

Officer-Involved Shootings and Deaths

308.1 PURPOSE AND SCOPE

The purpose of this policy is to establish 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 other action of an officer. These policy provisions are in addition to the Yolo County Protocol for Response to Officer-Involved Fatal Incidents and are not intended to replace or conflict with the contents of the Yolo County Protocol.

In other non-fatal incidents not covered by this policy, the Chief Probation Officer may decide that the investigation will follow the process provided in this policy.

308.2 TYPES OF INVESTIGATIONS

Officer-involved shootings and deaths involve several separate investigations. The investigations may include, but are not limited to the following:

- (a) A criminal investigation of the incident by the agency having jurisdiction over the location of the incident. This Department may relinquish its criminal investigation to an outside agency with the approval of the Chief Probation Officer,
- (b) A criminal investigation of the involved officer(s) conducted by an outside agency,
- (c) A civil investigation to determine potential liability conducted by the County of Yolo and the Yolo County Probation Department; and,
- (d) An administrative investigation conducted by the Yolo County Probation Department to determine if there were any violations of Department policy.

308.3 CONTROL OF INVESTIGATIONS

Investigators from surrounding agencies may be assigned to work on the criminal investigation of officer-involved shootings and deaths. This may include at least one investigator from the agency that employs the involved officer.

Jurisdiction is determined by the location of the shooting or death and the agency employing the involved officer. The following scenarios outline the jurisdictional responsibilities for investigating officer-involved shootings and deaths.

308.4 INVESTIGATION PROCESS

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

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308.4.1 UNINVOLVED OFFICER RESPONSIBILITIES

Upon arrival at the scene of an officer-involved shooting, the first uninvolved YCPD officer 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.

308.4.2 SUPERVISOR RESPONSIBILITIES

Upon learning of an officer-involved shooting or death, the Supervisor shall be responsible for coordinating all aspects of the incident until he or she is relieved by the Chief Probation Officer or designee.

All outside inquiries about the incident shall be directed to the Chief Probation Officer or designee.

308.4.3 SUPERVISOR ON-SCENE PROCESS

Upon arrival at the scene, the first uninvolved YCPD Supervisor should ensure completion of the duties as outlined in section 308.4.1, in addition to:

- (a) Attempt to obtain a public safety statement from any uninvolved officers. 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.
- (b) If necessary, the Supervisor may order any YCPD 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.

- (a) Provide all available information to the Chief Probation Officer or designee and Dispatch. If feasible, sensitive information should be communicated over secure networks.
- (b) Take command of and secure the incident scene with additional YCPD officers until properly relieved by another Supervisor or other jurisdictional agency assigned personnel or investigator.

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(c) As soon as practicable, ensure that involved officers are transported (separately, if feasible) to a suitable location for further direction

1. Each involved YCPD officer should be given an order not to discuss the incident with other involved officers or YCPD employees pending further direction from a Supervisor.

2. If applicable, 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 or she is provided with a comparable replacement weapon or transported by other officers.

308.4.4 NOTIFICATIONS

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

- Chief Probation Officer
- Manager of Operations and Strategy
- Probation Division Manager of Administration
- Probation Division Manager of Operations
- Superintendent of Juvenile Detention Facility
- Assigned Supervisor of Involved Officer.
- District Attorney's Chief Investigator or designee
- Outside agency investigator (if appropriate).
- Assigned Internal Affairs Officer.
- Civil liability response team.
- Psychological/peer support personnel.
- Chaplain.
- Coroner (if necessary).
- Involved officer's bargaining unit or legal representative (if requested).

308.4.5 INVOLVED OFFICERS

The following shall be considered for the involved officer:

(a) Any request for legal or union representation will be accommodated.

1. Involved YCPD officers shall not be permitted to meet in a group with an attorney or any representative prior to providing a formal interview or report.

2. Requests from involved non-YCPD 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. (Gov.Code § 3303(i).)

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d. A licensed psychotherapist shall be provided by the Department to each involved YCPD officer. A licensed psychotherapist may be provided to any other affected YCPD employees, upon request.

1. Interviews with a licensed psychotherapist will be considered privileged.
2. An interview or session with a licensed psychotherapist may take place prior to the officer providing a formal interview or report. However, involved officers shall not be permitted to consult or meet in a group with a licensed psychotherapist prior to providing a formal interview or report.

e. A separate fitness-for-duty exam may also be required (see the Fitness for Duty Policy).

f. Although the Department will honor the sensitivity of communications with peer counselors, there is no legal privilege to such communications. Peer counselors are cautioned against discussing the facts of any incident with an involved or witness officer.

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

308.5 CRIMINAL INVESTIGATION

The Yolo County 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 Yolo County 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) YCPD Supervisors and assigned Internal Affairs personnel should not participate directly in any voluntary interview of YCPD 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 with a representative of his or her choosing or an attorney prior to speaking with criminal investigators. (Gov. Code § 3303(i).) 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 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

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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.

308.6 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 YCPD officers to determine conformance with Department policy. The investigation will be conducted under the supervision of the Assigned Internal Affairs Officer and will be considered a confidential officer personnel file.

Interviews of employees 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 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 elected to provide a voluntary statement to criminal investigators, the assigned administrative investigator should review that statement before proceeding with any further interview of that 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 or her prior statement before proceeding with any subsequent interviews.
- (c) In the event 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 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 in groups prior to being interviewed. (Gov. Code § 3303(i).)
 - 3. Administrative interviews should be recorded by the investigator. The officer and/or the officer's representative also may record the interview. (Gov. Code § 3303(g).)
 - 4. The officer shall be informed of the nature of the investigation. The an officer, shall be advised of his or her *Lybarger* or *Garrity* rights and ordered to

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provide full and truthful answers to all questions. The officer shall be informed the interview will be for administrative purposes only and the statement cannot be used criminally.

5.]The assigned Internal Affairs Officer shall compile all relevant information and reports necessary for the Department to determine compliance with applicable policies.
6. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

308.7 REPORTING

If the death of an individual occurs as the result of any action or inaction by the Yolo County Probation Department and qualifies to be reported to the state as a justifiable homicide or an in-custody death, the Chief Probation Officer or designee will ensure that the Supervisor or designee is provided with enough information to meet the reporting requirements. (Pen. Code § 196; Pen. Code § 13022; Gov. Code § 12525.)

308.8 CIVIL LIABILITY RESPONSE

An employee 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 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 process is not intended to interfere with any other investigation but shall be given reasonable access to all other investigations.

308.9 DEBRIEFING

Following an officer-involved shooting or death, the Yolo County Probation Department should conduct both a critical incident/stress debriefing and a tactical debriefing.

308.9.1 CRITICAL INCIDENT/STRESS DEBRIEFING

A critical incident/stress debriefing should occur as soon as practicable. The Chief Probation Officer or designee is responsible for organizing the debriefing. Notes and recorded statements should not be taken because the sole purpose of the debriefing is to help mitigate the stress-related effects of a traumatic event.

The debriefing is not part of any investigative process. Although the Department will honor the sensitivity of communications, there is no legal privilege to such communications. Care should be taken not to release or repeat any communication made during a debriefing unless otherwise authorized by policy, law or a valid court order.

Attendance at the debriefing shall only include those members of the Department directly involved in the incident, which can include support personnel (e.g., non-sworn personnel). Family or other support personnel may attend with the concurrence of those involved in the incident. The

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debriefing shall be closed to the public and should be closed to all other employees of the Department, including Supervisory and assigned Internal Affairs personnel.

308.9.2 TACTICAL DEBRIEFING

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

308.10 MEDIA RELATIONS

Any media release shall be prepared with input and concurrence from the Chief Probation Officer or designee and Department representative responsible for each phase of the investigation. Releases will be available to the Supervisor, Chief Probation Officer and Chief Probation Officer's Designee in the event of inquiries from the media.

The Department shall not subject any involved YCPD officer to visits by the media. (Gov. Code § 3303(e).) No involved YCPD officer shall make any comment to the media unless he or she is authorized by the Chief Probation Officer or designee. Department employees 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.