluntarily elected to provide a statement to criminal investigators, the assigned administrative investigator should review that statement before proceeding with any further interview of that involved officer.
  1. If a further interview of the officer is deemed necessary to determine policy compliance, care should be taken to limit the inquiry to new areas with minimal, if any, duplication of questions addressed in the voluntary statement. The involved officer shall be provided with a copy of his/her prior statement before proceeding with any subsequent interviews.

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- (c) In the event that an involved officer has elected to not provide criminal investigators with a voluntary statement, the assigned administrative investigator shall conduct an administrative interview to determine all relevant information.
1. Although this interview should not be unreasonably delayed, care should be taken to ensure that the officer's physical and psychological needs have been addressed before commencing the interview.
  2. If requested, the officer shall have the opportunity to select an uninvolved representative to be present during the interview. However, in order to maintain the integrity of each individual officer's statement, involved officers shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed (Government Code § 3303(i)).
  3. Administrative interviews should be recorded by the investigator. The officer may also record the interview (Government Code § 3303(g)).
  4. The officer shall be informed of the nature of the investigation. If an officer refuses to answer questions, he/she should be given his/her *Lybarger* or *Garrity* rights and ordered to provide full and truthful answers to all questions. The officer shall be informed that the interview will be for administrative purposes only and that the statement cannot be used criminally.
  5. The Investigation Unit shall compile all relevant information and reports necessary for the Department to determine compliance with applicable policies.
  6. Regardless of whether the use of force is an issue in the case, the completed administrative investigation shall be submitted to the Chief of Police.
  7. The Chief of Police may assemble a Use of Force Review Board, which will restrict its findings as to whether there was compliance with the Use of Force Policy.
  8. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

#### 305.7.1 DISTRICT ATTORNEY'S REVIEW

With the exception of incidents involving federal law enforcement officers, the jurisdictional agency shall provide a briefing to the representatives of the District Attorney no later than the third working day following the incident. The briefing shall include a verbal review of the evidence, witness statements and the status of the investigation.

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

Upon completion of the investigation of an incident, the jurisdictional agency shall provide copies of all investigative reports, witness statements, tape recordings, photographs, diagrams, autopsy reports, and all other relevant documents to the District Attorney's Office. The jurisdictional agency shall make available, for inspection, any item of evidence.

The District Attorney's Office may request supplemental investigation of an incident by the jurisdictional agency or conduct additional investigation through District Attorney personnel.



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Copies of any investigative reports prepared by the District Attorney will be provided to the jurisdictional agency as soon as possible.

The District Attorney shall conduct an independent assessment of the circumstances surrounding the incident. The District Attorney will issue written findings to the chief of the jurisdictional agency and the chief of the agency employing the officers involved. After reviewing the District Attorney's findings, the jurisdictional agency will make the document available to the public.

### **305.8 CIVIL LIABILITY RESPONSE**

A member of this department may be assigned to work exclusively under the direction of the legal counsel for the Department to assist in the preparation of materials deemed necessary in anticipation of potential civil litigation.

All materials generated in this capacity shall be considered attorney work product and may not be used for any other purpose. The civil liability response is not intended to interfere with any other investigation but shall be given reasonable access to all other investigations.

### **305.9 AUDIO AND VIDEO RECORDINGS**

Any officer involved in a shooting or death may be permitted to review available Mobile Audio/Video (MAV), body-worn video, or other video or audio recordings prior to providing a recorded statement or completing reports.

Upon request, non-law enforcement witnesses who are able to verify their presence and their ability to contemporaneously perceive events at the scene of an incident may also be permitted to review available MAV, body-worn video, or other video or audio recordings with approval of assigned investigators or a supervisor.

Any MAV, body-worn and other known video or audio recordings of an incident should not be publicly released during an ongoing investigation without consulting the prosecuting attorney or District Attorney's Office, as appropriate.

### **305.10 DEBRIEFING**

Following an officer-involved shooting or death, the San Diego Community College District PD should conduct both a Critical Incident Stress Debriefing and a tactical debriefing. See the Wellness Program Policy for guidance on Critical Incident Stress Debriefings.

#### **305.10.1 TACTICAL DEBRIEFING**

A tactical debriefing should take place to identify any training or areas of policy that need improvement. The Chief of Police should identify the appropriate participants. This debriefing should not be conducted until all involved members have provided recorded or formal statements to criminal and/or administrative investigators.

### **305.11 MEDIA RELATIONS**

Any media release shall be prepared with input and concurrence from the supervisor and department representative responsible for each phase of the investigation. Releases will be

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available to the Patrol Sergeant, Investigation Unit Regional Lieutenant and Public Information Officer in the event of inquiries from the media.

The Department shall not subject any involved SDCCDPD officer to visits by the media (Government Code § 3303(e)). No involved SDCCDPD officer shall make any comment to the media unless he/she is authorized by the Chief of Police or a Regional Lieutenant. Department members receiving inquiries regarding officer-involved shootings or deaths occurring in other jurisdictions shall refrain from public comment and will direct those inquiries to the agency having jurisdiction and primary responsibility for the investigation.

#### **305.12 REPORTING**

If the death of an individual occurs in the San Diego Community College District PD jurisdiction and qualifies to be reported to the state as a justifiable homicide or an in-custody death, the Patrol Regional Lieutenant will ensure that the Records Supervisor is provided with enough information to meet the reporting requirements (Penal Code § 196; Penal Code § 13022; Government Code § 12525).